

MARRIAGES BY COUNTY CLERKS

House Bill 5613 as enrolled (Vetoed) Second Analysis (1-12-99)

Sponsor: Rep. Liz Brater
House Committee: Local Government
**Senate Committee: Local, Urban and
State Affairs**

THE APPARENT PROBLEM:

State law permits a limited number of public officials to perform marriages, including district court judges and magistrates, municipal judges, probate judges, federal court judges, and city mayors. Also, a county clerk or a designated employee of the clerk can perform (or "solemnize", as the law puts it) marriages in a county with a population of over two million (Wayne County). Some people do sometimes ask county clerks in other counties to perform marriage ceremonies, and clerks see no reason why they should not be permitted to do so.

THE CONTENT OF THE BILL:

The bill would amend the act entitled "Of Marriage and the Solemnization Thereof" to permit any county clerk to "solemnize" marriages. As now, a county clerk would only be able to solemnize a marriage in the county in which he or she serves. The bill also would add to the list of eligible judges, a judge of the family division of circuit court, provided the marriage was solemnized in the judicial circuit in which the judge was serving.

Currently, the act restricts the ability to perform marriage ceremonies to the clerk and designated employees in a county with a population of more than two million. The population reference in the act would be removed and replaced by a reference to a county organized under Public Act 293 of 1966, which applies to Wayne County, as does the population requirement. In that county only, designated employees could perform a marriage ceremony; in other counties, only the clerk could do so.

The bill also clarifies the act by replacing references to "a minister of the gospel" with the term "clergyperson," and the term "church" with "congregation."

The bill further would permit a person authorized under the act to solemnize a marriage and the persons to be married to agree that the persons to be married complete premarital counseling.

MCL 551.7 and 551.16

FISCAL IMPLICATIONS:

The Senate Fiscal Agency reported that the bill would have no fiscal impact on state or local government. (SFA analysis dated 12-1-98)

ARGUMENTS:

For:

By allowing the county clerk to perform marriage ceremonies, the bill would make another public official available to couples who want to marry. Clerks currently issue marriage licenses, making them likely officials to be sought out to solemnize marriages. (The bill is permissive; a county clerk need not solemnize marriages.) It permits the clerk and the couple to agree that the couple should complete premarital counseling.

Response:

Some people have urged that clerks (and others) not be able to conduct marriage ceremonies unless the couple being married complete a premarital education or counseling program conducted by a licensed professional or a representative of a religious institution. Marriage should not be entered into without preparation.

Rebuttal:

Others believe a counseling requirement is an unwarranted invasion of personal decision-making by the government. It is entirely appropriate for a member of the clergy to require such counseling before solemnizing a marriage, but not a government official.

Against:

Governor Engler vetoed this bill. The veto message says, "I have not been presented with any compelling evidence to show why this list [of individuals who may perform marriages] should be expanded to include clerks. Under current law, there are several options for those individuals seeking to have a non-religious service, including district court judges and magistrates, probate judges and city mayors."

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.