

SB 318, As Passed Senate, April 24, 2001

**SUBSTITUTE FOR
SENATE BILL NO. 318**

A bill to amend 1846 RS 84, entitled
"Of divorce,"
by amending sections 1, 15, 16, 17, 30, 35, and 36 (MCL 552.1,
552.15, 552.16, 552.17, 552.30, 552.35, and 552.36), sections 15,
16, and 17 as amended by 1996 PA 9; and to repeal acts and parts
of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. ~~All marriages which are~~ IF SOLEMNIZED WITHIN THIS
2 STATE, A MARRIAGE THAT IS prohibited by law ~~on account~~ BECAUSE
3 of consanguinity or affinity between the parties, ~~or on account~~
4 ~~of either of them having~~ BECAUSE EITHER PARTY HAD a wife or hus-
5 band ~~then~~ living ~~, and all marriages solemnized when either of~~
6 ~~the parties was insane or an idiot, shall, if solemnized within~~
7 ~~this state, be~~ AT THE TIME OF SOLEMNIZATION, OR BECAUSE EITHER
8 PARTY WAS NOT CAPABLE IN LAW OF CONTRACTING AT THE TIME OF

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1 SOLEMNIZATION IS absolutely void. The issue of such A marriage
2 ~~shall be deemed~~ ARE legitimate.

3 Sec. 15. (1) After the filing of a complaint in an action
4 to annul a marriage or for a divorce or separate maintenance, on
5 the motion of either party or the friend of the court, or on the
6 court's own motion, the court may enter ~~such~~ orders concerning
7 the care, custody, and support of the minor children of the par-
8 ties during the pendency of the action AS PRESCRIBED IN SECTION 5
9 OF THE SUPPORT AND PARENTING TIME ENFORCEMENT ACT, 1982 PA 295,
10 MCL 552.605, AND as the court considers proper and necessary.
11 Subject to section ~~16a~~ 5B OF THE SUPPORT AND PARENTING TIME
12 ENFORCEMENT ACT, 1982 PA 295, MCL 552.605B, the court may also
13 order support as provided in this subsection for the parties'
14 children who are not minor children.

15 ~~(2) Except as otherwise provided in this section, the court~~
16 ~~shall order support in an amount determined by application of the~~
17 ~~child support formula developed by the state friend of the court~~
18 ~~bureau. The court may enter an order that deviates from the for-~~
19 ~~mula if the court determines from the facts of the case that~~
20 ~~application of the child support formula would be unjust or inap-~~
21 ~~propriate and sets forth in writing or on the record all of the~~
22 ~~following:~~

23 ~~(a) The support amount determined by application of the~~
24 ~~child support formula.~~

25 ~~(b) How the support order deviates from the child support~~
26 ~~formula.~~

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1 ~~(c) The value of property or other support awarded in lieu~~
2 ~~of the payment of child support, if applicable.~~

3 ~~(d) The reasons why application of the child support formula~~
4 ~~would be unjust or inappropriate in the case.~~

5 ~~(3) Subsection (2) does not prohibit the court from entering~~
6 ~~a support order that is agreed to by the parties and that devi-~~
7 ~~ates from the child support formula, if the requirements of sub-~~
8 ~~section (2) are met.~~

9 ~~(4) Beginning January 1, 1991, each support order entered by~~
10 ~~the court shall provide that each party shall keep the office of~~
11 ~~the friend of the court informed of both of the following:~~

12 ~~(a) The name and address of his or her current source of~~
13 ~~income. As used in this subdivision, "source of income" means~~
14 ~~that term as defined in section 2 of the support and parenting~~
15 ~~time enforcement act, Act No. 295 of the Public Acts of 1982,~~
16 ~~being section 552.602 of the Michigan Compiled Laws.~~

17 ~~(b) Any health care coverage that is available to him or her~~
18 ~~as a benefit of employment or that is maintained by him or her;~~
19 ~~the name of the insurance company, nonprofit health care corpora-~~
20 ~~tion, or health maintenance organization; the policy, certifi-~~
21 ~~cate, or contract number; and the names and birth dates of the~~
22 ~~persons for whose benefit he or she maintains health care cover-~~
23 ~~age under the policy, certificate, or contract.~~

24 ~~(5) For the purposes of this section, "support" may include~~
25 ~~payment of the expenses of medical, dental, and other health~~
26 ~~care, child care expenses, and educational expenses. If a~~
27 ~~support order is entered, the court shall require that 1 or both~~

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1 ~~parents shall obtain or maintain any health care coverage that is~~
2 ~~available to them at a reasonable cost, as a benefit of employ-~~
3 ~~ment, for the benefit of the minor children of the parties and,~~
4 ~~subject to section 16a, for the benefit of the parties' children~~
5 ~~who are not minor children. If a parent is self-employed and~~
6 ~~maintains health care coverage, the court shall require the~~
7 ~~parent to obtain or maintain dependent coverage for the benefit~~
8 ~~of the minor children of the parties and, subject to section 16a,~~
9 ~~for the benefit of the parties' children who are not minor chil-~~
10 ~~dren, if available at a reasonable cost.~~

11 (2) ~~(6) Orders~~ AN ORDER concerning the support of
12 ~~children~~ A CHILD of the parties ~~are~~ IS GOVERNED BY AND IS
13 enforceable as provided in the support and parenting time
14 enforcement act, ~~Act No. 295 of the Public Acts of 1982, being~~
15 ~~sections 552.601 to 552.650 of the Michigan Compiled Laws~~ 1982
16 PA 295, MCL 552.601 TO 552.650.

17 ~~(7) The court may waive jurisdiction of any minor children~~
18 ~~under the age of 17 during the pendency of the action to the pro-~~
19 ~~bate court, to be governed by the laws of this state with respect~~
20 ~~to dependent and neglected children under the age of 17 years.~~

21 Sec. 16. (1) Upon annulling a marriage or entering a judg-
22 ment of divorce or separate maintenance, the court may enter
23 ~~such~~ THE orders ~~as~~ it considers just and proper concerning
24 the care, custody, and, AS PRESCRIBED IN SECTION 5 OF THE SUPPORT
25 AND PARENTING TIME ENFORCEMENT ACT, 1982 PA 295, MCL 552.605,
26 support of ~~the~~ A minor ~~children~~ CHILD of the parties.
27 Subject to section ~~16a~~ 5B OF THE SUPPORT AND PARENTING TIME

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1 ENFORCEMENT ACT, 1982 PA 295, MCL 552.605B, the court may also
2 order support as provided in this subsection for the parties'
3 children who are not minor children. ~~The court may require~~
4 ~~either parent to file a bond with 1 or more sufficient sureties,~~
5 ~~in a sum to be fixed by the court, guaranteeing payment of the~~
6 ~~support ordered in the judgment.~~

7 ~~(2) Except as otherwise provided in this section, the court~~
8 ~~shall order support in an amount determined by application of the~~
9 ~~child support formula developed by the state friend of the court~~
10 ~~bureau. The court may enter an order that deviates from the for-~~
11 ~~mula if the court determines from the facts of the case that~~
12 ~~application of the child support formula would be unjust or inap-~~
13 ~~propriate and sets forth in writing or on the record all of the~~
14 ~~following:~~

15 ~~(a) The support amount determined by application of the~~
16 ~~child support formula.~~

17 ~~(b) How the support order deviates from the child support~~
18 ~~formula.~~

19 ~~(c) The value of property or other support awarded in lieu~~
20 ~~of the payment of child support, if applicable.~~

21 ~~(d) The reasons why application of the child support formula~~
22 ~~would be unjust or inappropriate in the case.~~

23 ~~(3) Subsection (2) does not prohibit the court from entering~~
24 ~~a support order that is agreed to by the parties and that devi-~~
25 ~~ates from the child support formula, if the requirements of sub-~~
26 ~~section (2) are met.~~

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1 ~~(4) Beginning January 1, 1991, each support order entered by~~
2 ~~the court shall provide that each party shall keep the office of~~
3 ~~the friend of the court informed of both of the following:~~

4 ~~(a) The name and address of his or her current source of~~
5 ~~income. As used in this subdivision, "source of income" means~~
6 ~~that term as defined in section 2 of the support and parenting~~
7 ~~time enforcement act, Act No. 295 of the Public Acts of 1982,~~
8 ~~being section 552.602 of the Michigan Compiled Laws.~~

9 ~~(b) Any health care coverage that is available to him or her~~
10 ~~as a benefit of employment or that is maintained by him or her;~~
11 ~~the name of the insurance company, nonprofit health care corpora-~~
12 ~~tion, or health maintenance organization; the policy, certifi-~~
13 ~~cate, or contract number; and the names and birth dates of the~~
14 ~~persons for whose benefit he or she maintains health care cover-~~
15 ~~age under the policy, certificate, or contract.~~

16 ~~(5) For the purposes of this section, "support" may include~~
17 ~~payment of the expenses of medical, dental, and other health~~
18 ~~care, child care expenses, and educational expenses. The judg-~~
19 ~~ment shall require that 1 or both parents shall obtain or main-~~
20 ~~tain any health care coverage that is available to them at a rea-~~
21 ~~sonable cost, as a benefit of employment, for the benefit of the~~
22 ~~minor children of the parties and, subject to section 16a, for~~
23 ~~the benefit of the parties' children who are not minor children.~~
24 ~~If a parent is self-employed and maintains health care coverage,~~
25 ~~the court shall require the parent to obtain or maintain depen-~~
26 ~~dent coverage for the benefit of the minor children of the~~
27 ~~parties and, subject to section 16a, for the benefit of the~~

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1 ~~parties' children who are not minor children, if available at a~~
2 ~~reasonable cost.~~

3 (2) ~~(6) Orders~~ AN ORDER concerning the support of
4 ~~children~~ A CHILD of the parties ~~are~~ IS GOVERNED BY AND IS
5 enforceable as provided in the support and parenting time
6 enforcement act, ~~Act No. 295 of the Public Acts of 1982, being~~
7 ~~sections 552.601 to 552.650 of the Michigan Compiled Laws 1982~~
8 PA 295, MCL 552.601 TO 552.650.

9 ~~(7) The court, in the judgment or after entry of the judg-~~
10 ~~ment, may waive jurisdiction of any minor children under the age~~
11 ~~of 17 years to the probate court to be governed by the laws of~~
12 ~~this state with respect to dependent and neglected children under~~
13 ~~the age of 17 years.~~

14 Sec. 17. (1) ~~The court may, from time to time after its~~
15 ~~issuance~~ AFTER ENTRY OF A JUDGMENT CONCERNING ANNULMENT,
16 DIVORCE, OR SEPARATE MAINTENANCE AND on the petition of either
17 ~~of the parents~~ PARENT, THE COURT MAY revise and alter a judg-
18 ment concerning the care, custody, maintenance, and support of
19 some or all of the children, as the circumstances of the parents
20 ~~,~~ and the benefit of the children require.

21 ~~(2) Except as otherwise provided in this section, the court~~
22 ~~shall order support in an amount determined by application of the~~
23 ~~child support formula developed by the state friend of the court~~
24 ~~bureau. The court may enter an order that deviates from the for-~~
25 ~~mula if the court determines from the facts of the case that~~
26 ~~application of the child support formula would be unjust or~~

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1 ~~inappropriate and sets forth in writing or on the record all of~~
2 ~~the following:~~

3 ~~(a) The support amount determined by application of the~~
4 ~~child support formula.~~

5 ~~(b) How the support order deviates from the child support~~
6 ~~formula.~~

7 ~~(c) The value of property or other support awarded in lieu~~
8 ~~of the payment of child support, if applicable.~~

9 ~~(d) The reasons why application of the child support formula~~
10 ~~would be unjust or inappropriate in the case.~~

11 ~~(3) Subsection (2) does not prohibit the court from entering~~
12 ~~a support order that is agreed to by the parties and that devi-~~
13 ~~ates from the child support formula, if the requirements of sub-~~
14 ~~section (2) are met.~~

15 ~~(4) Beginning January 1, 1991, each support order entered or~~
16 ~~revised and altered by the court shall provide that each party~~
17 ~~shall keep the office of the friend of the court informed of both~~
18 ~~of the following:~~

19 ~~(a) The name and address of his or her current source of~~
20 ~~income. As used in this subdivision, "source of income" means~~
21 ~~that term as defined in section 2 of the support and parenting~~
22 ~~time enforcement act, Act No. 295 of the Public Acts of 1982,~~
23 ~~being section 552.602 of the Michigan Compiled Laws.~~

24 ~~(b) Any health care coverage that is available to him or her~~
25 ~~as a benefit of employment or that is maintained by him or her;~~
26 ~~the name of the insurance company, nonprofit health care~~
27 ~~corporation, or health maintenance organization; the policy,~~

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1 ~~certificate, or contract number; and the names and birth dates of~~
2 ~~the persons for whose benefit he or she maintains health care~~
3 ~~coverage under the policy, certificate, or contract.~~

4 ~~(5) For the purposes of this section, "support" may include~~
5 ~~payment of the expenses of medical, dental, and other health~~
6 ~~care, child care expenses, and educational expenses. If a sup=~~
7 ~~port order is entered, the court shall require that 1 or both~~
8 ~~parents shall obtain or maintain any health care coverage that is~~
9 ~~available to them at a reasonable cost, as a benefit of employ=~~
10 ~~ment, for the benefit of the minor children of the parties and,~~
11 ~~subject to section 16a, for the benefit of the parties' children~~
12 ~~who are not minor children. If a parent is self-employed and~~
13 ~~maintains health care coverage, the court shall require the~~
14 ~~parent to obtain or maintain dependent coverage for the benefit~~
15 ~~of the minor children of the parties and, subject to section 16a,~~
16 ~~for the benefit of the parties' children who are not minor chil=~~
17 ~~dren, if available at a reasonable cost.~~

18 ~~(2) ~~(6) Orders~~ AN ORDER concerning the support of~~
19 ~~children~~ A CHILD of the parties ~~are~~ IS GOVERNED BY AND IS
20 enforceable as provided in the support and parenting time
21 enforcement act, ~~Act No. 295 of the Public Acts of 1982, being~~
22 ~~sections 552.601 to 552.650 of the Michigan Compiled Laws 1982~~
23 PA 295, MCL 552.601 TO 552.650. IF THIS ACT CONTAINS A SPECIFIC
24 PROVISION REGARDING THE CONTENTS OR ENFORCEMENT OF A SUPPORT
25 ORDER THAT CONFLICTS WITH A PROVISION IN THE SUPPORT AND PARENT-
26 ING TIME ENFORCEMENT ACT, 1982 PA 295, MCL 552.601 TO 552.650,
27 THIS ACT CONTROLS IN REGARD TO THAT PROVISION.

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1 Sec. 30. Upon the dissolution of a marriage ~~on account of~~
2 ~~the~~ BECAUSE OF A PARTY'S non-age ~~, insanity or idiocy of either~~
3 ~~party~~ OR BECAUSE A PARTY WAS OTHERWISE NOT CAPABLE IN LAW OF
4 CONTRACTING, AT THE TIME OF THE MARRIAGE, the issue of the mar-
5 riage ~~shall be deemed to be~~ ARE in all respects the legitimate
6 issue of the parent who, at the time of the marriage, was capable
7 of contracting.

8 Sec. 35. ~~A bill to annul a marriage on the ground of~~
9 ~~insanity or idiocy, may be exhibited by any person admitted by~~
10 ~~the court to prosecute as the next friend of such idiot or~~
11 ~~lunatic.~~ IF, AT THE TIME OF A MARRIAGE, A PARTY TO THE MARRIAGE
12 WAS NOT CAPABLE IN LAW OF CONTRACTING, AN INDIVIDUAL ADMITTED BY
13 THE COURT AS THE PARTY'S NEXT FRIEND MAY BRING AN ACTION TO ANNUL
14 THE MARRIAGE.

15 Sec. 36. ~~The marriage of a lunatic may also be declared~~
16 ~~void, upon the application of the lunatic, after the restoration~~
17 ~~of reason; but in such case, no sentence of nullity shall be pro-~~
18 ~~nounced, if it shall appear that the parties freely cohabited as~~
19 ~~husband and wife, after the lunatic was restored to a sound~~
20 ~~mind.~~ A PARTY TO A MARRIAGE WHO, AT THE TIME OF THE MARRIAGE,
21 WAS NOT CAPABLE IN LAW OF CONTRACTING AND WHO LATER BECOMES
22 CAPABLE IN LAW OF CONTRACTING MAY BRING AN ACTION TO DECLARE
23 ANNUL THE MARRIAGE. THE COURT SHALL NOT, HOWEVER, ANNUL THE MAR-
24 RIAGE IF THE COURT FINDS THAT THE PARTIES COHABITED AS HUSBAND
25 AND WIFE AFTER THE PARTY BECAME CAPABLE IN LAW OF CONTRACTING.

26 Enacting section 1. Section 16a of 1846 RS 84, MCL 552.16a,
27 is repealed.

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1 Enacting section 2. This amendatory act takes effect
2 September 30, 2001.

3 Enacting section 3. This amendatory act does not take
4 effect unless Senate Bill No. 317 of the 91st Legislature is
5 enacted into law.