

SENATE BILL No. 1127

February 10, 2010, Introduced by Senator McMANUS and referred to the Committee on Judiciary.

A bill to amend 1846 RS 84, entitled
"Of divorce,"
by amending sections 6 and 7 (MCL 552.6 and 552.7).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) A complaint for divorce ~~may~~ **SHALL** be filed in the
2 circuit court. ~~upon the allegation~~ **A COMPLAINT FOR DIVORCE SHALL**
3 **CONTAIN THE FOLLOWING ALLEGATIONS OF FACT, AS APPLICABLE:**

4 **(A) IF NO DEPENDENT CHILD OF THE MARRIAGE RESIDES WITH EITHER**
5 **PARTY AND IF BOTH PARTIES TO THE MARRIAGE AGREE TO THE DIVORCE, AN**
6 **ALLEGATION** that there has been a breakdown of the marriage
7 relationship to the extent that the objects of matrimony have been
8 destroyed and there remains no reasonable likelihood that the
9 marriage can be preserved. ~~In the complaint the~~

1 (B) IF A DEPENDENT CHILD OF THE MARRIAGE RESIDES WITH A PARTY
2 OR IF 1 OF THE PARTIES OBJECTS TO THE DIVORCE, 1 OR MORE OF THE
3 FOLLOWING ALLEGATIONS, AS APPLICABLE:

4 (i) THAT THE OTHER PARTY HAS COMMITTED ADULTERY OR DEVIATE
5 SEXUAL INTERCOURSE DURING THE MARRIAGE.

6 (ii) THAT THE OTHER PARTY WAS PHYSICALLY INCOMPETENT AT THE
7 TIME OF THE MARRIAGE.

8 (iii) THAT THE OTHER PARTY WAS SENTENCED TO IMPRISONMENT FOR 3
9 OR MORE YEARS. AFTER A DIVORCE IS GRANTED BASED UPON THIS
10 SUBDIVISION, A PARDON OR OTHER ALTERATION OF THE PARTY'S CONVICTION
11 OR SENTENCE DOES NOT RESTORE THE MARRIAGE.

12 (iv) THAT THE OTHER PARTY DESERTED THE PLAINTIFF FOR 2 OR MORE
13 YEARS.

14 (v) THAT THE OTHER PARTY HABITUALLY USES AND ABUSES ALCOHOL OR
15 A CONTROLLED SUBSTANCE.

16 (vi) THAT THE PLAINTIFF IS A VICTIM OF EXTREME CRUELTY BY THE
17 OTHER PARTY.

18 (2) A plaintiff shall ~~make no other~~ **MAY LIMIT THE** explanation
19 of the grounds for divorce ~~than by the use of~~ **IN A COMPLAINT TO** the
20 statutory language.

21 (3) ~~(2)~~ The defendant, by answer, may ~~either~~ admit the grounds
22 for divorce alleged, ~~or~~ deny them without further explanation, **OR,**
23 **IF THE GROUNDS ARE ALLEGED UNDER SUBSECTION (1) (A) OR (2), OBJECT**
24 **TO THE ALLEGATIONS.** An admission by the defendant of the grounds
25 for divorce may be considered by the court but is not binding on
26 the court's determination.

27 (4) ~~(3)~~ ~~The~~ **A** court shall enter a judgment ~~dissolving the~~

1 ~~bonds of matrimony~~ **OF DIVORCE** if evidence is presented in open
 2 court that ~~there has been a breakdown in the marriage relationship~~
 3 ~~to the extent that the objects of matrimony have been destroyed and~~
 4 ~~there remains no reasonable likelihood that the marriage can be~~
 5 ~~preserved.~~ **BOTH PARTIES AGREE WITH THE ALLEGATION MADE UNDER**
 6 **SUBSECTION (1) (A) OR THAT PROVES BY A PREPONDERANCE OF THE EVIDENCE**
 7 **AN ALLEGATION MADE UNDER SUBSECTION (1) (B) .**

8 (5) AS USED IN THIS SECTION:

9 (A) "ADULTERY" MEANS SEXUAL INTERCOURSE VOLUNTARILY PERFORMED
 10 BY THE ACCUSED PARTY WITH AN INDIVIDUAL OTHER THAN HIS OR HER
 11 SPOUSE. FOR THE PURPOSE OF THIS SECTION, SEXUAL INTERCOURSE OCCURS
 12 UPON ANY PENETRATION, HOWEVER SLIGHT.

13 (B) "DEVIATE SEXUAL INTERCOURSE" MEANS SEXUAL CONDUCT
 14 VOLUNTARILY PERFORMED BY THE ACCUSED PARTY WITH AN INDIVIDUAL OTHER
 15 THAN HIS OR HER SPOUSE THAT INCLUDES, BUT IS NOT LIMITED TO,
 16 CONTACT BETWEEN THE PENIS AND ANUS, THE MOUTH AND PENIS, OR THE
 17 MOUTH AND VULVA; OR WITH AN ANIMAL OR DEAD HUMAN BODY.

18 Sec. 7. (1) An action for separate maintenance ~~may~~ **SHALL** be
 19 filed in the circuit court **SUBJECT TO THE SAME RESTRICTIONS**, in the
 20 same manner, and on the same grounds as an action for divorce.

21 (2) In ~~the~~ **A** complaint **FOR SEPARATE MAINTENANCE**, the plaintiff
 22 ~~shall make no other~~ **MAY LIMIT THE** explanation of the grounds for
 23 separate maintenance ~~than by use of~~ **TO** the statutory language.

24 (3) ~~(2)~~ The defendant, by answer, may either admit the grounds
 25 for separate maintenance alleged or deny them without further
 26 explanation. An admission by the defendant of the grounds for
 27 separate maintenance may be considered by the court but is not

1 binding on the court's determination. The defendant may also file a
2 counterclaim for divorce.

3 (4) ~~(3)~~—If the defendant files a counterclaim for divorce, the
4 allegation contained in the plaintiff's complaint as to the grounds
5 for separate maintenance may be considered by the court but is not
6 binding on the court's determination.

7 (5) ~~(4)~~—If evidence is presented in open court that ~~there has~~
8 ~~been a breakdown in the marriage relationship to the extent that~~
9 ~~the objects of matrimony have been destroyed and there remains no~~
10 ~~reasonable likelihood that the marriage can be preserved,~~ **WOULD**
11 **REQUIRE THE COURT TO ENTER A JUDGMENT OF DIVORCE UNDER SECTION 6 OF**
12 **THIS CHAPTER,** the court shall enter **1 OF THE FOLLOWING:**

13 (a) A judgment of separate maintenance if a counterclaim for
14 divorce has not been filed.

15 (b) A judgment dissolving the bonds of matrimony if a
16 counterclaim for divorce has been filed.