



# HOUSE BILL No. 5383

February 16, 2000, Introduced by Reps. Spade, Hager, Cameron Brown and Vander Roest and referred to the Committee on Family and Civil Law.

A bill to amend 1846 RS 84, entitled  
"Of divorce,"  
by amending sections 6, 7, and 9f (MCL 552.6, 552.7, and 552.9f)  
and by adding sections 5, 8, and 8a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5. AS USED IN THIS ACT:

2 (A) "COVENANT MARRIAGE" MEANS A MARRIAGE CONTRACTED OR DES-  
3 IGNATED AS A COVENANT MARRIAGE UNDER SECTION 3A OR 3E OF 1887  
4 PA 128, MCL 551.103A AND 551.103E, RESPECTIVELY.

5 (B) "MARRIAGE AND FAMILY THERAPIST" MEANS THAT TERM AS  
6 DEFINED IN SECTION 16901 OF THE PUBLIC HEALTH CODE, 1978 PA 368,  
7 MCL 333.16901.

8 (C) "MINISTER" MEANS THAT TERM AS DEFINED IN SECTION 1 OF  
9 1887 PA 128, MCL 551.101.

1       Sec. 6. (1) A complaint for divorce may be filed in the  
2 circuit court upon the allegation that there has been a breakdown  
3 of the marriage relationship to the extent that the objects of  
4 matrimony have been destroyed and there remains no reasonable  
5 likelihood that the marriage can be preserved. In the complaint,  
6 the plaintiff shall make no other explanation of the grounds for  
7 divorce than by the use of the statutory language.

8       (2) The defendant, by answer, may either admit the grounds  
9 for divorce alleged or deny them without further explanation. An  
10 admission by the defendant of the grounds for divorce may be con-  
11 sidered by the court, but is not binding on the court's  
12 determination.

13       (3) The court shall enter a judgment ~~dissolving the bonds~~  
14 ~~of matrimony~~ OF DIVORCE if evidence is presented in open court  
15 that there has been a breakdown in the marriage relationship to  
16 the extent that the objects of matrimony have been destroyed and  
17 there remains no reasonable likelihood that the marriage can be  
18 preserved.

19       (4) THIS SECTION DOES NOT APPLY TO A COVENANT MARRIAGE.

20       Sec. 7. (1) An action for separate maintenance may be filed  
21 in the circuit court in the same manner and on the same grounds  
22 as an action for divorce. In the complaint, the plaintiff shall  
23 make no other explanation of the grounds for separate maintenance  
24 than by use of the statutory language.

25       (2) The defendant, by answer, may either admit the grounds  
26 for separate maintenance alleged or deny them without further  
27 explanation. An admission by the defendant of the grounds for

1 separate maintenance may be considered by the court, but is not  
2 binding on the court's determination. The defendant may also  
3 file a counterclaim for divorce.

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

8 (4) If evidence is presented in open court that there has  
9 been a breakdown in the marriage relationship to the extent that  
10 the objects of matrimony have been destroyed and there remains no  
11 reasonable likelihood that the marriage can be preserved, the  
12 court shall enter:

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~~ OF  
16 DIVORCE if a counterclaim for divorce has been filed.

17 (5) THIS SECTION DOES NOT APPLY TO A COVENANT MARRIAGE.

18 SEC. 8. (1) THIS SECTION APPLIES ONLY TO A COVENANT  
19 MARRIAGE.

20 (2) A COMPLAINT FOR DIVORCE MAY BE FILED IN THE CIRCUIT  
21 COURT. IN THE COMPLAINT, THE PLAINTIFF SHALL MAKE NO OTHER  
22 EXPLANATION OF THE GROUNDS FOR DIVORCE THAN BY THE USE OF THE  
23 APPLICABLE LANGUAGE OF SUBSECTION (4).

24 (3) THE DEFENDANT, BY ANSWER, MAY EITHER ADMIT THE GROUNDS  
25 FOR DIVORCE ALLEGED OR DENY THEM WITHOUT FURTHER EXPLANATION. AN  
26 ADMISSION BY THE DEFENDANT OF THE GROUNDS FOR DIVORCE MAY BE

1 CONSIDERED BY THE COURT, BUT IS NOT BINDING ON THE COURT'S  
2 DETERMINATION.

3 (4) THE COURT SHALL ENTER A JUDGMENT OF DIVORCE IF THE COURT  
4 FINDS THAT THE PLAINTIFF AND DEFENDANT HAVE RECEIVED JOINT OR  
5 INDIVIDUAL MARRIAGE COUNSELING FROM A MINISTER OR MARRIAGE AND  
6 FAMILY THERAPIST AND THAT 1 OR MORE OF THE FOLLOWING ARE TRUE:

7 (A) THE DEFENDANT COMMITTED ADULTERY.

8 (B) THE DEFENDANT COMMITTED A FELONY AND WAS SENTENCED TO  
9 IMPRISONMENT FOR NOT LESS THAN 5 YEARS.

10 (C) THE DEFENDANT ABANDONED THE MATRIMONIAL DOMICILE NOT  
11 LESS THAN 1 YEAR BEFORE THE COMPLAINT WAS FILED, WAS REQUESTED BY  
12 THE PLAINTIFF DURING THAT PERIOD TO RETURN TO THE MATRIMONIAL  
13 DOMICILE, AND DID NOT AT ANY TIME DURING THAT PERIOD RETURN TO  
14 THE MATRIMONIAL DOMICILE.

15 (D) THE DEFENDANT ABUSED THE PLAINTIFF OR A CHILD OF 1 OR  
16 BOTH SPOUSES AND THE ABUSE WAS 1 OR MORE OF THE FOLLOWING:

17 (i) THE DEFENDANT'S VIOLENT, PHYSICAL ATTACK ON THE PLAIN-  
18 TIFF OR CHILD.

19 (ii) THE DEFENDANT'S THREAT OR THREATENING BEHAVIOR THAT  
20 CAUSED THE PLAINTIFF OR CHILD TO FEAR A VIOLENT, PHYSICAL ATTACK  
21 BY THE DEFENDANT.

22 (iii) THE DEFENDANT'S PSYCHOLOGICAL ABUSE OF THE PLAINTIFF  
23 OR CHILD THAT CAUSED A SUBSTANTIAL, PROTRACTED BUT NOT NECESSAR-  
24 ILY PERMANENT, AND VISIBLY DEMONSTRABLE MANIFESTATION OF MENTAL  
25 DISTRESS IN THE PLAINTIFF'S OR CHILD'S MENTAL CONDITION.

1 (E) THE SPOUSES BY MUTUAL CONSENT HAVE BEEN LIVING SEPARATE  
2 AND APART CONTINUOUSLY WITHOUT RECONCILIATION FOR NOT LESS THAN 2  
3 YEARS.

4 (F) IF THERE ARE NO MINOR CHILDREN OF THE MARRIAGE, THE  
5 SPOUSES BY MUTUAL CONSENT HAVE BEEN LIVING SEPARATE AND APART  
6 CONTINUOUSLY WITHOUT RECONCILIATION FOR NOT LESS THAN 1 YEAR  
7 AFTER ENTRY OF A JUDGMENT OF SEPARATE MAINTENANCE.

8 (G) IF THERE IS A MINOR CHILD OF THE MARRIAGE, THE SPOUSES  
9 BY MUTUAL CONSENT HAVE BEEN LIVING SEPARATE AND APART CONTINU-  
10 OUSLY WITHOUT RECONCILIATION FOR NOT LESS THAN 18 MONTHS AFTER  
11 ENTRY OF A JUDGMENT OF SEPARATE MAINTENANCE.

12 (H) IF A JUDGMENT OF SEPARATE MAINTENANCE WAS ENTERED BASED  
13 ON ABUSE AS DESCRIBED IN SUBDIVISION (D), THE SPOUSES BY MUTUAL  
14 CONSENT HAVE BEEN LIVING SEPARATE AND APART CONTINUOUSLY WITHOUT  
15 RECONCILIATION FOR NOT LESS THAN 1 YEAR AFTER ENTRY OF THE JUDG-  
16 MENT OF SEPARATE MAINTENANCE.

17 SEC. 8A. (1) THIS SECTION APPLIES ONLY TO A COVENANT  
18 MARRIAGE.

19 (2) AN ACTION FOR SEPARATE MAINTENANCE MAY BE FILED IN THE  
20 CIRCUIT COURT IN THE SAME MANNER AND ON THE SAME GROUNDS AS AN  
21 ACTION FOR DIVORCE UNDER SECTION 8(4)(A) TO (E). IN THE COM-  
22 PLAIN, THE PLAINTIFF SHALL MAKE NO OTHER EXPLANATION OF THE  
23 GROUNDS FOR SEPARATE MAINTENANCE THAN BY USE OF THE APPLICABLE  
24 LANGUAGE OF SECTION 8(4)(A) TO (E).

25 (3) THE DEFENDANT, BY ANSWER, MAY EITHER ADMIT THE GROUNDS  
26 FOR SEPARATE MAINTENANCE ALLEGED OR DENY THEM WITHOUT FURTHER  
27 EXPLANATION. AN ADMISSION BY THE DEFENDANT OF THE GROUNDS FOR

1 SEPARATE MAINTENANCE MAY BE CONSIDERED BY THE COURT, BUT IS NOT  
2 BINDING ON THE COURT'S DETERMINATION. THE DEFENDANT MAY ALSO  
3 FILE A COUNTERCLAIM FOR DIVORCE.

4 (4) IF THE DEFENDANT FILES A COUNTERCLAIM FOR DIVORCE, THE  
5 ALLEGATION CONTAINED IN THE PLAINTIFF'S COMPLAINT AS TO THE  
6 GROUNDS FOR SEPARATE MAINTENANCE MAY BE CONSIDERED BY THE COURT,  
7 BUT IS NOT BINDING ON THE COURT'S DETERMINATION.

8 (5) THE COURT SHALL ENTER AN ORDER UNDER SUBSECTION (6) IF  
9 THE COURT FINDS THAT THE PLAINTIFF RECEIVED MARRIAGE COUNSELING  
10 FROM A MINISTER OR MARRIAGE AND FAMILY THERAPIST AND THAT 1 OR  
11 MORE OF THE FOLLOWING ARE TRUE:

12 (A) THE DEFENDANT COMMITTED ADULTERY.

13 (B) THE DEFENDANT COMMITTED A FELONY AND WAS SENTENCED TO  
14 IMPRISONMENT FOR NOT LESS THAN 5 YEARS.

15 (C) THE DEFENDANT ABANDONED THE MATRIMONIAL DOMICILE NOT  
16 LESS THAN 1 YEAR BEFORE THE COMPLAINT WAS FILED, WAS REQUESTED BY  
17 THE PLAINTIFF DURING THAT PERIOD TO RETURN TO THE MATRIMONIAL  
18 DOMICILE, AND DID NOT AT ANY TIME DURING THAT PERIOD RETURN TO  
19 THE MATRIMONIAL DOMICILE.

20 (D) THE DEFENDANT ABUSED THE PLAINTIFF OR A CHILD OF 1 OR  
21 BOTH SPOUSES AND THE ABUSE WAS 1 OR MORE OF THE FOLLOWING:

22 (i) THE DEFENDANT'S VIOLENT, PHYSICAL ATTACK ON THE PLAIN-  
23 TIFF OR CHILD.

24 (ii) THE DEFENDANT'S THREAT OR THREATENING BEHAVIOR THAT  
25 CAUSED THE PLAINTIFF OR CHILD TO FEAR A VIOLENT, PHYSICAL ATTACK  
26 BY THE DEFENDANT.

1        (iii) THE DEFENDANT'S PSYCHOLOGICAL ABUSE OF THE PLAINTIFF  
2 OR CHILD THAT CAUSED A SUBSTANTIAL, PROTRACTED BUT NOT  
3 NECESSARILY PERMANENT, AND VISIBLY DEMONSTRABLE MANIFESTATION OF  
4 MENTAL DISTRESS IN THE PLAINTIFF'S OR CHILD'S MENTAL CONDITION.

5        (E) THE SPOUSES BY MUTUAL CONSENT HAVE BEEN LIVING SEPARATE  
6 AND APART CONTINUOUSLY WITHOUT RECONCILIATION FOR NOT LESS THAN 2  
7 YEARS.

8        (F) THE SPOUSES' LIVING TOGETHER IS UNSUPPORTABLE BECAUSE OF  
9 ANY OF THE FOLLOWING:

10       (i) THE DEFENDANT HABITUALLY ABUSES ALCOHOL OR DRUGS TO THE  
11 EXTENT OF PLACING THE DEFENDANT'S SOCIAL, ECONOMIC, PSYCHOLOGI-  
12 CAL, AND PHYSICAL WELFARE IN POTENTIAL HAZARD OR TO THE EXTENT  
13 THAT THE DEFENDANT LOSES THE POWER OF SELF-CONTROL OR ENDANGERS  
14 HIS OR HER SPOUSE'S OR CHILD'S HEALTH, MORALS, SAFETY, OR  
15 WELFARE.

16       (ii) THE DEFENDANT ENGAGES IN CRUEL AND OUTRAGEOUS CONDUCT  
17 TOWARD THE PLAINTIFF OR A CHILD OF 1 OR BOTH OF THE SPOUSES.

18       (6) IF THE COURT FINDS THAT 1 OR MORE CIRCUMSTANCES SET  
19 FORTH IN SUBSECTION (5) ARE TRUE, THE COURT SHALL ENTER 1 OF THE  
20 FOLLOWING:

21       (A) A JUDGMENT OF SEPARATE MAINTENANCE IF A COUNTERCLAIM FOR  
22 DIVORCE HAS NOT BEEN FILED.

23       (B) A JUDGMENT OF DIVORCE IF A COUNTERCLAIM FOR DIVORCE HAS  
24 BEEN FILED AND THE REQUIREMENTS OF SECTION 8 ARE MET.

25       (7) THE COURT SHALL NOT ENTER A JUDGMENT OF SUMMARY DISPOSI-  
26 TION IN AN ACTION UNDER THIS SECTION.

1        Sec. 9f. (1) ~~No proofs or testimony shall be taken in any~~  
 2 ~~case for divorce~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,  
 3 THE COURT SHALL NOT TAKE EVIDENCE OR TESTIMONY IN A DIVORCE  
 4 ACTION until the expiration of ~~60~~ 63 days ~~from~~ AFTER the time  
 5 of filing the ~~bill of complaint, except where the cause for~~  
 6 ~~divorce is desertion, or when~~ ACTION, EXCEPT IF the testimony is  
 7 taken conditionally for the purpose of perpetuating ~~such~~ THAT  
 8 testimony. ~~In every case where there are~~ EXCEPT AS OTHERWISE  
 9 PROVIDED IN THIS SECTION, IF THE DIVORCE ACTION INVOLVES depen-  
 10 dent minor children under the age of 18 years, ~~no proofs or tes-~~  
 11 ~~timony shall be taken in such cases for divorce~~ THE COURT SHALL  
 12 NOT TAKE EVIDENCE OR TESTIMONY until the expiration of 6 months  
 13 ~~from~~ AFTER the day the ~~bill of complaint~~ ACTION is filed. In  
 14 cases of unusual hardship or such compelling necessity as ~~shall~~  
 15 ~~appear~~ APPEALS to the conscience of the court, upon petition and  
 16 proper showing, it may take testimony at any time after the expi-  
 17 ration of ~~60~~ 63 days ~~from~~ AFTER the time of filing the ~~bill~~  
 18 ~~of complaint~~ ACTION. ~~Testimony may be taken~~ THE COURT MAY  
 19 TAKE TESTIMONY conditionally at any time for the purpose of per-  
 20 petuating ~~such~~ THE testimony. ~~When~~

21        (2) IF the defendant in ~~any case for~~ A divorce ACTION is  
 22 not domiciled in this state at the time ~~of commencing the suit~~  
 23 ~~or shall not have been domiciled herein~~ THE ACTION IS FILED OR  
 24 WAS NOT DOMICILED IN THIS STATE at the time the cause for divorce  
 25 arose, before ~~any~~ THE COURT GRANTS A decree of divorce, ~~shall~~  
 26 ~~be granted~~ the complainant must prove that the parties have  
 27 actually lived and cohabited together as husband and wife within



1 this state, or that the complainant has in good faith resided in  
2 this state for 1 year immediately preceding the filing of the  
3 ~~bill of complaint for divorce~~ ACTION.

4 (3) IN AN ACTION FOR DIVORCE UNDER SECTION 8 OR FOR SEPARATE  
5 MAINTENANCE UNDER SECTION 8A, IF THE GROUNDS IS ABUSE AS  
6 DESCRIBED IN SECTION 8(4)(D) OR SECTION 8A(5)(D), RESPECTIVELY,  
7 THE TIME PERIODS REQUIRED BY SUBSECTION (1) DO NOT APPLY. IN  
8 SUCH AN ACTION, THE COURT SHALL HEAR THE CASE AT THE EARLIEST  
9 PRACTICABLE TIME AND EXPEDITE IT AS MUCH AS POSSIBLE. FOR GOOD  
10 CAUSE SHOWN, THE CASE SHALL TAKE PRECEDENCE OVER OTHER MATTERS  
11 BEFORE THE COURT.

12 Enacting section 1. This amendatory act does not take  
13 effect unless Senate Bill No. \_\_\_\_\_ or House Bill  
14 No. 5384 (request no. 00812'99 a \*) of the 90th Legislature  
15 is enacted into law.