



Senate Fiscal Agency
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BILL



ANALYSIS

Telephone: (517) 373-5383

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Senate Bill 698 (as reported without amendment)
Senate Bill 699 (Substitute S-1 as reported)
Senate Bill 700 (Substitute S-2 as reported)
Sponsor: Senator Goeff Hansen
Committee: Judiciary

(as enrolled)
(as enrolled)
(as enrolled)

Date Completed: 11-22-11

RATIONALE

Michigan law authorizes a probate judge to perform, or "solemnize", a marriage in the county or probate court district in which he or she serves. A district judge or district court magistrate may perform a marriage in the district in which he or she serves. Fairly often, a judge or magistrate is asked by a relative or friend to perform a wedding service elsewhere in the State, when the couple plans to marry outside of the judge's or magistrate's jurisdiction. To do this, the judge or magistrate must get a temporary assignment from the State Court Administrative Office (SCAO). Some people believe that Michigan law should authorize probate and district judges and district court magistrates to perform marriages anywhere in Michigan, so the temporary assignment to another court's jurisdiction would be unnecessary.

CONTENT

Senate Bill 698 would amend Chapter 83 of the Revised Statutes of 1846 to authorize a district judge, district court magistrate, or probate judge to solemnize a marriage anywhere in Michigan.

Senate Bills 699 (S-1) and 700 (S-2) would amend the Revised Judicature Act to require a judge or magistrate to remit the fee for performing a marriage ceremony to the court in which he or she served.

Senate Bills 699 (S-1) and 700 (S-2) are tie-barred to Senate Bill 698.

Senate Bill 698

Chapter 83 of the Revised Statutes of 1846 lists the officials who may solemnize a marriage in Michigan. A judge of the district court, and a district court magistrate, may solemnize a marriage in the district in which he or she serves. A probate judge may solemnize a marriage in the county or probate court district in which he or she serves. Under the bill, all of those officials could solemnize a marriage anywhere in the State.

Senate Bill 699 (S-1)

The Revised Judicature Act (RJA) requires the probate court to charge and collect a fee of \$10 for performing a marriage ceremony. The bill specifies that the fee would have to be remitted to the probate court for the county in which the probate judge served. As currently allowed, however, a probate judge could waive the fee if the parties to the marriage were indigent.

Senate Bill 700 (S-2)

The RJA requires a district judge or a district court magistrate who performs a marriage ceremony to charge a fee of \$10, which must be deposited into the treasury of the district control unit at the end of each month. The bill specifies that the fee would have to be remitted to the district court in

which the judge or magistrate served. The bill also would allow a district judge or magistrate to waive the fee if the parties to the marriage were indigent.

MCL 551.7 (S.B. 698)
600.874 (S.B. 699)
600.8316 (S.B. 700)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Probate or district judges and district court magistrates, all of whom are empowered by Michigan law to solemnize a marriage, are sometimes asked by friends, family members, or constituents to conduct weddings in locations outside of their respective court jurisdictions. A relative may live in a different county, for instance, or a friend or constituent might want to be married on Mackinac Island or a Lake Michigan beach. Unless the wedding takes place in the judge's or magistrate's geographic jurisdiction, however, he or she cannot legally perform the service without a temporary assignment from the SCAO.

Eliminating the geographic restrictions on where probate and district court judges and magistrates may perform marriage ceremonies would allow them to accommodate requests to conduct weddings anywhere in the State. It also would avoid the necessity for a judge or magistrate to secure a temporary appointment from the SCAO in order to comply with such a request. Unlike other judicial matters, such as conducting hearings and trying cases, performing marriage ceremonies is more of an administrative or ministerial function, and allowing a judge or magistrate to perform this service throughout Michigan would not interfere with any other court's operation.

Response: Although Michigan law authorizes probate and district judges to perform marriage ceremonies, it does not grant that power to other judges. Reportedly, though, circuit judges, Court of Appeals judges, Justices of the Supreme Court, and retired judges sometimes get a temporary assignment from the SCAO so that they may conduct weddings. Perhaps the legislation should authorize all judges

and retired judges to solemnize marriages anywhere in the State.

Supporting Argument

The bills would avoid any confusion or contention about court funding by specifying that the fee payable to a judge or magistrate for performing a marriage ceremony would have to be remitted to the court in which the judge or magistrate served. This would apply regardless of where the marriage took place.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Matthew Grabowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.