



HOUSE BILL No. 5384

February 16, 2000, Introduced by Reps. Hager, Pappageorge, Mortimer, Garcia, Green, Law, Allen, Spade, Ehardt, Cameron Brown and Gosselin and referred to the Committee on Family and Civil Law.

A bill to amend 1887 PA 128, entitled

"An act establishing the minimum ages for contracting marriages; to require a civil license in order to marry and its registration; to provide for the implementation of federal law; and to provide a penalty for the violation of this act,"

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:

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

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

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

1 (C) "RELIGIOUS ORGANIZATION" MEANS AN ORGANIZATION, CHURCH,
2 BODY OF COMMUNICANTS, 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~~ IF 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~~ the county clerk shall
9 require that there first be produced the written consent of 1 of
10 the parents of each of the persons who is less than 18 years of
11 age or of the person's legal guardian, UNLESS THE PERSON DOES NOT
12 HAVE A LIVING PARENT OR GUARDIAN. THE CONSENT SHALL BE to the
13 marriage and to the issuing of the license for which application
14 is made. The consent shall be given personally in the presence
15 of the county clerk or be acknowledged before a notary public or
16 other officer authorized to administer oaths. ~~unless the person~~
17 ~~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.

24 (3) A license shall not be issued by the county clerk until
25 the requirements of this section are complied with. The written
26 consent shall be preserved on file in the office of the county
27 clerk. If the parties are legally entitled to be married, the

1 county clerk shall sign the license and certify the fact that it
 2 is properly issued, and the clerk shall make a correct copy of
 3 the license AND, IF APPLICABLE, THE DECLARATION OF COVENANT
 4 MARRIAGE in the books of registration.

5 (4) ~~(2)~~ A fee of \$20.00 shall be paid by the ~~party~~
 6 PERSON applying for the license ~~which~~ AND shall be paid by the
 7 county clerk into the general fund of the county. The county
 8 board of commissioners shall allocate \$15.00 of each fee col-
 9 lected to the circuit court for family counseling services, which
 10 shall include counseling for domestic violence and child abuse.
 11 If family counseling services are not established in the county,
 12 the circuit court may use the money allocated to contract with
 13 public or private agencies providing similar services. ~~Funds~~
 14 MONEY allocated to the circuit court pursuant to this section
 15 ~~which are~~ THAT IS not expended shall be returned to the general
 16 fund of the county to be held in escrow until circuit court
 17 family counseling services are established pursuant to ~~Act~~
 18 ~~No. 155 of the Public Acts of 1964, as amended, being sections~~
 19 ~~551.331 to 551.344 of the Michigan Compiled Laws~~ THE CIRCUIT
 20 COURT FAMILY COUNSELING SERVICES ACT, 1964 PA 155, MCL 551.331 TO
 21 551.344. A probate court may order the county clerk to waive the
 22 marriage license fee in cases in which the fee would result in
 23 undue hardship. If both parties named in the application are
 24 nonresidents of the state, THE PERSON APPLYING FOR THE LICENSE
 25 SHALL PAY an additional fee of \$10.00, ~~shall be paid by the~~
 26 ~~party applying for the license which shall be deposited by~~ WHICH
 27 the county clerk SHALL DEPOSIT into the general fund of the

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

16 (5) ~~(3)~~ A charter county ~~which~~ THAT has a population of
 17 over 2,000,000 may impose by ordinance a marriage license fee or
 18 nonresident marriage license fee, or both, different in amount
 19 than the fee prescribed by subsection ~~(2)~~ (4). The charter
 20 county shall allocate the fee for family counseling services as
 21 prescribed by subsection ~~(2)~~ (4). A charter county shall not
 22 impose a fee ~~which~~ THAT is greater than the cost of the service
 23 for which the fee is charged.

24 Sec. 3a. (1) ~~A license to marry shall not be delivered~~
 25 ~~within a period of 3 days including the date of application.~~
 26 ~~However, the county clerk of each county, for good and sufficient~~
 27 ~~cause shown, may deliver the license immediately following the~~

1 ~~application. A marriage license issued is void unless a marriage~~
 2 ~~is solemnized under the license within 33 days after the~~
 3 ~~application.~~ A MAN AND A WOMAN MAY CONTRACT A COVENANT MARRIAGE
 4 BY DECLARING THEIR INTENT TO DO SO ON THEIR APPLICATION FOR A
 5 MARRIAGE LICENSE UNDER SECTION 3 AND EXECUTING AND FILING WITH
 6 THE APPLICATION A DECLARATION OF INTENT TO CONTRACT A COVENANT
 7 MARRIAGE.

8 (2) A DECLARATION OF INTENT TO CONTRACT A COVENANT MARRIAGE
 9 SHALL CONTAIN ALL OF THE FOLLOWING:

10 (A) A SIGNED AND NOTARIZED RECITATION BY THE PARTIES TO THE
 11 FOLLOWING EFFECT:

12 "A COVENANT MARRIAGE

13 WE SOLEMNLY DECLARE THAT MARRIAGE IS A COVENANT BETWEEN A
 14 MAN AND A WOMAN WHO AGREE TO LIVE TOGETHER AS HUSBAND AND WIFE
 15 FOR SO LONG AS THEY BOTH LIVE. WE HAVE CHOSEN EACH OTHER CARE-
 16 FULLY AND DISCLOSED TO ONE ANOTHER EVERYTHING THAT COULD
 17 ADVERSELY AFFECT THE DECISION TO ENTER INTO THIS MARRIAGE. WE
 18 HAVE RECEIVED PREMARITAL COUNSELING ON THE NATURE, PURPOSES, AND
 19 RESPONSIBILITIES OF MARRIAGE. WE HAVE READ THE SECRETARY OF
 20 STATE'S PAMPHLET ON COVENANT MARRIAGE, AND WE UNDERSTAND THAT A
 21 COVENANT MARRIAGE IS FOR LIFE. IF WE EXPERIENCE MARITAL DIFFI-
 22 CULTIES, WE COMMIT OURSELVES TO TAKE ALL REASONABLE EFFORTS TO
 23 PRESERVE OUR MARRIAGE, INCLUDING MARITAL COUNSELING.

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

1 WE HAVE RECEIVED PREMARITAL COUNSELING FROM A MARRIAGE AND
2 FAMILY THERAPIST, A MINISTER, OR AN INDIVIDUAL ACTING UNDER THE
3 SUPERVISION AND DIRECTION OF A MINISTER. THE PREMARITAL COUNSEL-
4 ING INCLUDED ALL OF THE FOLLOWING:

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

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

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

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

12 (v) RECEIPT OF THE SECRETARY OF STATE'S COVENANT MARRIAGE
13 PAMPHLET FROM THE INDIVIDUAL PROVIDING THE PREMARITAL
14 COUNSELING."

15 (B) AN AFFIDAVIT BY THE MARRIAGE AND FAMILY THERAPIST, MIN-
16 ISTER, OR INDIVIDUAL ACTING UNDER THE SUPERVISION AND DIRECTION
17 OF A MINISTER THAT THE PARTIES WERE COUNSELED AS DESCRIBED IN
18 SUBDIVISION (A). THE AFFIDAVIT UNDER THIS SUBDIVISION SHALL BE
19 ATTACHED TO OR INCLUDED IN THE PARTIES' RECITATION UNDER SUBDIVI-
20 SION (A). THE AFFIDAVIT SHALL STATE THE DATE ON WHICH COUNSELING
21 CONCLUDED.

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

1 (4) THE SECRETARY OF STATE SHALL PREPARE A PAMPHLET
2 PROVIDING A FULL EXPLANATION OF THE TERMS AND CONDITIONS OF
3 COVENANT MARRIAGE.

4 SEC. 3C. COVENANT MARRIAGE IS GOVERNED BY THE PROVISIONS OF
5 LAW APPLICABLE TO MARRIAGE EXCEPT AS OTHERWISE PROVIDED BY LAW.

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

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

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

11 "A COVENANT MARRIAGE

12 WE SOLEMNLY DECLARE THAT MARRIAGE IS A COVENANT BETWEEN A
13 MAN AND A WOMAN WHO AGREE TO LIVE TOGETHER AS HUSBAND AND WIFE
14 FOR SO LONG AS THEY BOTH LIVE. WE UNDERSTAND THE NATURE, PUR-
15 POSES, AND RESPONSIBILITIES OF MARRIAGE. WE HAVE READ THE SECRE-
16 TARY OF STATE'S PAMPHLET ON COVENANT MARRIAGE, AND WE UNDERSTAND
17 THAT A COVENANT MARRIAGE IS FOR LIFE. IF WE EXPERIENCE MARITAL
18 DIFFICULTIES, WE COMMIT OURSELVES TO TAKE ALL REASONABLE EFFORTS
19 TO PRESERVE OUR MARRIAGE, INCLUDING MARITAL COUNSELING.

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

24 WE HAVE HAD A DISCUSSION ABOUT COVENANT MARRIAGE WITH A MAR-
25 RIAGE AND FAMILY THERAPIST, A MINISTER, OR AN INDIVIDUAL ACTING
26 UNDER THE SUPERVISION AND DIRECTION OF A MINISTER. THE
27 DISCUSSION INCLUDED ALL OF THE FOLLOWING:

1 (i) OUR INTENTION TO DESIGNATE OUR MARRIAGE AS A COVENANT
2 MARRIAGE.

3 (ii) THE NATURE, PURPOSES, AND RESPONSIBILITIES OF
4 MARRIAGE.

5 (iii) THE OBLIGATION TO SEEK MARITAL COUNSELING IN TIMES OF
6 MARITAL DIFFICULTIES.

7 (iv) RECEIPT OF THE SECRETARY OF STATE'S COVENANT MARRIAGE
8 PAMPHLET FROM THE MARRIAGE AND FAMILY THERAPIST, MINISTER, OR
9 INDIVIDUAL ACTING UNDER THE SUPERVISION AND DIRECTION OF A
10 MINISTER." .

11 (B) AN AFFIDAVIT BY THE MARRIAGE AND FAMILY THERAPIST, MIN-
12 ISTER, OR INDIVIDUAL ACTING UNDER THE SUPERVISION AND DIRECTION
13 OF A MINISTER THAT THE DISCUSSION DESCRIBED IN SUBDIVISION (A)
14 OCCURRED. THE AFFIDAVIT UNDER THIS SUBDIVISION SHALL BE ATTACHED
15 TO OR INCLUDED IN THE PARTIES' STATEMENT UNDER SUBDIVISION (A).
16 THE AFFIDAVIT SHALL STATE THE DATE ON WHICH THE DISCUSSION
17 CONCLUDED.

18 (3) THE RECITATION UNDER SUBSECTION (2)(A) SHALL BE PREPARED
19 IN DUPLICATE ORIGINALS, 1 OF WHICH SHALL BE RETAINED BY THE PAR-
20 TIES AND THE OTHER, TOGETHER WITH THE AFFIDAVIT UNDER SUBSECTION
21 (2)(B), SHALL BE FILED WITH THE COUNTY CLERK OF THE COUNTY IN
22 WHICH THE COUPLE IS DOMICILED. THE PARTIES SHALL INFORM THE
23 COUNTY CLERK OF THE COUNTY WHERE THE COUPLE WAS MARRIED. IF THE
24 COUPLE WAS MARRIED OUTSIDE OF THIS STATE, THE PARTIES SHALL FILE
25 WITH THE RECITATION A CERTIFIED COPY OF THE FOREIGN MARRIAGE
26 CERTIFICATE. THE COUNTY CLERK SHALL RECORD IN THE BOOK OF
27 REGISTRATION IN THE PROPER PLACE OF ENTRY THE INFORMATION

1 PRESCRIBED BY THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY
2 HEALTH. THE COUNTY CLERK SHALL FORWARD THE RECITATION AND THE
3 AFFIDAVIT UNDER SUBSECTION (2)(B) TO THE STATE REGISTRAR
4 APPOINTED BY THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY HEALTH
5 ON THE FORMS AND IN THE MANNER PRESCRIBED BY THE DIRECTOR.

6 SEC. 3G. A LICENSE TO MARRY SHALL NOT BE DELIVERED WITHIN A
7 PERIOD OF 3 DAYS INCLUDING THE DATE OF APPLICATION. HOWEVER, THE
8 COUNTY CLERK, FOR GOOD AND SUFFICIENT CAUSE SHOWN, MAY DELIVER
9 THE LICENSE IMMEDIATELY FOLLOWING THE APPLICATION. A MARRIAGE
10 LICENSE ISSUED IS VOID UNLESS A MARRIAGE IS SOLEMNIZED UNDER THE
11 LICENSE WITHIN 33 DAYS AFTER THE APPLICATION.

12 Enacting section 1. This amendatory act does not take
13 effect unless Senate Bill No. _____ or House Bill No. 5383
14 (request no. 00812'99 *) of the 90th Legislature is enacted into
15 law.