

# HOUSE BILL NO. 5787

May 19, 2020, Introduced by Rep. Warren and referred to the Committee on Judiciary.

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 2 and 3 (MCL 551.102 and 551.103), as amended by 2006 PA 578.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 2. (1) Blank forms for a marriage license and certificate
- 2       shall be prepared and furnished by the state registrar appointed by
- 3       the director of the department of ~~community~~ health **and human**



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**services** to each county clerk of this state in the quantity needed.  
 The blank form for a license and certificate ~~shall~~**must** be made in  
 duplicate and ~~shall~~**must** provide spaces for the entry of  
 identifying information of the parties and other items prescribed  
 in rules promulgated by the director of the department of ~~community~~  
 health **and human services**. The state registrar shall furnish to  
 each county clerk of this state blank application forms of an  
 affidavit containing the requisite allegations, under the laws of  
 this state, of the competency of the parties to unite in the bonds  
 of matrimony, and as required to comply with federal law,  
 containing a space requiring each applicant's ~~social security~~  
**Social Security** number. A party applying for a license to marry  
~~shall~~**must** make and file the application in the form of an  
 affidavit with the county clerk as a basis for issuing the license.  
 The county clerk may permit a party applying for a marriage license  
 to submit that application electronically. ~~If~~**Except as otherwise**  
**provided in subsection (5), if** the county clerk accepts an  
 electronically submitted application, the clerk shall print the  
 required information from the application in the form of an  
 affidavit and have a party named in the application sign the  
 affidavit in the presence of the county clerk or a deputy clerk.  
 The license shall be made a matter of record and ~~shall~~**must** be  
 transmitted to the department of ~~community~~ health **and human**  
**services** in the manner prescribed by the state registrar. The state  
 registrar shall not require an applicant's ~~social security~~ **Social**  
**Security** number to be displayed on the marriage license.

(2) A person shall not disclose, in a manner not authorized by  
 law or rule, a ~~social security~~ **Social Security** number collected as  
 required by this section. A violation of this subsection is a



1 misdemeanor punishable by imprisonment for not more than 90 days or  
2 a fine of not more than \$500.00, or both. A second or subsequent  
3 violation of this subsection is a felony punishable by imprisonment  
4 for not more than 4 years or a fine of not more than \$2,000.00, or  
5 both.

6 (3) A requirement under this section to include a ~~social~~  
7 ~~security~~**Social Security** number on an application does not apply to  
8 an applicant who demonstrates he or she is exempt under law from  
9 obtaining a ~~social security~~**Social Security** number or to an  
10 applicant who for religious convictions is exempt under law from  
11 disclosure of his or her ~~social security~~**Social Security** number  
12 under these circumstances. The county clerk shall inform the  
13 applicant of this possible exemption.

14 (4) The application required to be completed under subsection  
15 (1) is a nonpublic record and is exempt from disclosure under the  
16 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The  
17 application ~~shall~~**must** be made available, upon request, to the  
18 persons named in the application.

19 (5) During the time that the governor proclaims a state of  
20 emergency relating to an outbreak of COVID-19, strict compliance  
21 with rules and procedures under the uniform electronic transactions  
22 act, 2000 PA 305, MCL 450.831 to 450.849, is temporarily suspended  
23 to the extent necessary to permit the use of an electronic  
24 signature whenever a signature is required under this act. As  
25 provided in section 7 of the uniform electronic transactions act,  
26 2000 PA 305, MCL 450.837, a signature shall not be denied legal  
27 effect or enforceability solely because it is in electronic form.

28 (6) As used in this section and section 3, "COVID-19" means  
29 the infectious disease caused by the most recently discovered



1 **coronavirus.**

2       Sec. 3. (1) A person who is 18 years of age or older may  
 3 contract marriage. A person who is 16 years of age but is less than  
 4 18 years of age may contract marriage with the written consent of 1  
 5 of the parents of the person or the person's legal guardian, as  
 6 provided in this section. As proof of age, the person who intends  
 7 to be married, in addition to the statement of age in the  
 8 application, when requested by the county clerk, ~~shall~~**must** submit  
 9 a birth certificate or other proof of age. The county clerk on the  
 10 application submitted shall fill out the blank spaces of the  
 11 license according to the sworn answers of the applicant, taken  
 12 before the county clerk, or some person duly authorized by law to  
 13 administer oaths. If it appears from the affidavit that either the  
 14 applicant for a marriage license or the person whom he or she  
 15 intends to marry is less than 18 years of age, the county clerk  
 16 shall require that there first be produced the written consent of 1  
 17 of the parents of each of the persons who is less than 18 years of  
 18 age or of the person's legal guardian, unless the person does not  
 19 have a living parent or guardian. The consent shall be to the  
 20 marriage and to ~~the~~issuing ~~of~~the license for which the  
 21 application is submitted. The consent ~~shall~~**must** be given  
 22 personally in the presence of the county clerk or be acknowledged  
 23 before a notary public or other officer authorized to administer  
 24 oaths. ~~A license shall not be issued by the county clerk until~~  
 25 **Until** the requirements of this section are complied with, **the**  
 26 **county clerk shall not issue a license to the applicants.** The  
 27 written consent ~~shall~~**must** be preserved on file in the office of  
 28 the county clerk. If the parties are legally entitled to be  
 29 married, the county clerk shall sign the license and certify the



fact that it is properly issued, and the clerk shall make a correct copy of the license in the books of registration.

(2) A fee of \$20.00 ~~shall~~**must** be paid by the person applying for the license and ~~shall~~**must** be paid by the county clerk into the general fund of the county. The county board of commissioners shall allocate \$15.00 of each fee collected to the circuit court for family counseling services, which shall include counseling for domestic violence and child abuse. If family counseling services are not established in the county, the circuit court may use the money allocated to contract with public or private agencies providing similar services. Money allocated to the circuit court ~~pursuant to~~**under** this section that is not expended ~~shall~~**must** be returned to the general fund of the county to be held in escrow until circuit court family counseling services are established ~~pursuant~~**according** to the circuit court family counseling services act, 1964 PA 155, MCL 551.331 to 551.344. A probate court may order the county clerk to waive the marriage license fee in cases in which the fee would result in undue hardship. If both parties named in the application are nonresidents of ~~the~~**this** state, the person applying for the license ~~shall~~**must** pay an additional fee of \$10.00, which the county clerk ~~shall~~**must** deposit into the general fund of the county. The county clerk shall give the license filled out and signed, together with the blank form of certificate, to the person applying, for delivery to the individual who is to officiate at the marriage. ~~On~~**Except as otherwise provided in this subsection, on** the return of the license to the county clerk, containing the signatures of the witnesses to the marriage, who ~~shall~~**must** be 18 years of age or older, the individuals being married, and the individual officiating at the marriage, with the



1 certificate of the individual officiating at the marriage that the  
 2 marriage has been performed, the county clerk shall record in the  
 3 book of registration in the proper place of entry the information  
 4 prescribed by the director of the department of ~~community health~~  
 5 **and human services**. The licenses and certificates issued and  
 6 returned shall be forwarded to the state registrar appointed by the  
 7 director of the department of ~~community health~~ **and human services**  
 8 on the forms and in the manner prescribed by the director. **During**  
 9 **the time that the governor proclaims a state of emergency relating**  
 10 **to an outbreak of COVID-19, strict compliance with rules and**  
 11 **procedures under the uniform electronic transactions act, 2000 PA**  
 12 **305, MCL 450.831 to 450.849, is temporarily suspended to the extent**  
 13 **necessary to permit the use of an electronic signature whenever a**  
 14 **signature is required under this act. As provided in section 7 of**  
 15 **the uniform electronic transactions act, 2000 PA 305, MCL 450.837,**  
 16 **a signature shall not be denied legal effect or enforceability**  
 17 **solely because it is in electronic form.**

18 (3) A charter county that has a population of over ~~2,000,000~~  
 19 **1,500,000** may impose by ordinance a marriage license fee or  
 20 nonresident marriage license fee, or both, different in amount than  
 21 the fee prescribed by subsection (2). The charter county ~~shall~~**must**  
 22 allocate the fee for family counseling services as prescribed by  
 23 subsection (2). A charter county shall not impose a fee that is  
 24 greater than the cost of the service for which the fee is charged.

