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Senate Bill 545 (as introduced 6-30-11)
Sponsor: Senator John J. Gleason
Committee: Judiciary

Date Completed: 10-25-11

CONTENT

The bill would amend the divorce Act to do all of the following:

- **Require the parties to a divorce to complete a divorce effects program and a questionnaire before a judgment of divorce was entered, if a minor child were involved.**
- **Specify subjects that a divorce effects program would have to cover.**
- **Allow a program to omit a required subject if the program were conducted by a representative of a religious institution and training on the subject would violate a religious tenet of that institution.**
- **Prohibit a court from ordering a party to participate if he or she filed a sworn statement that he or she was a victim of domestic violence by the other party.**
- **Allow a court to excuse a party to a divorce from attending a divorce effects program for good cause.**
- **Subject a party to contempt of court and other reasonable sanctions for failing to complete a divorce effects program.**
- **Allow a court to enter a judgment of divorce despite a party's failure to complete a divorce effects program.**
- **Specify that a similar court-ordered program, instituted before the bill's effective date, would comply with the bill.**
- **Specify that a statement alleging domestic violence and a questionnaire would be confidential and not part of the public record.**

Scope of the Bill

Under the bill, except as otherwise provided, the parties to a divorce would have to complete a divorce effects program and a questionnaire before entry of a judgment of divorce. This requirement would apply only if one or more of the following were true:

- The parties were the parents of a minor child.
- Either party was the physical custodian of a minor child at the time the complaint for divorce was filed.
- The wife was pregnant and, after the child was born, the husband would be the child's presumed father.

Under the last condition above, if the pregnancy were discovered after the complaint was filed, but before the judgment of divorce was entered, the court could not enter the judgment until the parties completed the program and questionnaire required by the bill.

Divorce Effects Program

Parties subject to the bill would have to complete a divorce effects program covering at least all of the following subjects:

- In relation to a child involved in the action: developmental stages, responses to divorce, symptoms of maladjustment to divorce and responses to maladjustment, and education or counseling options for the child.
- In relation to the parties: communication skills; conflict resolution skills; emotional adjustment, family adjustment, financial adjustment, and work adjustment techniques; stress reduction; parallel and cooperative parenting techniques; reconciliation and counseling options, and remarriage issues; and substance abuse information and referral.
- Court procedure and processes as described in information available from the relevant Friend of the Court office.

If the individual conducting the program were an official representative of a religious institution, the program could omit a subject listed above, if training or education on that subject would violate a tenet of the religious institution.

The court could not order a party to participate in a divorce effects program if the party filed a sworn statement stating that he or she was a victim of domestic violence by the other party. The statement would be confidential and could be reviewed only by the court or, during a criminal investigation, by a law enforcement officer or a prosecutor. The statement would not be a part of the public record of the divorce action and would be exempt from the Freedom of Information Act. The court otherwise could excuse a party from attending a divorce effects program for good cause, including availability of the program or the party's ability to pay.

If a party were not exempt or excused from a program and failed to complete a divorce effects program, the court could hold him or her in contempt or could impose another sanction, reasonable in the circumstances, and could enter a judgment of divorce despite the party's failure to complete a divorce effects program.

If a court had instituted a program similar to a divorce effects program described in the bill, before the bill's effective date, the court would be in compliance with the bill and would not be required to institute or order another program.

The provider of a divorce effects program would have to issue to each individual who completed the program a certificate indicating that completion.

Under the bill, "domestic violence" would mean that term as defined in the domestic violence prevention and treatment Act. (Under that Act, "domestic violence" means the occurrence of any of the following acts by a person that is not an act of self-defense:

- Causing or attempting to cause physical or mental harm to a family or household member.
- Placing a family or household member in fear of physical or mental harm.
- Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.
- Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.)

Questionnaire

Parties subject to the bill would have to complete a questionnaire before completing a divorce effects program. A completed questionnaire would be confidential and could be reviewed only by the program provider and the court or court staff or, during a criminal investigation, by a law enforcement officer or a prosecutor. The questionnaire would not be a part of the public record of the divorce action and would be exempt from the Freedom of Information Act.

The questionnaire would have to include questions as to whether the divorce would do any of the following:

- Improve, maintain, or diminish the love, affection, and other emotional ties existing between the parties and the child.
- Improve, maintain, or diminish the capacity and disposition of the parties to give the child love, affection, and guidance and to continue the education and raising of the child in his or her religion or creed, if any.
- Improve, maintain, or diminish the capacity and disposition of the parties to provide the child with food, clothing, medical care, or other remedial care recognized and permitted under Michigan law in place of medical care and other material needs.
- Upset a stable, satisfactory environment.
- Result in a suitable living arrangement for the child involved.
- Improve, maintain, or diminish the mental and physical health of the parties.
- Improve, maintain, or diminish the school and community record of the child.
- Improve, maintain, or diminish the willingness and ability of each of the parents to facilitate and encourage a close and continuing relationship between the child and the other parent.
- Reduce domestic violence or mental anguish of any of the parties involved.

Proposed MCL 552.5

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate, but likely negligible, fiscal impact on State and local government. To the extent that the bill increased the administrative workload of various courts, local jurisdictions could incur additional costs.

Fiscal Analyst: Matthew Grabowski

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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.