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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 8

Session of  
1983

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INTRODUCED BY DOMBROWSKI, CAPPABIANCA, BOWSER, BOYES AND MERRY,  
JANUARY 24, 1983

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SENATOR SNYDER, JUDICIARY, IN SENATE, AS AMENDED, JUNE 11, 1984

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AN ACT

1 Amending the act of April 2, 1980 (P.L.63, No.26), entitled "An  
2 act consolidating, revising and amending the divorce and  
3 annulment laws of the Commonwealth and making certain  
4 repeals," further providing for grounds for annulment of VOID <—  
5 AND voidable marriages.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. ~~Section~~ SECTIONS 203, 204 AND 205 of the act of <—  
9 April 2, 1980 (P.L.63, No.26), known as the Divorce Code, ~~is~~ ARE <—  
10 amended to read:

11 SECTION 203. ANNULMENT OF VOID AND VOIDABLE MARRIAGES. <—

12 (A) IN ALL CASES WHERE A SUPPOSED OR ALLEGED MARRIAGE SHALL  
13 HAVE BEEN CONTRACTED WHICH IS VOID OR VOIDABLE UNDER THIS ACT OR  
14 UNDER APPLICABLE LAW, EITHER PARTY TO SUCH SUPPOSED OR ALLEGED  
15 MARRIAGE MAY BRING AN ACTION IN ANNULMENT TO HAVE IT DECLARED  
16 NULL AND VOID IN ACCORDANCE WITH THE PROCEDURES PROVIDED FOR  
17 UNDER THIS ACT AND THE RULES OF CIVIL PROCEDURE.

18 (B) IN THE CASE OF A PURPORTED COMMON LAW MARRIAGE WHERE A

1 PARTY WAS UNDER 18 YEARS OF AGE, A PARENT OR GUARDIAN OF THE  
2 MINOR MAY BRING A DECLARATORY JUDGMENT PROCEEDING DURING THE  
3 PARTY'S MINORITY TO HAVE THE MARRIAGE DECLARED VOID.

4 SECTION 204. ANNULMENT OR INVALIDITY OF VOID MARRIAGES.

5 (A) WHERE THERE HAS BEEN NO CONFIRMATION BY COHABITATION  
6 FOLLOWING THE REMOVAL OF AN IMPEDIMENT, THE SUPPOSED OR ALLEGED  
7 MARRIAGE OF ANY PERSON SHALL BE DEEMED VOID IN THE FOLLOWING  
8 CASES:

9 (1) WHERE EITHER PARTY AT THE TIME OF SUCH MARRIAGE HAD  
10 AN EXISTING SPOUSE AND THE FORMER MARRIAGE HAD NOT BEEN  
11 ANNULLED NOR HAD THERE BEEN A DIVORCE, EXCEPT WHERE SUCH  
12 PERSON HAD OBTAINED A DECREE OF PRESUMED DEATH OF THE FORMER  
13 SPOUSE.

14 (2) WHERE THE PARTIES TO SUCH MARRIAGE ARE RELATED  
15 WITHIN THE PROHIBITED DEGREES OF CONSANGUINITY, WHICH DEGREES  
16 ARE AS FOLLOWS:

17 A MAN MAY NOT MARRY HIS MOTHER.

18 A MAN MAY NOT MARRY HIS FATHER'S SISTER.

19 A MAN MAY NOT MARRY HIS MOTHER'S SISTER.

20 A MAN MAY NOT MARRY HIS SISTER.

21 A MAN MAY NOT MARRY HIS DAUGHTER.

22 A MAN MAY NOT MARRY THE DAUGHTER OF HIS SON OR  
23 DAUGHTER.

24 A WOMAN MAY NOT MARRY HER FATHER.

25 A WOMAN MAY NOT MARRY HER FATHER'S BROTHER.

26 A WOMAN MAY NOT MARRY HER MOTHER'S BROTHER.

27 A WOMAN MAY NOT MARRY HER BROTHER.

28 A WOMAN MAY NOT MARRY HER SON.

29 A WOMAN MAY NOT MARRY THE SON OF HER SON OR DAUGHTER.

30 (3) WHERE EITHER PARTY TO SUCH MARRIAGE WAS INCAPABLE OF

1        CONSENTING BY REASON OF INSANITY OR SERIOUS MENTAL DISORDER,  
2        OR OTHERWISE LACKED CAPACITY TO CONSENT OR DID NOT INTEND TO  
3        ASSENT TO SUCH MARRIAGE.

4        (4) WHERE EITHER PARTY TO A PURPORTED COMMON LAW  
5        MARRIAGE WAS UNDER 18 YEARS OF AGE.

6        (B) IN ALL SUCH CASES OF MARRIAGES WHICH ARE VOID, THE  
7        MARRIAGE MAY BE ANNULLED AS SET FORTH IN SECTION 203, OR ITS  
8        INVALIDITY MAY BE DECLARED IN ANY COLLATERAL PROCEEDING.

9        Section 205. Grounds for annulment of voidable marriages.

10       (a) The marriage of any person shall be deemed voidable and  
11       subject to annulment in the following cases:

12       (1) Where either party to such marriage was under 16  
13       years of age, unless such marriage was expressly authorized  
14       by a judge of the court.

15       (2) Where either party was 16 or 17 years of age and  
16       lacked the consent of parent or guardian or express  
17       authorization of the court and has not subsequently ratified  
18       such marriage upon reaching the age of 18 and such proceeding  
19       for annulment is commenced within 60 days after the marriage  
20       ceremony.

21       (3) Where either party to such marriage was under the  
22       influence of intoxicating liquor or drugs and a proceeding  
23       for annulment has been filed within 60 days after the  
24       marriage ceremony.

25       (4) Where either party to such marriage still is and was  
26       naturally and incurably impotent at the time of such  
27       marriage, unless the condition was known to the other party  
28       prior to the marriage.

29       (5) Where one party was induced to enter into such  
30       marriage due to the fraud, duress, coercion, or force

1       attributable to the other party, and there has been no  
2       subsequent voluntary cohabitation after knowledge of such  
3       fraud or release from the effects of fraud, duress, coercion,  
4       or forces.

5       (6) Where either party to a common law marriage  
6       hereafter entered into is under 18 years of age.

7       (b) In all such cases of marriages which are voidable,  
8       either party thereto may seek and obtain an annulment of such  
9       marriage, but unless and until such decree is obtained from a  
10      court of competent jurisdiction, such marriage shall be valid  
11      and subsisting. The validity of such a voidable marriage shall  
12      not be subject to attack or question by any person if it is  
13      subsequently confirmed by the parties thereto or if either party  
14      has died.

15      (c) A marriage which is voidable under subsection (a)(6) may  
16      be declared invalid in a proceeding for annulment brought by a  
17      parent or guardian of a minor spouse, if such minor spouse has  
18      not attained the age of 18 at the time of the filing of the  
19      action.

20      Section 2. This act shall take effect in 60 days.