

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5613 (Substitute S-3 as reported)
Sponsor: Representative Liz Brater
House Committee: Local Government
Senate Committee: Local, Urban and State Affairs

Date Completed: 12-1-98

RATIONALE

State law currently permits marriages to be performed by certain public officials, including district court judges and magistrates, municipal judges, probate judges, mayors, and the clerk of a county with a population of more than 2 million (which applied to Wayne County). Apparently, some couples wanting to be married in a civil ceremony have requested clerks in other counties to solemnize their marriages. Some people believe that the authority to perform marriages should be granted to all county clerks in the State.

CONTENT

The bill would amend an Act entitled "Of marriage and the solemnization thereof" to permit a county clerk and a judge of the family division of the circuit court to solemnize a marriage if the marriage were solemnized in the county in which the clerk served, or in the judicial circuit in which the judge was serving.

The bill also provides that a person authorized by the Act to solemnize a marriage could request that the persons to be married satisfactorily complete premarital counseling.

Currently, the clerk of a county having more than 2 million inhabitants or an employee of the clerk's office designated by the county clerk may solemnize a marriage. Under the bill, a county clerk in a county other than a charter county could solemnize a marriage in the county in which the clerk served. The bill also would permit a county clerk or a designated employee of the county clerk in a charter county to solemnize a marriage in the county in which the clerk served.

MCL 551.7 & 551.16

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Under Public Act 128 of 1887, county clerks are required to issue marriage licenses, accept licenses after a marriage has been solemnized, and transfer marriage records to the Department of Community Health. Except for the clerk of Wayne County, none of the county clerks in the State is permitted to solemnize marriages. Some parts of the State reportedly have experienced an increased demand for civil marriage ceremonies. Due to a shortage in those areas of public officials who are available to solemnize marriages, especially when the ceremonies take place on weekends, some couples have asked clerks to perform the ceremony. While an important function of county clerks is to issue marriage licenses and process marriage records, they cannot perform the actual marriage ceremony. By allowing a county clerk to perform marriage ceremonies, the bill would make another public official available to couples who want to marry.

Supporting Argument

Many couples married by a public official in a civil ceremony are more likely not to have undergone any form of premarriage counseling compared with couples who are married in a religious ceremony. Marriage preparation classes offered by various religious denominations or marriage counselors can help to strengthen a marriage by encouraging couples to consider the importance of their commitment. Under the bill, a county clerk or any other person authorized to solemnize a marriage could request that a couple satisfactorily complete premarital counseling. Thus, couples who sought

a civil ceremony would have an opportunity to prepare for married life and experience a stronger marriage.

Response: While the bill is permissive and would not require that couples receive premarital counseling, there is some concern that the bill would promote governmental involvement in a couple's interpersonal relationship. In addition, the bill is vague as to what would qualify as premarital counseling, who would provide it, and whether a county clerk or other public official could suggest to couples that they obtain counseling that promoted a religious point of view. In addition, it is not clear how a couple would demonstrate that they "satisfactorily completed" premarital counseling.

Supporting Argument

The family division of circuit court (family court) was created by Public Act 388 of 1986, and was assigned many matters that formerly were handled by the circuit court and the juvenile division of the probate court, particularly in regard to domestic situations. It would be appropriate to authorize family court judges to perform marriages.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.