



**House  
Legislative  
Analysis  
Section**

Manufacturer's Bank Building, 12th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

*out of place*

**PREMARITAL COUNSELING**

**Senate Bill 535** with House committee amendments  
First Analysis (2-27-90)

**RECEIVED**

**MAR 21 1990**

**Sponsor:** Senator Doug Cruce  
**Senate Committee:** Health Policy Mich. State Law Library  
**First House Committee:** Public Health  
**Second House Committee:** Judiciary

***THE APPARENT PROBLEM:***

The Public Health Code requires a marriage license applicant to present a certificate showing that he or she had been counseled by a physician, local health officer, or health officer's designee regarding the transmission and prevention of sexually transmitted diseases. Recently, a church community from southeast Michigan sought permission from the Oakland County Health Department to have a minister from that church serve as the local health department's designee to perform the premarital counseling for the church's members. While seeking to comply with the law, church members wanted the designation because they objected on religious grounds to some of the information that would be presented. In addition, they believed that the information should be presented in a moral context, which they felt could be done only by one of their fellow members. The policy of the Oakland County Health Department, however, reportedly is to select as designees people who come under the authority of the department. The health department thus denied the church's request. Some people believe that the Public Health Code should allow exemptions from the premarital counseling requirement for people who object on religious grounds.

***THE CONTENT OF THE BILL:***

The bill would amend the Public Health Code to allow a marriage license applicant to avoid the premarital counseling requirement by filing with the county clerk a written objection stating that the counseling requirement violated the personal religious beliefs of the applicant.

MCL 333.5119

***HOUSE COMMITTEE ACTION:***

As passed by the Senate, the bill provided for a court order waiving the counseling requirement for a marriage license applicant with religious objections. The House Judiciary committee replaced the court procedures with a provision for filing an objection with the county clerk.

***FISCAL IMPLICATIONS:***

The Senate Fiscal Agency said that the bill as passed by the Senate had no fiscal implications for state or local government. (1-3-90)

***ARGUMENTS:***

***For:***

Various religious groups have objected to the Public Health Code's requirement that marriage license applicants undergo counseling on the prevention and transmission of sexually transmitted diseases. Material covered in counseling sessions, such as the use of a condom to prevent

the spread of HIV (human immunodeficiency virus; that is, AIDS) infection, is sometimes offensive to religious beliefs. The bill would provide a mechanism for those with religious objections to forego the premarital counseling otherwise required of marriage license applicants.

***Against:***

The bill is an ill-advised approach to the problem of conflicts between freedom of religion and the public interest as expressed in the Public Health Code. In the first place, the state has an interest in minimizing ignorance of how AIDS and venereal diseases are transmitted; the issue of ignorance can be separated from religious issues of medical intervention or moral issues of sexual activity. However, even if one accepts that a religious exception should be provided, the bill goes too far. It would allow anyone to avoid the counseling requirement simply by filing a statement claiming religious objections; it would provide a convenient "out" for a person with no particular religious beliefs who did not want to bother with the premarital counseling. On the other hand, the court procedures called for by the Senate-passed bill could be unnecessarily time-consuming and costly. Perhaps an approach more closely tailored to the problem would be more appropriate; if the problem is that of a minister being denied authority to conduct the premarital counseling required by the Public Health Code, then maybe the code should be amended to allow ministers of certain religious groups to provide the required counseling.

***Response:*** Maybe the problem is that the state requires premarital counseling at all. With all the information available through newspapers, magazines, television, and public service advertisements, the value of the counseling requirement is debatable, especially as marriage license applicants probably are a fairly low risk group for sexually transmitted disease.

***POSITIONS:***

Christian Science Churches support the bill. (2-20-90)

A representative of the Plymouth Brethren Church of Royal Oak testified in support of the bill. (2-20-90)

The Department of Public Health does not support the bill in its present form. (2-26-90)