

SENATE BILL No. 964

February 5, 2004, Introduced by Senators SANBORN, CROPSEY, GARCIA, BIRKHOLZ, KUIPERS, ALLEN, HARDIMAN, BISHOP, McMANUS and GOSCHKA and referred to the Committee on Judiciary.

A bill 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 sections 2, 3, and 3a (MCL 551.102, 551.103, and 551.103a), the title and section 2 as amended by 1998 PA 333, section 3 as amended by 1984 PA 346, and section 3a as amended by 1989 PA 270, and by adding sections 2a and 2b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act ~~establishing~~ to **establish** the minimum ages for contracting marriages; to **establish premarital education or counseling programs**; 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.

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1 Sec. 2. (1) Blank forms for a marriage license and
2 certificate shall be prepared and furnished by the state
3 registrar appointed by the director of the department of
4 community health to ~~the~~ **each** county ~~clerks~~ **clerk** of this
5 state in ~~quantities~~ **the quantity** needed. The blank ~~forms~~
6 **form** for a license and certificate shall be made in duplicate and
7 shall provide spaces for the entry of identifying information of
8 the parties and other items prescribed **by statute and** in rules
9 promulgated by the director of the department of community
10 health. The state registrar shall furnish to ~~all the~~ **each**
11 county ~~clerks~~ **clerk** of this state blank application forms ~~of~~
12 ~~an affidavit~~ **that include a sworn statement** containing the
13 requisite allegations, under the laws of this state, of the
14 competency of the parties to unite in the bonds of matrimony, and
15 as required to comply with federal law, containing a space
16 requiring each applicant's social security number.

17 (2) A party applying for a license to marry shall make and
18 file the application in the form of ~~an affidavit~~ **a sworn**
19 **statement** with the county clerk as a basis for issuing the
20 license. The license shall be made a matter of record and shall
21 be transmitted to the department of community health in the
22 manner prescribed by the state registrar. The state registrar
23 shall not require an applicant's social security number to be
24 displayed on the marriage license.

25 (3) ~~(2)~~ A person shall not disclose, in a manner not
26 authorized by law or rule, a social security number collected as
27 required by this section. A violation of this subsection is a

1 misdemeanor punishable by imprisonment for not more than 90 days
2 or a fine of not more than \$500.00, or both. A second or
3 subsequent violation of this subsection is a felony punishable by
4 imprisonment for not more than 4 years or a fine of not more than
5 \$2,000.00, or both.

6 (4) ~~—(3)—~~ A requirement under this section to include a
7 social security number on an application does not apply to an
8 applicant who demonstrates he or she is exempt under law from
9 obtaining a social security number or to an applicant who for
10 religious convictions is exempt under law from disclosure of his
11 or her social security number under these circumstances. The
12 county clerk shall inform the applicant of this possible
13 exemption.

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

22 (2) Except as provided in subsection (3), if an individual
23 who is intending to apply for a marriage license is less than 18
24 years of age, both parties applying for the license and at least
25 1 parent or guardian of each party who is a minor shall complete
26 and verify a program of premarital education or counseling as
27 prescribed in section 2b. The parent's or guardian's attendance

1 requirement prescribed by this subsection does not apply if the
2 minor who intends to apply for a marriage license is emancipated
3 as provided in 1968 PA 293, MCL 722.1 to 722.6.

4 (3) An individual applying for a marriage license may choose
5 not to comply with this section. If either party to a marriage
6 license application does not comply with this section, a longer
7 waiting period applies as provided in section 3a.

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

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

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

16 (i) A licensed professional counselor, licensed marriage and
17 family therapist, licensed or limited licensed psychologist, or
18 certified social worker or social worker licensed or registered
19 as required in article 15 of the public health code, 1978 PA 368,
20 MCL 333.16101 to 333.18838.

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

23 (iii) An official representative of a religious institution
24 or his or her designee.

25 (2) An individual who provides a premarital education or
26 counseling program under this section may offer a fee schedule
27 for the program described in this section that accommodates

1 families of various financial means, including allowing
 2 participation by indigent individuals for no fee. Payment for an
 3 education or counseling program shall be made directly to the
 4 program provider.

5 Sec. 3. (1) ~~Every person who becomes~~ **An individual who is**
 6 18 years of age ~~shall be~~ **or older is** capable by law of
 7 contracting marriage. ~~Every person who becomes~~ **An individual**
 8 **who is** 16 years of age but is less than 18 years of age ~~shall~~
 9 ~~be~~ **is** capable of contracting marriage with the written consent
 10 of 1 of the parents of the ~~person~~ **individual** or the ~~person's~~
 11 **individual's** legal guardian, as provided in this section. As
 12 proof of age, the party to the intended marriage, in addition to
 13 the statement of age in the application, when requested by the
 14 county clerk, shall submit a birth certificate or other proof of
 15 age.

16 (2) The county clerk ~~on the application made~~ shall fill out
 17 the blank spaces of the license according to the sworn answers of
 18 the applicant, taken before the county clerk, or some person duly
 19 authorized by law to administer oaths. ~~When~~ **If** it appears from
 20 the ~~affidavit that either~~ **sworn statement that** the applicant is
 21 applying for a license for the marriage to ~~a person~~ **an**
 22 **individual** who has not become 18 years of age, ~~or~~ that the
 23 applicant has not become 18 years of age, or **that** both ~~persons~~
 24 **individuals** applying for a license are less than 18 years of age,
 25 the county clerk shall require that there first be produced the
 26 written consent ~~of~~ **to the marriage by** 1 of the parents of each
 27 of the ~~persons~~ **individuals** who is less than 18 years of age or

1 ~~of~~ by the ~~person's~~ **individual's** legal guardian ~~to the~~
 2 ~~marriage~~ and to the issuing of the license for which application
 3 is made. The consent shall be given personally in the presence
 4 of the county clerk or be acknowledged before a notary public or
 5 other officer authorized to administer oaths unless the ~~person~~
 6 **individual** does not have a living parent or guardian.

7 (3) A license shall not be issued by the county clerk until
 8 the requirements of **section 2a and** this section are complied
 9 with. The written consent shall be preserved on file in the
 10 office of the county clerk. If the parties are legally entitled
 11 to be married, the county clerk shall sign the license and
 12 certify the fact that it is properly issued, and the clerk shall
 13 make a correct copy of the license in the books of registration.

14 (4) ~~(2)~~ A fee of \$20.00 shall be paid by the party applying
 15 for the license, which shall be paid by the county clerk into the
 16 **county** general fund. ~~of the county.~~ The county board of
 17 commissioners shall allocate \$15.00 of each fee collected to the
 18 circuit court for family counseling services, which shall include
 19 counseling for domestic violence and child abuse. If family
 20 counseling services are not established in the county, the
 21 circuit court may use the money allocated to contract with public
 22 or private agencies providing similar services. ~~Funds~~ **Money**
 23 allocated to the circuit court ~~pursuant to~~ **by** this section
 24 ~~which are~~ **that is** not expended shall be returned to the **county**
 25 general fund ~~of the county~~ to be held in escrow until circuit
 26 court family counseling services are established ~~pursuant to Act~~
 27 ~~No. 155 of the Public Acts of 1964, as amended, being sections~~

1 ~~551.331 to 551.344 of the Michigan Compiled Laws~~ **under the**
2 **circuit court family counseling services act, 1964 PA 155, MCL**
3 **551.331 to 551.344.** A probate court may order the county clerk
4 to waive the marriage license fee in cases in which the fee would
5 result in undue hardship. If both parties named in the
6 application are nonresidents of the state, an additional fee of
7 \$10.00 shall be paid by the party applying for the license, which
8 shall be deposited by the county clerk into the **county** general
9 fund. ~~of the county.~~

10 (5) The county clerk shall give the license filled out and
11 signed, together with the blank form of certificate, to the party
12 applying, for delivery to the clergyman or magistrate who is to
13 officiate at the marriage. On the return of the license to the
14 county clerk, with the certificate of the clergyman or magistrate
15 that the marriage has been performed, the county clerk shall
16 record in the book of registration in the proper place of entry
17 the information prescribed by the director of ~~public~~ **community**
18 health. The licenses and certificates issued and returned shall
19 be forwarded to the state registrar appointed by the director of
20 ~~public~~ **community** health on the forms and in the manner
21 prescribed by the director.

22 (6) ~~(3)~~ A charter county ~~which~~ **that** has a population of
23 over 2,000,000 may impose by ordinance a marriage license fee or
24 nonresident marriage license fee, or both, different in amount
25 ~~than~~ **from** the fee prescribed by subsection ~~(2)~~ **(4)**. The
26 charter county shall allocate the fee for family counseling
27 services as prescribed by subsection ~~(2)~~ **(4)**. A charter county

1 shall not impose a fee ~~which~~ **that** is greater than the cost of
2 the service for which the fee is charged.

3 Sec. 3a. (1) A license to marry shall not be delivered
4 within a period of 3 days including the date of application.
5 ~~However, the county clerk of each county, for good and~~
6 ~~sufficient cause shown, may deliver the license immediately~~
7 ~~following the application.~~ A marriage license issued **under this**
8 **subsection** is void unless a marriage is solemnized under the
9 license within 33 days after the application. **This subsection**
10 **does not apply if subsection (2) applies.**

11 (2) If a party to a marriage license application does not
12 comply with section 2a, the clerk shall not deliver the marriage
13 license until after the expiration of 27 days after the date of
14 the application. A marriage license issued under this subsection
15 is void unless a marriage is solemnized under the license within
16 63 days after the application.

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