

Smoke and Mirrors Marriage Requirement (Part 2) - 02/05/2005

How Laws Happen
By Ernie Whiteside

On December 18, 2004, I reported to you how proposed legislation, then waiting for the governor's signature, was being misrepresented as a requirement for premarital education. In this article, we will examine what actually happened to the proposed legislation when it went before the governor and how premarital education had made its way into the law.

The premarital education proposal was linked to eight house bills. The bills were intended to affect Family Law (marriage and divorce, friend of the court), Income Tax (credit) and Children (children's rights). A summary of the House Bills and the actions taken by the governor is provided below.

[House Bill 5467](#) - Senate Bill 0964 - Family law; marriage and divorce; prerequisites for issuance of a marriage license; require premarriage program or longer waiting period. Amends title & secs. 2, 3 & 3a of 1887 PA 128 (MCL 551.102 et seq.) & adds secs. 2a & 2b. - vetoed by the Governor 12/28/2004

[House Bill 5468](#) - Public Act 503 of 2004 - Income tax; credit; marriage preservation tax credit; provide for. Amends 1967 PA 281 (MCL 206.1 - 206.532) by adding sec. 269. TIE BAR WITH: HB 5469'04 - became law without Governor's signature 2004 ADDENDA

[House Bill 5469](#) - Senate Bill 0961 - Public Act 504 of 2004 - Family law; marriage and divorce; criteria for program to qualify for marriage preservation tax credit; establish. Amends title of 1887 PA 128 (MCL 551.101 - 551.111) & adds sec. 12. TIE BAR WITH: HB 5468'04 - became law without Governor's signature 2004 ADDENDA

[House Bill 5470](#) - Public Act 505 of 2004 - Family law; marriage and divorce; divorce; require an educational predivorce program. Amends 1846 RS 84 (MCL 552.1 - 552.45) by adding secs. 5 & 5a. - became law without Governor's signature 2004 ADDENDA

[House Bill 5471](#) - Senate Bill 0966 - Public Act 506 of 2004 - Children; children's rights; parenting plan procedures and content; add to child custody act. Amends title & secs. 1, 2, 3, 4, 5, 6, 6a, 7, 7a, 7b & 11 of 1970 PA 91 (MCL 722.21 et seq.) & adds secs. 12, 13, 14, 15, 16, 17, 18 & 19. - became law without Governor's signature 2004 ADDENDA

[House Bill 5472](#) - Public Act 376 of 2004 (Effective: 10/11/2004) - Family law; friend of the court; certain criteria for determining "interests of the child"; clarify. Amends sec. 45 of 1846 RS 84 (MCL 552.45). - approved by the Governor 10/11/2004 @ 8:00 AM

[House Bill 5473](#) - Senate Bill 0963 - Public Act 507 of 2004 - Family law; marriage and divorce; recording of certain information on marriage license and certificate; require. Amends secs. 3 & 4 of 1887 PA 128 (MCL 551.103 & 551.104). - became law without Governor's signature 2004 ADDENDA

[House Bill 5474](#) - Senate Bill 0959 - Public Act 508 of 2004 - Family law; marriage and divorce; individuals who can accept payment and perform marriage and family counseling; expand. Amends secs. 16901, 16903 & 16905 of 1978 PA 368 (MCL 333.16901 et seq.). - became law without Governor's signature 2004 ADDENDA

The governor actually vetoed the bill to require premarital education or a longer waiting period. Apparently the requirement was just too controversial, but the governor's veto did nothing to alter the progressive intention of the legislators. Before I explain this, let's look at what did become law and how.

Six of the eight bills became law without the governor's signature. Individuals that obtain premarital education, as the state defines it, will be eligible for a tax credit. The law defines who can provide premarital education that will qualify for the tax credit and makes provision for their licensure. It also requires that "the cleric or magistrate shall fill in the appropriate space of the certificate indicating whether the parties have or have not received premarital education. For parties who have received premarital education, the parties shall verify completion of the premarital education by a sworn statement to that effect in the license or certificate."

The stage is now set! Every clerk may now ask individuals who apply for a marriage license whether or not they have had premarital education and instruct them regarding the certificate requirements for documentation of premarital education. The clerk, upon learning that the individuals have received premarital education (good and sufficient cause shown), may now issue the license immediately following the application while continuing to withhold delivery of the license for 3 days when applicants choose not to obtain the premarital education. Individuals that wish to obtain the tax credit must obtain the premarital education from those approved by the state to provide the program approved by the state.

Not all of the eight bills focused on premarital education, other issues involved counseling for divorces and "interests of the child." While the governor vetoed the bill that superficially appeared to require premarital education or a longer waiting period, she allowed the more important issues to quietly become law without her signature and boldly signed the bill that is praised for defining "interests of the child" but really makes it easier for courts to serve summonses in divorce cases. Now the governor can claim that she cares about the "interests of the child" and quietly support the progressive cause of mandatory premarital education and expanded regulation of the same while misleading the public with a meaningless veto.

The new laws do not go into affect until October 1, 2005. Interested individuals should watch their clerks and see what happens at that time. As for me, I predict that a coordinated campaign will covertly go into affect to make it appear that premarital education is assumed to be a "soft" requirement of the law based on the provisions that have become law and upon the fact that "the county clerk of each county, for good and sufficient cause shown (i.e. premarital education), may deliver the license immediately following the application" while withholding delivery of the license for "a period of 3 days including the date of application" when premarital education is not obtained.

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