



# HOUSE BILL No. 4520

March 2, 1995, Introduced by Reps. Schroer, Baird, LaForge and Brater and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 1, 3, 30, 35, and 36 of chapter 84 of the Revised Statutes of 1846, entitled "Of divorce," being sections 552.1, 552.3, 552.30, 552.35, and 552.36 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 3, 30, 35, and 36 of chapter 84 of  
2 the Revised Statutes of 1846, being sections 552.1, 552.3,  
3 552.30, 552.35, and 552.36 of the Michigan Compiled Laws, are  
4 amended to read as follows:

5 Sec. 1. (1) ~~All marriages which are~~ IF SOLEMNIZED WITHIN  
6 THIS STATE, A MARRIAGE THAT IS prohibited by law ~~on account~~  
7 BECAUSE of consanguinity or affinity between the parties, or ~~on~~  
8 ~~account of~~ BECAUSE either of them ~~having~~ HAS a wife or husband  
9 then living, ~~and all marriages solemnized when either of the~~

1 ~~parties was insane or an idiot, shall, if solemnized within this~~  
2 ~~state, be~~ IS absolutely void. ~~The issue of such marriage shall~~  
3 ~~be deemed legitimate.~~ IF A MARRIAGE IS SOLEMNIZED WHEN EITHER OF  
4 THE PARTIES LACKED THE MENTAL CAPACITY TO CONSENT TO THE MAR-  
5 RIAGE, THE MARRIAGE IS VOID AS OF THE DATE OF THE MARRIAGE,  
6 UNLESS THE COURT FINDS THAT THE INTERESTS OF JUSTICE WOULD NOT BE  
7 SERVED BY MAKING THE DECREE RETROACTIVE. A CHILD OF A MARRIAGE  
8 DESCRIBED IN THIS SECTION IS LEGITIMATE.

9 (2) AS USED IN THIS CHAPTER, "MENTAL CAPACITY TO CONSENT TO  
10 MARRIAGE" MEANS THAT TERM AS DESCRIBED IN SECTION 2 OF CHAPTER 83  
11 OF THE REVISED STATUTES OF 1846, BEING SECTION 551.2 OF THE  
12 MICHIGAN COMPILED LAWS.

13 Sec. 3. (1) ~~When a marriage is supposed to be void, or the~~  
14 ~~validity thereof is doubted, for any of the causes mentioned in~~  
15 ~~the 2 preceding sections; either party, excepting in the cases~~  
16 ~~where a contrary provision is hereinafter made, may file a peti-~~  
17 ~~tion or bill in the circuit court of the county where the par-~~  
18 ~~ties, or 1 of them, reside, or in the court of chancery, for~~  
19 ~~annulling the same, and such petition or bill shall be filed, and~~  
20 ~~proceedings shall be had thereon, as in the case of a petition or~~  
21 ~~bill filed in said court for a divorce, and upon due proof of the~~  
22 ~~nullity of the marriage, it shall be declared void by a decree or~~  
23 ~~sentence of nullity.~~ IF THE VALIDITY OF A MARRIAGE IS DOUBTED  
24 FOR 1 OR MORE OF THE REASONS GIVEN IN SECTION 1 OR 2 OF THIS  
25 CHAPTER, A PARTY MAY FILE A PETITION WITH THE CIRCUIT COURT IN  
26 THE COUNTY WHERE EITHER OF THE PARTIES RESIDES TO ANNUL THE  
27 MARRIAGE. THE COURT SHALL PROCEED WITH THE PETITION TO ANNUL IN

1 THE SAME MANNER AS IN A DIVORCE PROCEEDING AND, UPON RECEIPT OF  
2 SATISFACTORY PROOF, ORDER AN ANNULMENT OF THE MARRIAGE.

3 (2) A PETITION FOR ANNULMENT BECAUSE OF THE ALLEGED MENTAL  
4 INCAPACITY OF EITHER PARTY TO CONSENT TO THE MARRIAGE SHALL BE  
5 COMMENCED NOT LATER THAN 90 DAYS AFTER THE PETITIONER OBTAINED  
6 KNOWLEDGE OF THE GROUNDS FOR ANNULMENT, BUT SUCH AN ANNULMENT  
7 SHALL NOT BE GRANTED AFTER THE DEATH OF EITHER PARTY TO THE  
8 MARRIAGE.

9 Sec. 30. Upon the dissolution of a marriage on account of  
10 the ~~non age, insanity or idiocy~~ INSUFFICIENT AGE OR LACK OF  
11 MENTAL CAPACITY of either party, ~~the issue~~ A CHILD of the mar-  
12 riage shall be ~~deemed~~ CONSIDERED to be in all respects the  
13 legitimate ~~issue~~ CHILD of the parent who, at the time of the  
14 marriage, was capable of contracting.

15 Sec. 35. A ~~bill~~ PETITION to annul a marriage on the  
16 ground of ~~insanity or idiocy~~, MENTAL INCAPACITY may be  
17 ~~exhibited~~ FILED by any person admitted by the court to prose-  
18 cute as the next friend of ~~such idiot or lunatic~~ THE MENTALLY  
19 INCAPACITATED PERSON.

20 Sec. 36. The marriage of a ~~lunatic~~ MENTALLY INCAPACITATED  
21 PERSON may also be ~~declared void, upon the application of the~~  
22 ~~lunatic, after the restoration of reason, but in such case, no~~  
23 ~~sentence of nullity shall be pronounced, if it shall appear~~  
24 ANNULLED UPON THE FILING OF A PETITION BY THAT PERSON AFTER THE  
25 PERSON WAS RESTORED TO A SOUND MIND. HOWEVER, AN ORDER ANNULING  
26 THE MARRIAGE SHALL NOT BE ENTERED IF IT APPEARS that the parties

1 freely cohabited as husband and wife ~~—~~ after the ~~lunatic~~  
2 MENTALLY INCAPACITATED PERSON was restored to a sound mind.

3       Section 2. This amendatory act shall not take effect unless  
4 Senate Bill No. \_\_\_\_\_ or House Bill No. \_\_\_\_\_ (request  
5 no. 01097'95) of the 88th Legislature is enacted into law.