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BILL ANALYSIS

Senate Fiscal Agency

• Lansing, Michigan 48909

• (517) 373-5383

Senate Bill 535 (as enrolled)
Sponsor: Senator Doug Cruce
Senate Committee: Health Policy
First House Committee: Public Health
Second House Committee: Judiciary

PUBLIC ACT 46 of 1990

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Date Completed: 1-25-91

RATIONALE

The Public Health Code requires that a person applying for a marriage license be counseled by a physician, a local health officer, or a designee of a local health officer regarding the transmission and prevention of venereal disease (VD) and Human Immunodeficiency Virus (HIV) infection. 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 in order to perform the premarital counseling for the church's members. While seeking to comply with the law, church members objected on religious grounds to some of the information that would be presented. In addition, church members believed that the information imparted during the counseling session should be presented in a moral context, which they felt could be done only by one of their fellow church members. The policy of the Oakland County Health Department, however, reportedly is to select as designees persons who come under the authority of the local health department. Thus, the local health department denied the church's request to have a minister serve as the health department's designee. Some people believe that the Code should allow exemptions from the premarital counseling requirement for persons who object to it on religious grounds.

CONTENT

The bill would amend the Public Health Code to provide that an applicant or a prospective applicant for a marriage license could file a written objection with the clerk for the county in which the license was to be issued stating that

the HIV and venereal disease counseling requirements violated the applicant's personal religious beliefs. A county clerk could not issue a marriage license to an applicant who did not present and file with the clerk a written objection or, as currently required, a certificate indicating that the applicant had received counseling on the transmission and prevention of VD and HIV infection and had been offered VD and HIV testing.

The county clerk could charge a fee for the administrative costs associated with filing the written objection. The fee could not exceed the amount charged by the county health department for the marriage license counseling services required under the Code.

MCL 333.5119

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS**Supporting Argument**

Certain religious groups have objected to the Public Health Code's requirement that an applicant or a prospective applicant for a marriage license be counseled on the transmission of VD or HIV infection. Material covered in the counseling session, such as the use of a condom to prevent the spread of HIV infection, is considered by these groups to be objectionable to their religious beliefs. The bill is a reasoned approach to the problem because it

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would provide a mechanism for people to object to the counseling requirement on religious grounds, while retaining the existing counseling requirement for nonobjectors. Furthermore, the bill would not change the current requirement that a county clerk, at the time a marriage license application is filed, distribute to each applicant educational materials on topics related to VD, HIV transmission, and prenatal care. Thus, persons who objected to the counseling requirement still would be given information on sexually transmitted diseases at the time they filed their marriage license applications.

Response: The Senate-passed version of the bill would have created less of a blanket exemption to the counseling requirement, by requiring objectors to seek a judicial waiver of the mandatory counseling.

Opposing Argument

Proponents of the bill site as precedent the Code's provision that a person does not have to undergo medical treatment, testing, or examination if these activities violate a person's religious beliefs (MCL 333.5113). This provision, however, applies to treatment, while the bill would deal with the imparting of factual information. Thus, the bill would set the troubling precedent of allowing persons to seek a waiver from merely being told medical information. The bill's supporters also point out that even if persons objected to the counseling requirement, they still would receive written information on sexually transmitted diseases at the time they filed the marriage license application. The effectiveness of counseling as a public health tool should not be minimized, however. Counseling is useful as an interactive process between people that can help a person determine if he or she has practiced or is practicing behavior that could place the person at risk of contracting or transmitting HIV infection or other sexually transmitted diseases. Furthermore, if the counseling requirement is considered governmental interference in a person's private life, then counseling should be eliminated across the board and not just for religious objections.

Legislative Analyst: L. Arasim

S. Margules

Fiscal Analyst: P. Graham

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