

MICHIGAN COMMUNITY PROPERTY ACT (EXCERPT)
Act 317 of 1947

***** 557.211 THIS SECTION WAS REPEALED BY ACT 39 OF 1948 (1ST EX. SESS.) EFFECTIVE MAY 10, 1948, SUBJECT TO SAVINGS PROVISIONS IN § 557.252 ET SEQ. *****

557.211 Incapacity of husband or wife; substitution of other spouse; petition; hearing; decree; recording copy; jurisdiction of probate code.

Sec. 11.

(a) Whenever the husband or the wife is non compos mentis, or has been convicted of a felony and imprisoned for a period of more than 1 year, or whenever the husband or the wife has deserted the other spouse, or whenever the husband or the wife is an habitual drunkard, or for any other reason is incapacitated or incompetent to receive, manage, control, dispose of, or otherwise deal with community property, the other spouse may present a petition, duly verified, to the circuit court of the county in which the petitioner resides or, if a non-resident of this state, of the county wherein any of the community property is located. The petition shall state the name of the defendant spouse, a summary of all community property, so far as known, and the facts which render the defendant spouse incapable or incompetent to receive, manage, control, dispose of, or otherwise deal with community property, and shall pray that the spouse filing the petition be substituted for the defendant spouse, as to the right to receive, manage, control, dispose of, and otherwise deal with all or any designated portion or portions of the community property, then owned and thereafter to be acquired, which would otherwise be under the management and control of the defendant spouse.

(b) In all such cases service of process shall be had as in equity proceedings: Provided, however, That where it is alleged that the other spouse is non compos mentis, his guardian shall represent him or a guardian ad litem shall be appointed having such powers as in other civil actions.

(c) Upon the hearing of the petition, the court shall enter a decree either dismissing said petition or adjudging the spouse filing the same to have such power to receive, manage, control and dispose of, and deal with all or any designated portion or portions of community property, then owned and thereafter to be acquired, which would otherwise be under the management and control of the defendant spouse, and containing such other provisions, which as to the court may appear to be just, proper, equitable, and to the best interests of the community.

(d) In case of any change in conditions after the entry of a decree pursuant to this section, either spouse may, by petition duly verified setting forth such change in conditions, apply to the court having jurisdiction thereof for the entry of a decree modifying or rescinding such decree. In such case notice to the other spouse shall be given in such manner as the court may direct. Upon the hearing of such petition the court shall enter a decree either denying such petition or modifying or rescinding the decree, as to the court may appear to be just, proper, equitable, and to the best interests of the community.

(e) A certified copy of such decree shall be recorded in the office of the register of deeds for the county where the decree was entered and for the county where any of the community property is then located and such recording shall constitute notice to all parties of the facts contained in such decree as to all property located in any such county.

(f) Whenever a probate court under the provisions of Act No. 288 of the Public Acts of 1939, as amended, has jurisdiction with respect to a spouse who is mentally incompetent, an habitual drunkard, or otherwise incompetent, such court shall have jurisdiction concurrent with that herein provided for the circuit court with respect to proceedings under the provisions of this section.

History: 1947, Act 317, Imd. Eff. July 1, 1947 ;-- CL 1948, 557.211

Compiler's Notes: For provisions of Act 288 of 1939, referred to in this section, see MCL 701.1 et seq. This act was repealed by MCL 557.251, subject to the saving provisions contained in MCL 557.252 et seq.