

# HOUSE BILL No. 4733

June 17, 2015, Introduced by Reps. Courser and Gamrat and referred to the Committee on Government Operations.

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 the title and sections 1, 2, 3, 4, 6, and 8 (MCL 551.101, 551.102, 551.103, 551.104, 551.106, and 551.108), the title as amended by 1998 PA 333 and sections 2 and 3 as amended by 2006 PA 578, and by adding section 1a; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

TITLE

An act establishing the minimum ages for contracting marriages; to require a ~~civil license~~ **MARRIAGE CERTIFICATE SIGNED BY CLERGY** 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.

1           Sec. 1. (1) ~~It shall be~~ AS USED IN THIS ACT, "CLERGY" MEANS A  
2 MINISTER OF THE GOSPEL, CLERIC, OR RELIGIOUS PRACTITIONER.

3           (2) BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
4 ACT THAT ADDED SECTION 1A, IT IS necessary for all parties  
5 intending to be married to obtain a marriage license from the  
6 county clerk of the county in which either the man or woman  
7 resides, and to deliver the ~~said~~ license to the ~~clergyman~~ CLERGY or  
8 magistrate who is to officiate, before the marriage can be  
9 performed. If both parties to be married are ~~non-residents~~  
10 NONRESIDENTS of the state, it ~~shall be~~ IS necessary to obtain ~~such~~  
11 A license from the county clerk of the county in which the marriage  
12 is to be performed. BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF  
13 THE AMENDATORY ACT THAT ADDED SECTION 1A, AND EXCEPT AS PROVIDED IN  
14 SECTION 1A, ALL PARTIES INTENDING TO BE MARRIED MUST OBTAIN A  
15 MARRIAGE CERTIFICATE SIGNED BY THEIR CLERGY IN ORDER TO BE MARRIED.  
16 THE CLERGY SHALL PRESENT THE SIGNED MARRIAGE CERTIFICATE TO THE  
17 COUNTY CLERK AFTER THE MARRIAGE IS SOLEMNIZED. A MARRIAGE  
18 CERTIFICATE OBTAINED ACCORDING TO THIS SECTION SHALL CONTAIN ALL OF  
19 THE FOLLOWING:

20           (A) THE PLACE OF RESIDENCE OF EACH PARTY.

21           (B) THE FULL LEGAL NAME AND AGE OF EACH PARTY AS THEY APPEAR  
22 ON OR ARE CALCULABLE FROM A CERTIFIED COPY OF THE BIRTH  
23 CERTIFICATE, THE CURRENT DRIVER LICENSE OR STATE PERSONAL  
24 IDENTIFICATION CARD, THE CURRENT PASSPORT OR VISA, OR ANY OTHER  
25 CERTIFICATE, LICENSE, OR DOCUMENT ISSUED BY OR EXISTING ACCORDING  
26 TO THE LAWS OF ANY NATION OR OF ANY STATE, OR A POLITICAL  
27 SUBDIVISION OF ANY STATE, THAT IS ACCEPTED AS PROOF OF IDENTITY AND

1 AGE.

2 (C) THE FULL NAME BY WHICH EACH PARTY WILL BE KNOWN AFTER THE  
3 MARRIAGE, THAT SHALL BECOME THE FULL LEGAL NAME OF THE PARTY UPON  
4 FILING OF THE MARRIAGE CERTIFICATE.

5 (D) THAT THE PARTIES ARE NOT DISQUALIFIED FROM OR INCAPABLE OF  
6 ENTERING INTO MARRIAGE.

7 (E) THE CLERGY'S NAME AND OFFICIAL OR CLERICAL DESIGNATION.

8 (F) THE NAME OF THE CLERGY'S CONGREGATION OR BODY.

9 (G) THE TOWN OR CITY AND COUNTY WHERE THE CONGREGATION, BODY,  
10 OR CHURCH IS LOCATED.

11 (H) THE CLERGY'S SIGNATURE ALONG WITH HIS OR HER OFFICIAL OR  
12 CLERICAL DESIGNATION.

13 SEC. 1A. BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE  
14 AMENDATORY ACT THAT ADDED THIS SECTION, A MARRIAGE THAT IS NOT  
15 CONTRACTED BY A FORMAL CEREMONY ACCORDING TO SECTION 1(2) MAY BE  
16 ACKNOWLEDGED BY FILING AN AFFIDAVIT OF COMMON LAW MARRIAGE WITH THE  
17 COUNTY CLERK. THE AFFIDAVIT OF COMMON LAW MARRIAGE SHALL BE SIGNED  
18 BY BOTH PARTIES, NOTARIZED, AND MUST INCLUDE ALL OF THE FOLLOWING:

19 (A) THE PLACE WHERE EACH PARTY RESIDES.

20 (B) THE FULL LEGAL NAME AND AGE OF EACH PARTY AS THEY APPEAR  
21 ON OR ARE CALCULABLE FROM A CERTIFIED COPY OF THE BIRTH  
22 CERTIFICATE, THE CURRENT DRIVER LICENSE OR STATE PERSONAL  
23 IDENTIFICATION CARD, THE CURRENT PASSPORT OR VISA, OR ANY OTHER  
24 CERTIFICATE, LICENSE, OR DOCUMENT ISSUED BY OR EXISTING UNDER THE  
25 LAWS OF ANY NATION OR OF ANY STATE, OR A POLITICAL SUBDIVISION OF  
26 ANY STATE, THAT IS ACCEPTED AS PROOF OF IDENTITY AND AGE.

27 (C) THE FULL NAME BY WHICH EACH PARTY WILL BE KNOWN AFTER THE

1 MARRIAGE, WHICH SHALL BECOME THE FULL LEGAL NAME OF THE PARTY UPON  
2 FILING OF THE MARRIAGE CERTIFICATE.

3 (D) THAT THE PARTIES ARE NOT DISQUALIFIED FROM OR INCAPABLE OF  
4 ENTERING INTO MARRIAGE.

5 Sec. 2. (1) ~~Blank~~BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF  
6 THE AMENDATORY ACT THAT ADDED SECTION 1A, BLANK forms for a  
7 marriage license and certificate shall be prepared and furnished by  
8 the state registrar ~~appointed by the director of the department of~~  
9 ~~community health~~ to each county clerk of this state in the quantity  
10 needed. The blank form for a license and certificate shall be made  
11 in duplicate and shall provide spaces for the entry of identifying  
12 information of the parties and other items prescribed in rules  
13 promulgated by the director of the department of ~~community health~~  
14 AND HUMAN SERVICES. The state registrar shall furnish to each  
15 county clerk of this state blank application forms of an affidavit  
16 containing the requisite allegations, under the laws of this state,  
17 of the competency of the parties to unite in the bonds of  
18 matrimony, and as required to comply with federal law, containing a  
19 space requiring each applicant's social security number. A party  
20 applying for a license to marry shall make and file the application  
21 in the form of an affidavit with the county clerk as a basis for  
22 issuing the license. The county clerk may permit a party applying  
23 for a marriage license to submit that application electronically.  
24 If the county clerk accepts an electronically submitted  
25 application, the clerk shall print the required information from  
26 the application in the form of an affidavit and have a party named  
27 in the application sign the affidavit in the presence of the county

1 clerk or a deputy clerk. The license shall be made a matter of  
2 record and shall be transmitted to the department of ~~community~~  
3 health **AND HUMAN SERVICES** in the manner prescribed by the state  
4 registrar. The state registrar shall not require an applicant's  
5 social security number to be displayed on the marriage license.  
6 **BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT**  
7 **THAT ADDED SECTION 1A, THE PROVISIONS OF THIS SECTION APPLY EXCEPT**  
8 **THAT A LICENSE IS NOT REQUIRED TO BE MARRIED. PERSONS WISHING TO BE**  
9 **MARRIED MUST OBTAIN A MARRIAGE CERTIFICATE SIGNED BY CLERGY AS**  
10 **PROVIDED IN SECTION 1.**

11 (2) A person shall not disclose, in a manner not authorized by  
12 law or rule, a social security number collected as required by this  
13 section. A violation of this subsection is a misdemeanor punishable  
14 by imprisonment for not more than 90 days or a fine of not more  
15 than \$500.00, or both. A second or subsequent violation of this  
16 subsection is a felony punishable by imprisonment for not more than  
17 4 years or a fine of not more than \$2,000.00, or both.

18 (3) A requirement under this section to include a social  
19 security number on an application does not apply to an applicant  
20 who demonstrates he or she is exempt under law from obtaining a  
21 social security number or to an applicant who for religious  
22 convictions is exempt under law from disclosure of his or her  
23 social security number under these circumstances. The county clerk  
24 shall inform the applicant of this possible exemption.

25 (4) The application required to be completed under subsection  
26 (1) is a nonpublic record and is exempt from disclosure under the  
27 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The

1 application shall be made available, upon request, to the persons  
2 named in the application.

3       Sec. 3. (1) A person who is 18 years of age or older may  
4 contract marriage. A person who is 16 years of age but is less than  
5 18 years of age may contract marriage with the written consent of 1  
6 of the parents of the person or the person's legal guardian, as  
7 provided in this section. As proof of age, the person who intends  
8 to be married, in addition to the statement of age in the  
9 application, when requested by the county clerk, shall submit a  
10 birth certificate or other proof of age. The county clerk on the  
11 application submitted shall fill out the blank spaces of the  
12 license **BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY**  
13 **ACT THAT ADDED SECTION 1A, OR THE CERTIFICATE BEGINNING 90 DAYS**  
14 **AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION**  
15 **1A,** according to the sworn answers of the applicant, taken before  
16 the county clerk, or some person duly authorized by law to  
17 administer oaths. If it appears from the affidavit that either the  
18 applicant for a marriage license **BEFORE 90 DAYS AFTER THE EFFECTIVE**  
19 **DATE OF THE AMENDATORY ACT THAT ADDED SECTION 1A, OR FOR A MARRIAGE**  
20 **CERTIFICATE BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE**  
21 **AMENDATORY ACT THAT ADDED SECTION 1A,** or the person whom he or she  
22 intends to marry is less than 18 years of age, the county clerk  
23 shall require that there first be produced the written consent of 1  
24 of the parents of each of the persons who is less than 18 years of  
25 age or of the person's legal guardian, unless the person does not  
26 have a living parent or guardian. The consent shall be to the  
27 marriage and to the issuing of the license **BEFORE 90 DAYS AFTER THE**

1 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 1A, OR THE  
2 CERTIFICATE BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE  
3 AMENDATORY ACT THAT ADDED SECTION 1A, for which the application is  
4 submitted. The consent shall be given personally in the presence of  
5 the county clerk or be acknowledged before a notary public or other  
6 officer authorized to administer oaths. ~~A-BEFORE 90 DAYS AFTER THE~~  
7 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 1A, A  
8 license shall not be issued by the county clerk until the  
9 requirements of this section are complied with. BEGINNING 90 DAYS  
10 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION  
11 1A, A MARRIAGE CERTIFICATE SHALL NOT BE ISSUED BY THE CLERGY UNTIL  
12 THE REQUIREMENTS OF THIS SECTION ARE COMPLIED WITH. The written  
13 consent shall be preserved on file in the office of the county  
14 clerk. ~~If-BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY~~  
15 ACT THAT ADDED SECTION 1A, IF the parties are legally entitled to  
16 be married, the county clerk shall sign the license and certify the  
17 fact that it is properly issued, and the clerk shall make a correct  
18 copy of the license in the books of registration. BEGINNING 90 DAYS  
19 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION  
20 1A, IF THE PARTIES ARE LEGALLY ENTITLED TO BE MARRIED, THE CLERGY  
21 SHALL SIGN THE CERTIFICATE AND CERTIFY THE FACT THAT IT IS PROPERLY  
22 ISSUED AND SHALL FORWARD A COPY TO THE COUNTY CLERK WHO SHALL MAKE  
23 A CORRECT COPY OF THE CERTIFICATE IN THE BOOKS OF REGISTRATION.

24 (2) ~~A-BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE~~  
25 AMENDATORY ACT THAT ADDED SECTION 1A, A fee of \$20.00 shall be paid  
26 by the person applying for the license and shall be paid by the  
27 county clerk into the general fund of the county. The county board

1 of commissioners shall allocate \$15.00 of each fee collected to the  
2 circuit court for family counseling services, which shall include  
3 counseling for domestic violence and child abuse. If family  
4 counseling services are not established in the county, the circuit  
5 court may use the money allocated to contract with public or  
6 private agencies providing similar services. Money allocated to the  
7 circuit court ~~pursuant to~~ **UNDER** this section that is not expended  
8 shall be returned to the general fund of the county to be held in  
9 escrow until circuit court family counseling services are  
10 established ~~pursuant to~~ **UNDER** the circuit court family counseling  
11 services act, 1964 PA 155, MCL 551.331 to 551.344. A probate court  
12 may order the county clerk to waive the marriage license fee in  
13 cases in which the fee would result in undue hardship. If both  
14 parties named in the application are nonresidents of the state, the  
15 person applying for the license shall pay an additional fee of  
16 \$10.00, which the county clerk shall deposit into the general fund  
17 of the county. The county clerk shall give the license filled out  
18 and signed, together with the blank form of certificate, to the  
19 person applying, for delivery to the individual who is to officiate  
20 at the marriage. On the return of the license to the county clerk,  
21 containing the signatures of the witnesses to the marriage, who  
22 shall be 18 years of age or older, the individuals being married,  
23 and the individual officiating at the marriage, with the  
24 certificate of the individual officiating at the marriage that the  
25 marriage has been performed, the county clerk shall record in the  
26 book of registration in the proper place of entry the information  
27 prescribed by the director of the department of ~~community~~ health



1 **AND HUMAN SERVICES.** The licenses and certificates issued and  
2 returned shall be forwarded to the state registrar ~~appointed by the~~  
3 ~~director of the department of community health~~ on the forms and in  
4 the manner prescribed by the director **OF THE DEPARTMENT OF HEALTH**  
5 **AND HUMAN SERVICES. BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF**  
6 **THE AMENDATORY ACT THAT ADDED SECTION 1A, THE PROVISIONS OF THIS**  
7 **SUBSECTION APPLY EXCEPT THAT A MARRIAGE LICENSE SHALL BE REPLACED**  
8 **BY A MARRIAGE CERTIFICATE SIGNED BY THE CLERGY. BEGINNING 90 DAYS**  
9 **AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION**  
10 **1A, THE FEES REQUIRED UNDER THIS SUBSECTION SHALL BE PAID IN**  
11 **ADDITION TO ANY FEE CHARGED BY THE CLERGY.**

12 (3) ~~A~~ **BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE**  
13 **AMENDATORY ACT THAT ADDED SECTION 1A, A** charter county that has a  
14 population of over ~~2,000,000~~ **1,500,000** may impose by ordinance a  
15 marriage license fee or nonresident marriage license fee, or both,  
16 different in amount than the fee prescribed by subsection (2). The  
17 charter county shall allocate the fee for family counseling  
18 services as prescribed by subsection (2). A charter county shall  
19 not impose a fee that is greater than the cost of the service for  
20 which the fee is charged.

21 Sec. 4. (1) ~~It shall be~~ **BEFORE 90 DAYS AFTER THE EFFECTIVE**  
22 **DATE OF THE AMENDATORY ACT THAT ADDED SECTION 1A, IT IS** the duty of  
23 the ~~clergyman~~ **CLERGY** or magistrate, officiating at a marriage, to  
24 fill in the spaces of the certificate left blank for the entry of  
25 the time and place of the marriage, the names and residences of 2  
26 witnesses, and his **OR HER** own signature in certification that the  
27 marriage has been performed by him **OR HER** and any and all

1 information required to be filled in in the spaces left blank in  
2 the certificate shall be typewritten or legibly printed. He **OR SHE**  
3 shall separate the duplicate license and certificate ~~and~~ and deliver  
4 the half part designated duplicate to 1 of the parties, so joined  
5 in marriage, and within 10 days return the original to the county  
6 clerk issuing the same. It ~~shall be~~ **IS** the duty of ~~such clergyman~~  
7 **THE CLERGY** or magistrate to keep an accurate record of all  
8 marriages solemnized in a book used expressly for that purpose.

9 (2) **BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE**  
10 **AMENDATORY ACT THAT ADDED SECTION 1A, THE CLERGY OFFICIATING AT A**  
11 **MARRIAGE SHALL FILL IN THE SPACES OF THE CERTIFICATE LEFT BLANK FOR**  
12 **THE ENTRY OF THE TIME AND PLACE OF THE MARRIAGE, THE NAMES AND**  
13 **RESIDENCES OF 2 WITNESSES, AND HIS OR HER OWN SIGNATURE IN**  
14 **CERTIFICATION THAT THE MARRIAGE HAS BEEN PERFORMED BY HIM OR HER**  
15 **AND ANY AND ALL INFORMATION REQUIRED TO BE FILLED IN THE SPACES**  
16 **LEFT BLANK IN THE CERTIFICATE SHALL BE TYPEWRITTEN OR LEGIBLY**  
17 **PRINTED. HE OR SHE SHALL SEPARATE THE DUPLICATE CERTIFICATE AND**  
18 **DELIVER THE HALF PART DESIGNATED DUPLICATE TO 1 OF THE PARTIES, SO**  
19 **JOINED IN MARRIAGE, AND WITHIN 10 DAYS RETURN THE ORIGINAL TO THE**  
20 **COUNTY CLERK AS PROVIDED IN SECTION 1. THE CLERGY SHALL KEEP AN**  
21 **ACCURATE RECORD OF ALL MARRIAGES SOLEMNIZED IN A BOOK USED**  
22 **EXPRESSLY FOR THAT PURPOSE.**

23 Sec. 6. (1) ~~Any clergyman~~ **BEFORE 90 DAYS AFTER THE EFFECTIVE**  
24 **DATE OF THE AMENDATORY ACT THAT ADDED SECTION 1A, ANY CLERGY** or  
25 magistrate who ~~shall join~~ **JOINS** together in marriage parties who  
26 have not delivered to him **OR HER** a properly issued license, as  
27 provided for in this act, or who ~~shall violate~~ **VIOLATES** any of the

1 provisions of this act ~~, shall be adjudged~~ **IS** guilty of a  
2 misdemeanor ~~, and shall be punished~~ **PUNISHABLE** by a fine of ~~100~~  
3 ~~dollars, or in default of payment thereof, by~~ **NOT MORE THAN**  
4 **\$100.00**, imprisonment ~~in the county jail for a term of~~ 90 days, **OR**  
5 **BOTH**.

6 (2) **BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE**  
7 **AMENDATORY ACT THAT ADDED SECTION 1A, ANY CLERGY WHO JOINS TOGETHER**  
8 **IN MARRIAGE PARTIES WHO VIOLATE ANY OF THE PROVISIONS OF THIS ACT**  
9 **IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN**  
10 **\$100.00, IMPRISONMENT FOR 90 DAYS, OR BOTH.**

11 Sec. 8. (1) ~~Any~~ **BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE**  
12 **AMENDATORY ACT THAT ADDED SECTION 1A, ANY** person applying for a  
13 marriage license who ~~shall swear~~ **SWEARS** to a false statement  
14 ~~therein, shall be~~ **IN THE APPLICATION IS** guilty of perjury ~~, and~~  
15 shall be prosecuted ~~therefor~~ under the general laws of the state.

16 (2) **BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE**  
17 **AMENDATORY ACT THAT ADDED SECTION 1A, ANY PERSON APPLYING FOR A**  
18 **MARRIAGE CERTIFICATE WHO SWEARS TO A FALSE STATEMENT IN THE**  
19 **APPLICATION IS GUILTY OF PERJURY AND SHALL BE PROSECUTED UNDER THE**  
20 **GENERAL LAWS OF THE STATE.**

21 Enacting section 1. Sections 3a and 5 of 1887 PA 128, MCL  
22 551.103a and 551.105, are repealed.

23 Enacting section 2. This amendatory act does not take effect  
24 unless and until the United States Supreme Court determines that  
25 section 25 of article I of the state constitution of 1963 is  
26 unconstitutional.

27 Enacting section 3. This amendatory act does not take effect

1 unless all of the following bills of the 98th Legislature are  
2 enacted into law:

3 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 4732 (request no.  
4 02477'15 a).

5 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 4731 (request no.  
6 02477'15 b).