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BILL ANALYSIS

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Senate Bill 1106 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Bev Hammerstrom  
Committee: Local, Urban and State Affairs

(as enrolled)

Date Completed: 8-9-06

### **RATIONALE**

In Michigan, a couple seeking to get married must file an application with the local county clerk on a form that has been distributed by the State Registrar. After receiving an application, the clerk may not issue a license until three days have passed (unless good and sufficient cause is shown). The three-day waiting period requires an applicant to make at least two trips to the clerk's office, which can be inconvenient for some Michigan residents. Some people believe that applicants should be allowed to submit their marriage license application electronically, and that other changes in the application process should be made.

### **CONTENT**

**The bill would amend Public Act 128 of 1987 (which provides for marriage licenses) to do the following:**

- Allow a county clerk to accept an electronically submitted application for a marriage license.**
- Exempt a marriage license application from disclosure under the Freedom of Information Act.**
- Require that a person pay a fee when a county clerk delivered a license immediately following the application for a marriage license.**

Under the Act, blank forms for a marriage license and certificate must be prepared and furnished by the State Registrar appointed by the Director of the Department of Community Health (DCH) to the county clerks of the State in quantities needed. The blank forms must provide spaces for the entry of identifying information of the

parties and other items prescribed in rules promulgated by the DCH Director.

The State Registrar must furnish to all the county clerks of the State blank application forms of an affidavit containing the requisite allegations of the competency of the parties to marry, and as required to comply with Federal law, a space for each applicant's Social Security number. A party applying for a license to marry must make and file the application in the form of an affidavit with the county clerk.

Under the bill, a county clerk could permit a party applying for a marriage license to submit that application electronically. If the county clerk accepted an electronically submitted application, he or she would have to print the required information from the application in the form of an affidavit and have a party named in the application sign the affidavit in the presence of the county clerk or deputy clerk.

The bill provides that a marriage license application would be a nonpublic record and exempt from disclosure under the Freedom of Information Act. The application would have to be made available, upon request, to the people named in it.

The Act provides that a marriage license may not be delivered within a period of three days including the date of application. A county clerk, however, for good and sufficient cause shown, may deliver the license immediately following the application. Under the bill, if the county clerk delivered the license immediately, the person applying for the license would have

to pay a fee to be determined by the county board of commissioners, which the county clerk would have to deposit into the county's general fund.

Under the Act, a county clerk must give a completed and signed license, and the blank form of certificate, to the applicant for delivery to the clergyman or magistrate who is to officiate at the marriage. On the return of the license to the county clerk, with the certificate of the clergyman or magistrate that the marriage has been performed, the clerk must record in the book of registration the information prescribed by the DCH Director.

Under the bill, on the return of the license to the county clerk, containing the signatures of the witnesses to the marriage, who would have to be 18 years of age or older, the married individuals, and the individual officiating at the marriage, with the certificate of the individual officiating that the marriage had been performed, the county clerk would have to record the prescribed information in the book of registration.

MCL 551.102-551.103a

### **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**

Currently, before a marriage license application is filed with a county clerk, as required under Public Act 128 of 1887, someone must visit the county clerk's office to obtain a copy of the required application. The bill would allow applicants to avoid the trip by allowing the application to be submitted to the county clerk electronically. An applicant still would be required to sign the application, but he or she could do so when picking up the license after the three-day waiting period had passed.

Reportedly, some county clerks are not collecting Social Security numbers from applicants because marriage licenses are subject to public disclosure and the clerks are worried about possible identity theft. Under the bill, a marriage license application would not be a public record, but the

applicants themselves would have access to their application.

Additionally, the bill would allow a county to charge a fee, which would have to be determined by the county board of commissioners, when the county clerk issued a license at the time the application was filed, rather than following the three-day waiting period. The bill also would require that the license itself be signed by the married couple and the witnesses, something that is not currently required under the Act.

Legislative Analyst: J.P. Finet

### **FISCAL IMPACT**

The bill would have no effect on State revenue or expenditures, but would increase local unit revenue by an unknown and likely negligible amount. The bill would provide for a fee, to be determined by the county board of commissioners, for licenses delivered immediately following the application. It is unknown how many individuals would choose to receive their license immediately. There are approximately 65,000 marriages per year in Michigan and if the additional fee were \$10 and 10% of the applicants elected to receive the license immediately, the bill would increase revenue by \$65,000 statewide.

Fiscal Analyst: David Zin

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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.