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Marriage and divorce - 12/11/2004

Bills requiring classes criticized by some.
Evening News staff writer
By RAY KISONAS

Couples soon may be required by law to participate in marriage classes before they walk down the aisle in a church or go to a courthouse to exchange vows.

A series of bills is waiting for Gov. Jennifer Granholm's signature to make it law. ...

<http://www.michiganlegislature.org/documents/2003-2004/billenrolled/senate/htm/2004-SNB-0964.htm>

Smoke and Mirrors Marriage Requirement - 12/18/2004

How the state misleads prenuptials and who benefits.
By Ernie Whiteside

Michigan residents applying for a marriage license will be misled by recently proposed legislation that implies a requirement for premarital education. Current marriage license laws state, "A license to marry shall not be delivered within a period of 3 days including the date of application. However, the county clerk of each county, for good and sufficient cause shown, may deliver the license immediately following the application." [Marriage License; Act 128 of 1887; MCL 551.103a]

Legislation now before the governor would amend marriage license law to require that individuals who "intend to apply for a marriage license shall together complete a program in premarital education." [Enrolled Senate Bill No. 964] But does this mean what it says? The same bill states, "An individual applying for a marriage license may choose not to comply with this section. If either party to a marriage license application does not comply with this section, a longer waiting period applies."

How much longer is the waiting period for those choosing not to complete a program in premarital education? "If a party to a marriage license application does not [complete a program in premarital education], the clerk shall not deliver the marriage license until at least 3 days after the date of the application. If a party to a marriage license application [completes a program in premarital education], the county clerk may deliver a marriage license immediately following the application." [Enrolled House Bill No. 5467]

Apparently, those choosing not to complete a program in premarital education will be punished by being compelled to wait the same 3 days that they were required to wait before amending the license law while in the case of those who complete a program in premarital education, "the county clerk may deliver a marriage license immediately following the application." [Enrolled House Bill No. 5467]

Appearances can be misleading! "Notwithstanding [requirements to complete a premarital education program], for good and sufficient reason shown, a county clerk may deliver a marriage license immediately following the application." [Enrolled House Bill No. 5467]

So what really happened? The proposed amendments establish that completion of a program in premarital education will provide the county clerk with a good and sufficient reason to issue the marriage license in less than 3 days. There is no provision compelling clerks to do so but it is assumed that they will issue such licenses immediately. There is also no provision preventing them, for other good and sufficient reasons, from issuing licenses immediately to those who choose not to complete a program in premarital education, but it is assumed that clerks will withhold the license for the full 3 days.

The several bills would also determine what constitutes premarital education and who could provide it. With the exception of official representatives of religious institutions, the qualifying program must be conducted by a 'licensed' person. Also, those who complete an approved program in premarital education would qualify for a tax credit.

This entire smoke and mirrors trick is ultimately one more way that the cost of someone's favorite program is shifted to the taxpayer. Furthermore, this program will employ more state employees and will likely lead to some form of certification of approved programs further extending the size, reach and expense of state government.

However desirable some people may think that it might be for prenuptials to complete a program in premarital education, this elaborate, tax subsidized, state regulated program is just one more example of government overreaching its constitutional mandate, overregulating its citizens and overspending its taxpayers. Those who understand the law will have no difficulty in obtaining marriage licenses and getting married without completing a program in premarital education, but countless thousands, including many working in county clerks offices, will simply assume that the program is required and will compliantly follow the path designed for them by their regulators.

Michigan Compiles Laws and current session bills that affect, or may affect, Marriage and Marriage License statutes can be found on the Michigan Legislature web site, www.legislature.mi.gov. The Manual on Michigan Marriage Law, prepared by the Family Law Section of the State Bar of Michigan, can be read on the Calhoun County Court web site, <http://courts.co.calhoun.mi.us/book012.htm>. To learn about common law marriage, visit <http://www.originalintent.org/edu/marriage.php>.

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ENROLLED SENATE BILL No. 964

AN ACT 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 section 2 (MCL 551.102), as amended by 1998 PA 333, and by adding sections 2a and 2b. ...

An act to establish the minimum ages for contracting marriages; to establish premarital education; 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. ...

Sec. 2a. (1) Except as provided in subsection (3), a man and a woman who intend to apply for a marriage license shall together complete a program in premarital education as prescribed in section 2b. The individuals applying for the marriage license shall verify completion of the premarital education program by a statement to that effect in the application sworn statement and by filing with the application a certificate of completion from the program administrator.

(2) Except as provided in subsection (3), if an individual who is intending to apply for a marriage license is less than 18 years of age, both parties applying for the license and at least 1 parent or guardian of each party who is a minor shall complete and verify completion of a program of premarital education as prescribed in section 2b. The parent's or guardian's attendance requirement prescribed by this subsection does not apply if the minor who intends to apply for a marriage license is emancipated as provided in 1968 PA 293, MCL 722.1 to 722.6.

(3) An individual applying for a marriage license may choose not to comply with this section. If either party to a marriage license application does not comply with this section, a longer waiting period applies as provided in section 3a. This section and the longer waiting period prescribed in section 3a do not apply if both the man and the woman applying for the marriage license are 50 years of age or older.

Sec. 2b. (1) A premarital education program required by section 2a shall meet all of the following criteria:

(a) The program shall emphasize skill-building strategies and shall include, at least, conflict management, communication skills, financial matters, and, if the couple has or intends to have children, child and parenting responsibilities.

(b) The program shall be at least 4 hours long and shall be conducted by 1 or more of the following:

(i) A licensed professional counselor, licensed marriage and family therapist, licensed or limited licensed psychologist, or, until July 1, 2005, certified social worker or social worker licensed or registered as required in article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or, beginning July 1, 2005, a social worker, licensed master's social worker, licensed bachelor's social worker, or social service technician as prescribed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) A psychiatrist as that term is defined in section 100c of the mental health code, 1974 PA 258, MCL 330.1100c.

(iii) An official representative of a religious institution.

(2) An individual who provides a premarital education program under this section may offer a fee schedule for the program described in this section that accommodates families of various financial means, including allowing participation by indigent individuals for no fee. Payment for a premarital education program shall be made directly to the program provider. ...

ENROLLED HOUSE BILL No. 5467

AN ACT 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 3 and 3a (MCL 551.103 and 551.103a), section 3 as amended by 1984 PA 346 and section 3a as amended by 1989 PA 270. ...

(3) A county clerk shall not issue a marriage license to an individual who fails to sign and file with the county clerk an application for a marriage license that includes a statement with a check-off box indicating that both parties to the intended marriage have or have not received premarital education.

(4) A license shall not be issued by the county clerk until the requirements of section 2a and this section are complied with. The written consent shall be preserved on file in the office of the county clerk. If the parties are legally entitled to be 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. ...

Sec. 3a. (1) Except as provided in subsection (2), a license to marry shall not be delivered within a period of 3 days including the date of application. A marriage license issued under this subsection is void unless a marriage is solemnized under the license within 33 days after the application. This subsection does not apply if subsection (2) applies.

(2) If a party to a marriage license application does not comply with section 2a, the clerk shall not deliver the marriage license until at least 3 days after the date of the application. If a party to a marriage license application complies with section 2a, the county clerk may deliver a marriage license immediately

following the application. A marriage license issued under this subsection is void unless a marriage is solemnized under the license within 58 days after the application.

(3) Notwithstanding subsection (1) or (2), for good and sufficient reason shown, a county clerk may deliver a marriage license immediately following the application. A marriage license issued under this subsection is void unless a marriage is solemnized under the license within 33 days after the application. ...