

HOUSE BILL No. 5991

July 2, 1998, Introduced by Reps. Voorhees, Griffin, Whyman, Llewellyn, Perricone, Geiger, Sikkema, Bodem, Brackenridge, McNutt, DeVuyst, Callahan, Lowe, Jansen, Horton, Law, Nye, Walberg, Kukuk, Green, Rocca, Sanborn, Jellema, Fitzgerald, Jelinek, Birkholz, Baade, Dalman, McManus, Gernaat, Varga, Harder, McBryde, Raczkowski and Scranton and referred to the Committee on Judiciary.

A bill to amend 1887 PA 128, entitled

"An act establishing the minimum ages for contracting marriages, for the requiring of a civil license in order to marry, and the due registration of the same, and to provide a penalty for the violation of the provisions of the same,"

by amending sections 1, 3, and 3a (MCL 551.101, 551.103, and 551.103a), section 3 as amended by 1984 PA 346 and section 3a as amended by 1989 PA 270, and by adding sections 3c, 3e, and 3g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) AS USED IN THIS ACT:

2 (A) "MARRIAGE AND FAMILY THERAPIST" MEANS THAT TERM AS
3 DEFINED IN SECTION 16901 OF THE PUBLIC HEALTH CODE, 1978 PA 368,
4 MCL 333.16901.

5 (B) "MINISTER" MEANS AN ORDAINED, COMMISSIONED, OR LICENSED
6 MINISTER, PASTOR, PRIEST, DEACON, OR RABBI OF A RELIGIOUS
7 ORGANIZATION.

1 (C) "RELIGIOUS ORGANIZATION" MEANS AN ORGANIZATION, CHURCH,
2 BODY OF COMMICANTS, OR GROUP THAT GATHERS NOT FOR PECUNIARY
3 PROFIT, BUT IN COMMON MEMBERSHIP FOR MUTUAL SUPPORT AND EDIFICA-
4 TION IN PIETY, WORSHIP, AND RELIGIOUS OBSERVANCE; OR A SOCIETY OF
5 INDIVIDUALS UNITED NOT FOR PECUNIARY PROFIT, BUT FOR RELIGIOUS
6 PURPOSES AT A DEFINITE PLACE.

7 (2) ~~It shall be necessary for all parties intending to be~~
8 ~~married to~~ A MAN AND WOMAN WHO INTEND TO BE MARRIED SHALL obtain
9 a marriage license from the county clerk of the county in which
10 either the man or woman resides and ~~to~~ deliver the ~~said~~
11 license to the clergyman or magistrate who is to officiate,
12 before the marriage can be performed. If both parties to be mar-
13 ried are ~~non-residents~~ NONRESIDENTS of the state, ~~it~~ THEY
14 shall ~~be necessary to~~ obtain ~~such~~ THE license from the county
15 clerk of the county in which the marriage is to be performed.

16 Sec. 3. (1) ~~Every~~ A person who ~~becomes~~ IS 18 years of
17 age ~~shall be capable by law of contracting~~ OR OLDER MAY
18 CONTRACT marriage. ~~Every~~ A person who ~~becomes~~ IS 16 years of
19 age but is less than 18 years of age ~~shall be capable of~~
20 ~~contracting~~ MAY CONTRACT marriage with the written consent of 1
21 of the parents of the person or the person's legal guardian, as
22 provided in this section. As proof of age, the ~~party to the~~
23 ~~intended marriage~~ PERSON WHO INTENDS TO BE MARRIED, in addition
24 to the statement of age in the application, when requested by the
25 county clerk, shall submit a birth certificate or other proof of
26 age. The county clerk on the application ~~made~~ SUBMITTED shall
27 fill out the blank spaces of the license according to the sworn

1 answers of the applicant, taken before the county clerk, or some
2 person duly authorized by law to administer oaths. When it
3 appears from the affidavit that either the applicant ~~is applying~~
4 ~~for a license for the marriage to a person who has not become~~
5 FOR A MARRIAGE LICENSE OR THE PERSON WHOM HE OR SHE INTENDS TO
6 MARRY IS LESS THAN 18 years of age, ~~or that the applicant has~~
7 ~~not become 18 years of age, or both persons applying for a~~
8 ~~license are less than 18 years of age~~ OR BOTH, the county clerk
9 shall require that there first be produced the written consent of
10 1 of the parents of each of the persons who is less than 18 years
11 of age or of the person's legal guardian, UNLESS THE PERSON DOES
12 NOT HAVE A LIVING PARENT OR GUARDIAN. THE CONSENT SHALL BE to
13 the marriage and to the issuing of the license for which applica-
14 tion is made. The consent shall be given personally in the pres-
15 ence of the county clerk or be acknowledged before a notary
16 public or other officer authorized to administer oaths. ~~unless~~
17 ~~the person does not have a living parent or guardian.~~

18 (2) IF THE PARTIES INTEND TO CONTRACT A COVENANT MARRIAGE
19 UNDER SECTION 3A, THE APPLICATION SHALL CONTAIN THE STATEMENT "WE
20 [NAME OF INTENDED HUSBAND] AND [NAME OF INTENDED WIFE] INTEND TO
21 CONTRACT A COVENANT MARRIAGE AND ACCORDINGLY HAVE EXECUTED THE
22 ATTACHED DECLARATION OF INTENT" AND THE LICENSE SHALL SPECIFY
23 THAT THE PARTIES INTEND TO CONTRACT A COVENANT MARRIAGE. PARTIES
24 WHO INTEND TO CONTRACT A COVENANT MARRIAGE ARE NOT ELIGIBLE TO
25 APPLY FOR A LICENSE UNTIL 30 DAYS AFTER THE DATE INDICATED UNDER
26 SECTION 3A(2)(B).

1 (3) A license shall not be issued by the county clerk until
2 the requirements of this section are complied with. The written
3 consent shall be preserved on file in the office of the county
4 clerk. If the parties are legally entitled to be married, the
5 county clerk shall sign the license and certify the fact that it
6 is properly issued, and the clerk shall make a correct copy of
7 the license AND, IF APPLICABLE, THE DECLARATION OF COVENANT
8 MARRIAGE in the books of registration.

9 (4) ~~(2)~~ A fee of \$20.00 shall be paid by the ~~party~~
10 PERSON applying for the license ~~which~~ AND shall be paid by the
11 county clerk into the general fund of the county. The county
12 board of commissioners shall allocate \$15.00 of each fee col-
13 lected to the circuit court for family counseling services, which
14 shall include counseling for domestic violence and child abuse.
15 If family counseling services are not established in the county,
16 the circuit court may use the money allocated to contract with
17 public or private agencies providing similar services. Funds
18 allocated to the circuit court pursuant to this section ~~which~~
19 THAT are not expended shall be returned to the general fund of
20 the county to be held in escrow until circuit court family coun-
21 seling services are established pursuant to ~~Act No. 155 of the~~
22 ~~Public Acts of 1964, as amended, being sections 551.331 to~~
23 ~~551.344 of the Michigan Compiled Laws~~ THE CIRCUIT COURT FAMILY
24 COUNSELING SERVICES ACT, 1964 PA 155, MCL 551.331 TO 551.344. A
25 probate court may order the county clerk to waive the marriage
26 license fee in cases in which the fee would result in undue
27 hardship. If both parties named in the application are

1 nonresidents of the state, an additional fee of \$10.00 shall be
2 paid by the ~~party~~ PERSON applying for the license which shall
3 be deposited by the county clerk into the general fund of the
4 county. The county clerk shall give the license filled out and
5 signed, together with the blank form of certificate, to the
6 ~~party~~ PERSON applying, for delivery to the ~~clergyman or magis-~~
7 ~~trate who is to officiate at~~ PERSON WHO IS TO SOLEMNIZE the
8 marriage. On the return of the license to the county clerk, with
9 the certificate of the ~~clergyman or magistrate~~ PERSON WHO
10 SOLEMNIZED THE MARRIAGE that the marriage has been performed, the
11 county clerk shall record in the book of registration in the
12 proper place of entry the information prescribed by the director
13 of ~~public~~ THE DEPARTMENT OF COMMUNITY health. The licenses and
14 certificates issued and returned, TOGETHER WITH THE DECLARATION
15 OF INTENT TO CONTRACT A COVENANT MARRIAGE, IF APPLICABLE, shall
16 be forwarded to the state registrar appointed by the director of
17 ~~public~~ THE DEPARTMENT OF COMMUNITY health on the forms and in
18 the manner prescribed by the director.

19 (5) ~~(3)~~ A charter county which has a population of over
20 2,000,000 may impose by ordinance a marriage license fee or non-
21 resident marriage license fee, or both, different in amount than
22 the fee prescribed by subsection ~~(2)~~ (4). The charter county
23 shall allocate the fee for family counseling services as pre-
24 scribed by subsection ~~(2)~~ (4). A charter county shall not
25 impose a fee which is greater than the cost of the service for
26 which the fee is charged.

1 DIFFICULTIES, WE COMMIT OURSELVES TO TAKE ALL REASONABLE EFFORTS
2 TO PRESERVE OUR MARRIAGE, INCLUDING MARITAL COUNSELING.

3 WITH FULL KNOWLEDGE OF WHAT THIS COMMITMENT MEANS, WE
4 DECLARE THAT OUR MARRIAGE WILL BE BOUND BY MICHIGAN LAW ON COVE-
5 NANT MARRIAGE AND WE PROMISE TO LOVE, HONOR, AND CARE FOR ONE
6 ANOTHER AS HUSBAND AND WIFE FOR THE REST OF OUR LIVES.

7 WE HAVE RECEIVED PREMARITAL COUNSELING FROM A MARRIAGE AND
8 FAMILY THERAPIST, A MINISTER, OR AN INDIVIDUAL ACTING UNDER THE
9 SUPERVISION AND DIRECTION OF A MINISTER. THE PREMARITAL COUNSEL-
10 ING INCLUDED ALL OF THE FOLLOWING:

11 (i) A DISCUSSION OF THE NATURE, PURPOSES, AND RESPONSIBILI-
12 TIES OF MARRIAGE.

13 (ii) A DISCUSSION OF THE SERIOUSNESS OF COVENANT MARRIAGE.

14 (iii) COMMUNICATION OF THE FACT THAT COVENANT MARRIAGE IS A
15 COMMITMENT FOR LIFE.

16 (iv) A DISCUSSION OF THE OBLIGATION TO SEEK MARITAL COUNSEL-
17 ING IN TIMES OF MARITAL DIFFICULTIES.

18 (v) A DISCUSSION OF THE EXCLUSIVE GROUNDS FOR A JUDGMENT OF
19 DIVORCE OR SEPARATE MAINTENANCE.

20 (vi) RECEIPT OF THE ATTORNEY GENERAL'S COVENANT MARRIAGE
21 PAMPHLET FROM THE INDIVIDUAL PROVIDING THE PREMARITAL
22 COUNSELING."

23 (B) AN AFFIDAVIT BY THE MARRIAGE AND FAMILY THERAPIST, MIN-
24 ISTER, OR INDIVIDUAL ACTING UNDER THE SUPERVISION AND DIRECTION
25 OF A MINISTER THAT THE PARTIES WERE COUNSELED AS DESCRIBED IN
26 SUBDIVISION (A). THE AFFIDAVIT UNDER THIS SUBDIVISION SHALL BE
27 ATTACHED TO OR INCLUDED IN THE PARTIES' RECITATION UNDER

1 SUBDIVISION (A). THE AFFIDAVIT SHALL STATE THE DATE ON WHICH
2 COUNSELING CONCLUDED.

3 (3) THE RECITATION UNDER SUBSECTION (2)(A) SHALL BE PREPARED
4 IN DUPLICATE ORIGINALS, 1 OF WHICH SHALL BE RETAINED BY THE PAR-
5 TIES AND THE OTHER, TOGETHER WITH THE AFFIDAVIT UNDER SUBSECTION
6 (2)(B), SHALL BE FILED WITH THE APPLICATION UNDER SECTION 3.

7 (4) THE ATTORNEY GENERAL SHALL PREPARE A PAMPHLET PROVIDING
8 A FULL EXPLANATION OF THE TERMS AND CONDITIONS OF COVENANT
9 MARRIAGE.

10 SEC. 3C. COVENANT MARRIAGE IS GOVERNED BY ALL THE PROVI-
11 SIONS OF LAW APPLICABLE TO MARRIAGE EXCEPT AS OTHERWISE PROVIDED
12 BY LAW.

13 SEC. 3E. (1) A MARRIED COUPLE MAY EXECUTE A DECLARATION OF
14 INTENT TO DESIGNATE THEIR MARRIAGE AS A COVENANT MARRIAGE.

15 (2) A DECLARATION OF INTENT TO DESIGNATE A MARRIAGE AS A
16 COVENANT MARRIAGE SHALL CONTAIN ALL OF THE FOLLOWING:

17 (A) A RECITATION BY THE PARTIES TO THE FOLLOWING EFFECT:

18 "A COVENANT MARRIAGE
19 WE SOLEMNLY DECLARE THAT MARRIAGE IS A COVENANT BETWEEN A
20 MAN AND A WOMAN WHO AGREE TO LIVE TOGETHER AS HUSBAND AND WIFE
21 FOR SO LONG AS THEY BOTH LIVE. WE UNDERSTAND THE NATURE, PUR-
22 POSES, AND RESPONSIBILITIES OF MARRIAGE. WE HAVE READ THE ATTOR-
23 NEY GENERAL'S PAMPHLET ON COVENANT MARRIAGE AND WE UNDERSTAND
24 THAT A COVENANT MARRIAGE IS FOR LIFE. IF WE EXPERIENCE MARITAL
25 DIFFICULTIES, WE COMMIT OURSELVES TO TAKE ALL REASONABLE EFFORTS
26 TO PRESERVE OUR MARRIAGE, INCLUDING MARITAL COUNSELING.

1 WITH FULL KNOWLEDGE OF WHAT THIS COMMITMENT MEANS, WE
2 DECLARE THAT OUR MARRIAGE WILL BE BOUND BY MICHIGAN LAW ON
3 COVENANT MARRIAGE AND WE PROMISE TO LOVE, HONOR, AND CARE FOR ONE
4 ANOTHER AS HUSBAND AND WIFE FOR THE REST OF OUR LIVES.

5 WE HAVE HAD A DISCUSSION ABOUT COVENANT MARRIAGE WITH A MAR-
6 RIAGE AND FAMILY THERAPIST, A MINISTER, OR AN INDIVIDUAL ACTING
7 UNDER THE SUPERVISION AND DIRECTION OF A MINISTER. THE DISCUS-
8 SION INCLUDED ALL OF THE FOLLOWING:

9 (i) OUR INTENTION TO DESIGNATE OUR MARRIAGE AS A COVENANT
10 MARRIAGE.

11 (ii) THE NATURE, PURPOSES, AND RESPONSIBILITIES OF
12 MARRIAGE.

13 (iii) THE OBLIGATION TO SEEK MARITAL COUNSELING IN TIMES OF
14 MARITAL DIFFICULTIES.

15 (iv) THE EXCLUSIVE GROUNDS FOR A JUDGMENT OF DIVORCE OR SEP-
16 ARATE MAINTENANCE.

17 (v) RECEIPT OF THE ATTORNEY GENERAL'S COVENANT MARRIAGE PAM-
18 PHLET FROM THE MARRIAGE AND FAMILY THERAPIST, MINISTER, OR INDI-
19 VIDUAL ACTING UNDER THE SUPERVISION AND DIRECTION OF A
20 MINISTER." .

21 (B) AN AFFIDAVIT BY THE MARRIAGE AND FAMILY THERAPIST, MIN-
22 ISTER, OR INDIVIDUAL ACTING UNDER THE SUPERVISION AND DIRECTION
23 OF A MINISTER THAT THE DISCUSSION DESCRIBED IN SUBDIVISION (A)
24 OCCURRED. THE AFFIDAVIT UNDER THIS SUBDIVISION SHALL BE ATTACHED
25 TO OR INCLUDED IN THE PARTIES' STATEMENT UNDER SUBDIVISION (A).
26 THE AFFIDAVIT SHALL STATE THE DATE ON WHICH THE DISCUSSION
27 CONCLUDED.

1 (4) THE RECITATION UNDER SUBSECTION (3)(A) SHALL BE PREPARED
2 IN DUPLICATE ORIGINALS, 1 OF WHICH SHALL BE RETAINED BY THE PAR-
3 TIES AND THE OTHER, TOGETHER WITH THE AFFIDAVIT UNDER SUBSECTION
4 (2)(B), SHALL BE FILED WITH THE COUNTY CLERK OF THE COUNTY IN
5 WHICH THE COUPLE IS DOMICILED. THE PARTIES SHALL INFORM THE
6 COUNTY CLERK OF THE COUNTY WHERE THE COUPLE WAS MARRIED. IF THE
7 COUPLE WAS MARRIED OUTSIDE OF THIS STATE, THE PARTIES SHALL FILE
8 WITH THE RECITATION A CERTIFIED COPY OF THE FOREIGN MARRIAGE
9 CERTIFICATE. THE COUNTY CLERK SHALL RECORD IN THE BOOK OF REGIS-
10 TRATION IN THE PROPER PLACE OF ENTRY THE INFORMATION PRESCRIBED
11 BY THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY HEALTH. THE
12 COUNTY CLERK SHALL FORWARD THE RECITATION AND THE AFFIDAVIT UNDER
13 SUBSECTION (2)(B) TO THE STATE REGISTRAR APPOINTED BY THE DIREC-
14 TOR OF THE DEPARTMENT OF COMMUNITY HEALTH ON THE FORMS AND IN THE
15 MANNER PRESCRIBED BY THE DIRECTOR.

16 SEC. 3G. A LICENSE TO MARRY SHALL NOT BE DELIVERED WITHIN A
17 PERIOD OF 3 DAYS INCLUDING THE DATE OF APPLICATION. HOWEVER, THE
18 COUNTY CLERK, FOR GOOD AND SUFFICIENT CAUSE SHOWN, MAY DELIVER
19 THE LICENSE IMMEDIATELY FOLLOWING THE APPLICATION. A MARRIAGE
20 LICENSE ISSUED IS VOID UNLESS A MARRIAGE IS SOLEMNIZED UNDER THE
21 LICENSE WITHIN 33 DAYS AFTER THE APPLICATION.

22 Enacting section 1. This amendatory act does not take
23 effect unless Senate Bill No. _____ or House Bill No. _____
24 (request no. 04368'97) of the 89th Legislature is enacted into
25 law.