

# HOUSE BILL NO. 6058

August 06, 2020, Introduced by Reps. Yancey, Hoadley, Brixie, Hood, Ellison, Koleszar, Kuppa, Brenda Carter, Warren, Sowerby and Rabhi and referred to the Committee on Government Operations.

A bill to amend 1846 RS 84, entitled  
"Of divorce,"  
by amending sections 9f, 23, 27, 34, 36, and 37 (MCL 552.9f, 552.23, 552.27, 552.34, 552.36, and 552.37), section 23 as amended by 2009 PA 234, section 27 as amended by 1998 PA 96, section 34 as amended by 1983 PA 211, and section 36 as amended by 2001 PA 107.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 9f. No proofs or testimony shall be taken in any case for  
2 divorce until ~~the expiration of 60 days from~~ **after** the time of



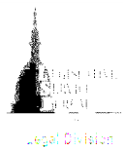
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1 filing the bill of complaint, except where the cause for divorce is  
 2 desertion, or when the testimony is taken conditionally for the  
 3 purpose of perpetuating ~~such~~ testimony. In every case where there  
 4 are dependent minor children under the age of 18 years, no proofs  
 5 or testimony shall be taken in ~~such~~ **those** cases for divorce until  
 6 ~~the expiration of 6 months from~~ **after** the day the bill of complaint  
 7 is filed. In cases of unusual hardship or ~~such~~ compelling necessity  
 8 as ~~shall appeal~~ **appeals** to the conscience of the court, upon  
 9 petition and proper showing, it may take testimony at any time  
 10 after ~~the expiration of 60 days from the time of filing the bill of~~  
 11 complaint. Testimony may be taken conditionally at any time for the  
 12 purpose of perpetuating ~~such~~ testimony. When the defendant in ~~any a~~  
 13 case for divorce is not domiciled in this state at the time of  
 14 commencing the suit or ~~shall was~~ not ~~have been~~ domiciled ~~herein in~~  
 15 **this state** at the time the cause for divorce arose, before any  
 16 decree of divorce ~~shall be~~ **is** granted the complainant must prove  
 17 that the parties have actually lived and cohabited together as  
 18 ~~husband and wife~~ **spouses** within this state, or that the complainant  
 19 has in good faith resided in this state for 1 year immediately  
 20 preceding the filing of the bill of complaint for divorce.

21       Sec. 23. (1) Upon entry of a judgment of divorce or separate  
 22 maintenance, if the estate and effects awarded to either party are  
 23 insufficient for the suitable support and maintenance of either  
 24 party and any children of the marriage who are committed to the  
 25 care and custody of either party, the court may also award to  
 26 either party the part of the real and personal estate of either  
 27 party and spousal support out of the real and personal estate, to  
 28 be paid to either party in gross or otherwise as the court  
 29 considers just and reasonable, after considering the ability of



1 either party to pay and the character and situation of the parties,  
2 and all the other circumstances of the case.

3 (2) Upon certification by a county department of **health and**  
4 human services that a complainant or petitioner in a proceeding  
5 under this chapter is receiving public assistance either personally  
6 or for children of the marriage, payments received by the friend of  
7 the court or the state disbursement unit for the support and  
8 education of the children or maintenance of the party shall be  
9 transmitted to the department of **health and** human services.

10 (3) If the court appoints the friend of the court custodian,  
11 receiver, trustee, or escrow agent of assets owned by ~~a husband and~~  
12 ~~wife,~~ **spouses**, or either of them, the court may fix the amount of  
13 the fee for ~~such-that~~ service, to be turned over to the county  
14 treasurer and credited to the general fund of the county. The court  
15 may hold in contempt a person who fails or refuses to pay a fee  
16 ordered under this subsection.

17 (4) As used in this section and section 24, "state  
18 disbursement unit" or "SDU" means the entity established in section  
19 6 of the office of child support act, 1971 PA 174, MCL 400.236.

20 Sec. 27. If alimony or an allowance for the support and  
21 education of the children is awarded to either party, the amount of  
22 the alimony or allowance constitutes a lien upon the real and  
23 personal estate of the adverse party as provided in section 25a of  
24 the support and parenting time enforcement act, 1982 PA 295, MCL  
25 ~~552.65a.~~ **552.625a**. The court may do 1 or more of the following if  
26 the party defaults on the payment of the amount awarded:

27 (a) Order the sale of the property against which the lien is  
28 adjudged in the same manner and upon the same notice as in ~~suits~~  
29 **lawsuits** for the foreclosure of mortgage liens.



(b) Award execution for the collection of the judgment.

(c) Order the sequestration of the real and personal estate of either party and may appoint a receiver of the real estate or personal estate, or both, and cause the personal estate and the rents and profits of the real estate to be applied to the payment of the judgment.

(d) Award a division between the ~~husband and wife~~**spouses** of the real and personal estate of either party or of the ~~husband and wife~~**spouses** by joint ownership or right as the court considers equitable and just.

Sec. 34. An action to annul a marriage on the ground that 1 of the parties was under the age of legal consent, as provided in section 3 of ~~Act No. 128 of the Public Acts of 1887, being section 551.103 of the Michigan Compiled Laws,~~**1887 PA 128, MCL 551.103,** may be brought by the parent or guardian entitled to ~~the~~ custody of the minor or by the next friend of the minor, but the marriage shall not be annulled on the application of a party who was of the age of legal consent at the time of the marriage, or when it appears that the parties, after they had attained the age of consent, had freely cohabited as ~~husband and wife~~**spouses**.

Sec. 36. A party to a marriage who, at the time of the marriage, was not capable in law of contracting and who later becomes capable in law of contracting may bring an action to annul the marriage. The court shall not ~~, however,~~ annul the marriage if the court finds that the parties cohabited as ~~husband and wife~~**spouses** after the party became capable in law of contracting.

Sec. 37. ~~No~~**A** marriage shall **not** be annulled on the ground of force or fraud, if it ~~shall appear~~**appears** that, at any time before the commencement of the ~~suit,~~**lawsuit,** there was a voluntary



1 cohabitation of the parties as ~~husband and wife~~. **spouses**.

2       Enacting section 1. This amendatory act does not take effect  
3 unless Senate Joint Resolution \_\_\_\_\_ or House Joint Resolution T  
4 (request no. 02690'19) of the 100th Legislature becomes a part of  
5 the state constitution of 1963 as provided in section 1 of article  
6 XII of the state constitution of 1963.

