

HOUSE BILL No. 5697

March 16, 1992, Introduced by Reps. Kilpatrick, Pitoniak, Stopczynski, Harder, Walberg, Yokich, Willis Bullard, Bobier, Middleton, O'Connor, Horton and Jamian and referred to the Committee on Public Health.

A bill to amend sections 5119 and 5121 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 5119 as amended by Act No. 46 of the Public Acts of 1990 and section 5121 as added by Act No. 491 of the Public Acts of 1988, being sections 333.5119 and 333.5121 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 5119 and 5121 of Act No. 368 of the
2 Public Acts of 1978, section 5119 as amended by Act No. 46 of the
3 Public Acts of 1990 and section 5121 as added by Act No. 491 of
4 the Public Acts of 1988, being sections 333.5119 and 333.5121 of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 5119. (1) ~~Except as otherwise provided in~~
7 ~~subsection (4), an individual applying for a marriage license~~

~~1 shall be counseled by a physician or a local health officer or a~~
~~2 designee of a local health officer regarding the transmission and~~
~~3 prevention of venereal disease and HIV infection. The physician,~~
~~4 local health officer, or designee of the local health officer~~
~~5 shall offer to the applicant tests for both venereal disease and~~
~~6 HIV infection.~~ At WITHIN 30 DAYS BEFORE FILING A MARRIAGE
7 LICENSE APPLICATION, AND SUBJECT TO THE EXCEPTION DESCRIBED IN
8 SUBSECTION (5), A MARRIAGE LICENSE APPLICANT SHALL UNDERGO EACH
9 OF THE FOLLOWING TESTS ADMINISTERED BY A PHYSICIAN, LOCAL HEALTH
10 OFFICER, OR OTHER PERSON APPROVED BY THE DEPARTMENT:

11 (A) AN HIV INFECTION TEST APPROVED BY THE DEPARTMENT.

12 (B) A VENEREAL DISEASE SEROLOGICAL TEST APPROVED BY THE
13 DEPARTMENT.

14 (C) AN ADDITIONAL TEST OR TESTS REQUIRED BY THE DEPARTMENT,
15 IF THE INITIAL RESULT OF A TEST DESCRIBED IN SUBDIVISION (A) OR
16 (B) IS POSITIVE.

17 (2) BEFORE OR AT the time ~~the~~ AN application for a mar-
18 riage license is filed, the county clerk shall distribute to each
19 applicant ~~educational~~ ALL OF THE FOLLOWING:

20 (A) EDUCATIONAL materials prepared by the department on
21 topics related to venereal disease, HIV transmission, and prena-
22 tal care. ~~The information shall include a~~

23 (B) A list of locations where HIV counseling and testing
24 services funded by the department are available.

25 (3) IF THE RESULTS OF A TEST DESCRIBED IN SUBSECTION (1)
26 INDICATE THAT AN APPLICANT IS HIV INFECTED OR HAS A VENEREAL
27 DISEASE, THE PHYSICIAN, LOCAL HEALTH OFFICER, OR OTHER PERSON

1 AUTHORIZED BY THE DEPARTMENT WHO ADMINISTERED THE TESTS SHALL
 2 IMMEDIATELY INFORM THE APPLICANT AND HIS OR HER COAPPLICANT OF
 3 THE TEST RESULTS, AND AS APPLICABLE SHALL COUNSEL THOSE APPLI-
 4 CANTS REGARDING THE MODES OF HIV OR VENEREAL DISEASE TRANSMIS-
 5 SION, THE POTENTIAL FOR HIV OR VENEREAL DISEASE TRANSMISSION TO A
 6 FETUS, AND MEASURES THAT MAY PROTECT AGAINST TRANSMISSION OF HIV
 7 OR VENEREAL DISEASE.

8 (4) ~~-(2)-~~ A county clerk shall not issue a marriage license
 9 to an applicant who fails to present and file with the county
 10 clerk ~~+~~ EITHER of the following:

11 (a) ~~A certificate indicating that the applicant has~~
 12 ~~received counseling regarding the transmission and prevention of~~
 13 ~~both venereal disease and HIV infection and has been offered~~
 14 ~~testing for both venereal disease and HIV infection, pursuant to~~
 15 ~~subsection (1).~~ A CERTIFICATE ISSUED BY THE PHYSICIAN, LOCAL
 16 HEALTH OFFICER, OR OTHER PERSON APPROVED BY THE DEPARTMENT WHO
 17 ADMINISTERED THE TESTS DESCRIBED IN SUBSECTION (1), STATING 1 OR
 18 MORE OF THE FOLLOWING:

19 (i) THAT THE MARRIAGE LICENSE APPLICANT HAS TESTED NEGATIVE
 20 FOR THE PRESENCE OF HIV OR AN ANTIBODY TO HIV, AND THAT THE
 21 APPLICANT AND HIS OR HER COAPPLICANT HAVE BEEN COUNSELED ABOUT
 22 THE TRANSMISSION AND PREVENTION OF HIV INFECTION.

23 (ii) THAT THE MARRIAGE LICENSE APPLICANT HAS TESTED NEGATIVE
 24 FOR THE PRESENCE OF A VENEREAL DISEASE, AND THAT THE APPLICANT
 25 AND HIS OR HER COAPPLICANT HAVE BEEN COUNSELED ABOUT THE TRANS-
 26 MISSION AND PREVENTION OF VENEREAL DISEASE.

1 (iii) THAT THE MARRIAGE LICENSE APPLICANT IS HIV INFECTED
2 AND HAS BEEN COUNSELED WITH HIS OR HER COAPPLICANT ABOUT THE
3 MODES OF HIV TRANSMISSION, THE POTENTIAL FOR HIV TRANSMISSION TO
4 A FETUS, AND MEASURES THAT MAY PROTECT AGAINST TRANSMISSION OF
5 HIV.

6 (iv) THAT THE MARRIAGE LICENSE APPLICANT HAS TESTED POSITIVE
7 FOR THE PRESENCE OF A VENEREAL DISEASE AND HAS BEEN COUNSELED
8 WITH HIS OR HER COAPPLICANT ABOUT THE MODES OF TRANSMISSION OF
9 THAT VENEREAL DISEASE, THE POTENTIAL FOR TRANSMISSION OF THAT
10 VENEREAL DISEASE, AND MEASURES THAT MAY PROTECT AGAINST TRANSMIS-
11 SION OF THAT VENEREAL DISEASE.

12 (b) A written objection ~~pursuant to subsection (4)~~ AND
13 COURT ORDER DESCRIBED IN SUBSECTION (5).

14 ~~(3) If either applicant for a marriage license undergoes a~~
15 ~~test for HIV or an antibody to HIV, and if the test results indi-~~
16 ~~cate that an applicant is HIV infected, the physician, local~~
17 ~~health officer, or designee of the local health officer adminis-~~
18 ~~tering the test immediately shall inform both applicants of the~~
19 ~~test results, and shall counsel the applicants regarding the~~
20 ~~modes of HIV transmission, the potential for HIV transmission to~~
21 ~~a fetus, and protective measures.~~

22 (5) ~~(4)~~ An applicant or prospective applicant for a mar-
23 riage license may file a written objection with the ~~clerk for~~
24 CIRCUIT COURT IN the county in which the MARRIAGE license is ~~to~~
25 ~~be issued~~ SOUGHT stating that the ~~counseling requirements of~~
26 TESTS DESCRIBED IN subsection (1) violate the personal religious

1 beliefs of the applicant. THE COURT MAY ISSUE A WRITTEN ORDER
2 WAIVING THE APPLICANT'S COMPLIANCE WITH THIS SECTION.

3 (6) ~~-(5)-~~ The county clerk for the county in which the
4 license is to be issued may charge a fee for the administrative,
5 costs associated with filing the written objection AND COURT
6 ORDER UNDER SUBSECTION (5). This fee shall not exceed the amount
7 charged by the local health department for the county for mar-
8 riage license counseling services as described in
9 subsection ~~-(1)-~~ (4).

10 Sec. 5121. A person who commits any of the following acts
11 is guilty of a misdemeanor:

12 (a) A county clerk who issues a marriage license to an indi-
13 vidual who fails to present a certificate OR COURT ORDER required
14 under section ~~5119(2)-~~ 5119(4).

15 (b) A person who knows that an applicant for a marriage
16 license has taken a test for venereal disease or HIV infection,
17 or both, under section 5119(1), and who discloses ~~either the~~
18 ~~fact~~ that the applicant has taken the test, ~~or~~ the results of
19 the test, or both, except as required by law. ~~, and except as~~
20 ~~provided under section 5131.~~

21 (c) A physician, LOCAL HEALTH OFFICER, OR OTHER PERSON
22 APPROVED BY THE DEPARTMENT, who knowingly and willfully makes a
23 false statement in a certificate ~~given by the physician~~ under
24 section 5119.