

# Legislative Analysis



## MARRIAGE AND FAMILY PRESERVATION PROGRAM

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**House Bill 5467 (Substitute H-1)**  
**Sponsor: Rep. Joanne Voorhees**

**House Bill 5468 (Substitute H-2)**  
**Sponsor: Rep. John Stahl**

**House Bill 5469 (Substitute H-1)**  
**Sponsor: Rep. Lauren Hager**

**House Bill 5470 (Substitute H-2)**  
**Sponsor: Rep. Barb Vander Veen**

**House Bill 5472 (Substitute H-3)**  
**Sponsor: Rep. Ken Bradstreet**

**House Bill 5473 (Substitute H-1)**  
**Sponsor: Rep. Lisa Wojno**

**House Bill 5474 (Substitute H-2)**  
**Sponsor: Rep. John Gleason**

**Committee: Judiciary**

**Complete to 5-11-04**

## A SUMMARY OF HOUSE BILLS 5467-5470 AND 5472-5474 AS REPORTED FROM COMMITTEE

House Bill 5467 would amend Public Act 128 of 1887, the marriage license act (MCL 551.102 et al.). Under current law, there is a three-day wait for marriage licenses after application, unless the county clerk (“for good and sufficient cause shown”) decides to deliver the license immediately after application. The bill would require a man and a woman who intended to apply for a marriage license to either complete a program in premarital education, or, in the alternative, wait 28 days rather than three for the delivery of the marriage license.

Completion of a premarital education program would have to be verified by: 1) a statement to that effect in the marriage application sworn statement; and 2) filing with the application a certificate of completion from the program administrator. A county clerk would be prohibited from issuing a marriage license to an individual who failed to sign and file a marriage application that included a statement with a check-off box indicating whether or not both parties had received pre-marital education.

In addition, if either party to the marriage was younger than 18 years old (unless the person was an emancipated minor), both parties applying for the license and at least one parent or guardian of each party who was a minor would have to complete the premarital education program (or wait the additional time for a license).

However, despite these provisions, the bill would retain the option of the county clerk to deliver a license immediately for good and sufficient reason shown.

A premarital education program would have to emphasize skill-building strategies and would have to include, at least, conflict management, communication skills, financial matters, and if the couple has or intends to have children, child and parenting responsibilities. The program would have to be at least four hours long and be conducted by a licensed professional counselor, licensed marriage and family therapist, licensed or limited licensed psychologist, certified social worker, or social worker licensed or registered under the Public Health Code; psychiatrist; or an official representative of a religious institution.

A program provider could offer a fee schedule to accommodate families of various financial means, including allowing participation by indigent individuals for no fee. Payment for such a program would be made directly to the program provider.

Further, a marriage license currently is void unless the marriage is solemnized within 33 days after the application. This would still apply to licenses issued to those who completed a premarital education program. Licenses issued to couples who did not complete a premarital education program would be void if the marriage were not solemnized within 58 days after the application.

The bill would take effect October 1, 2004.

House Bill 5468 would amend the Income Tax Act (MCL 206.269) to provide qualified taxpayers with a nonrefundable credit against the income tax that is equal to the cost paid during the tax year for a premarital education program, up to \$50. A “qualified taxpayer” would be a taxpayer or taxpayers who attended a premarital education program during the tax year in which a credit under the bill was claimed. If separate returns are filed by the program participants, only one of the taxpayers could claim the credit. If the taxpayers filed a joint return, the maximum credit for that joint return would be \$50. A qualifying premarital education program would be a marriage program that met the requirements proposed in House Bill 5469. The credit would be available for tax years that began after December 31, 2003. The bill is tie-barred to House Bill 5469.

House Bill 5469 would add a new section to Public Act 128 of 1887 (MCL 551.112), which sets the legal age for marriage and establishes requirements for a marriage license, to establish criteria for a qualifying premarital education program. The bill would specify that if the parties to a marriage attend and complete a qualifying premarital education program, they could claim the income tax credit proposed under House Bill 5468. The premarital educational program would have to meet the following criteria:

- Had as a primary focus skill-building strategies for strengthening or preserving marriages.

- At a minimum, include programs on conflict management, communication skills, financial matters, and child and parenting responsibilities (if the couple had or planned to have children).
- Be at least four hours in duration and be conducted by (1) a licensed professional counselor, licensed marriage and family therapist, or licensed psychologist; (2) a registered social worker or certified social worker; (3) a psychiatrist; and/or (4) an official representative of a religious institution.

House Bill 5470 would amend Chapter 84 of the Revised Statutes of 1846, entitled “Of divorce” (MCL 552.5 and 552.5a), to require that, unless exempted or excused, the parties to a divorce complete a divorce effects educational program and a questionnaire before the entry of the judgment of divorce, if there are minor children (or if the wife is pregnant and the husband would be considered the child’s father under the law).

The questionnaire, as prescribed in the bill, would have to be completed prior to completing a divorce effects program. Questions would include: 1) whether the divorce would improve, maintain, or diminish such things as the love between the parties involved and the child; the capacity of the parties to provide the child with food, clothing, or medical care; the mental and physical health of the parties involved; the school and community record of the child; and the willingness and ability of each of the parents to facilitate and encourage a close and continuing parent and child relationship between the child and the other parent; 2) upset a stable, satisfactory living arrangement for the child involved; 3) result in a suitable living arrangement for the child; or, 4) reduce domestic violence or mental anguish of any of the parties involved.

The divorce effects program would have to cover at least all of the following subjects:

- The child’s (or children’s) developmental stages, responses to divorce, symptoms of maladjustment to divorce and response to maladjustment, and education or counseling options for the child or children.
- The adult 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 process as described in information available from the friend of the court.

A divorce effects program could be conducted by a licensed professional counselor, licensed marriage and family therapist, licensed or limited licensed psychologist, certified social worker or social worker licensed or registered under the Public Health Code, psychiatrist, an official representative of a religious institution, or by court or friend of the court personnel. If conducted by a representative of a religious institution, the

program could omit any of the required subject matter if training or education on that matter would violate a tenet of the religious institution. The provider of a program would have to issue a certificate indicating completion of the program to each individual who completed the program.

A program provider could offer a fee schedule to accommodate families of various financial means, including allowing participation by indigent individuals for no fee. Payment for such a program would be made directly to the program provider.

The court would be prohibited from ordering a divorce effects program if a party to the marriage filed a sworn statement that he or she is a victim of domestic violence. Further, the court could otherwise excuse a party from attending a program for good cause, including, but not limited to, availability of the program or the party's ability to pay. A party who was not excused or exempted under this provision and who failed to complete the program could be held in contempt, or subject to another reasonable sanction imposed by the court. The court could also enter a judgment of divorce despite the party's failure to complete a divorce effects program.

The bill would define "domestic violence" as an act inflicting bodily injury, causing serious emotional injury or serious psychological trauma, or placing in fear of imminent physical harm by threat or force a person who was a spouse or former spouse or who had or had had a dating relationship with, resided with, or had a child in common with the person committing the violence.

House Bill 5472 would amend Chapter 84 of the Revised Statutes of 1846, entitled "Of divorce" (MCL 552.45). Currently, each complaint for an action for divorce must list the names and ages of children of the marriage. If there are children under 17 years of age, a copy of the summons must be served on the county prosecutor, except, in counties with a population of 500,000 or more, the summons could be served on either the prosecutor or the Friend of the Court (FOC). Instead, the bill would allow (as opposed to require) the summons to be served on the county prosecutor or, in the case of larger counties, the Friend of the Court.

House Bill 5473 would amend Public Act 128 of 1887 (MCL 551.504), which establishes age and license requirements for marriage, to require notification on the marriage certificate whether both parties received premarital education.

Based upon information provided by the parties, the cleric or magistrate who officiated at the marriage would have to fill in the appropriate space on the certificate indicating whether the parties had or had not received premarital education. The parties would have to verify completion of the premarital education program by a sworn statement to that effect in the license or certificate. The bill would also make several editorial changes to update language in the act.

"Premarital education" would mean a program that emphasized skill-building strategies and included, at a minimum, conflict management, communication skills, financial

matters, and, if the couple had or intended to have children, child and parenting responsibilities. Such a program would have to be at least four hours in duration and be conducted by one or more of the following: a licensed professional counselor, licensed marriage and family therapist, licensed or limited licensed psychologist, or certified social worker or social worker licensed or registered under the Public Health Code; a psychiatrist as defined in the Mental Health Code; or an official representative of a religious institution.

House Bill 5474 would amend Part 169 of the Public Health Code, entitled “Marriage and Family Therapy” (MCL 333.16901 et. al.), to expand the list of individuals exempted from regulation as a marriage and family therapist.

The Public Health Code regulates the profession of marriage and family therapy, but excludes certain individuals from regulation as marriage and family therapists. Currently, Part 169 does not apply to an ordained cleric or other religious practitioner who is employed by or working under the authority of certain tax-exempt charitable organizations. The bill would revise the provision to specify that it would not apply to a service provider who was an ordained cleric or other religious practitioner who provided advice, guidance, or teaching based on his or her religious beliefs, creeds, or doctrines who did not hold himself or herself out to the public as a marriage and family therapist or use any of the titles reserved under the code for licensed marriage and family therapists. The bill would add that Part 169 would not prohibit a service provider from accepting a voluntary contribution.

The bill would also say that Part 169 would not apply to an ordained cleric or other religious practitioner who had been authorized by law to officiate at a marriage if he or she provided, in writing, an affidavit clearly stating that he or she was a member of the clergy or was a religious practitioner, was not a licensed marriage and family therapist under the code, did not use one or more of the titles reserved under the code for licensed marriage and family therapists, and that the advice, guidance, or teaching was based on his or her religious beliefs, creeds, or doctrines.

Further, Part 169 defines the term “advertise” to mean issuing or ordering the printing or distribution of a card, sign, or device; placing signs or markings on or in a building; or placing material in a newspaper, magazine, or directory or on radio or television. The bill would add that “advertise” would not include unpaid public awareness campaigns or educational or promotional materials by individuals exempted from Part 169 by Section 16905. Similarly, the bill would specify elsewhere that Part 169 would not prohibit an individual exempted from regulation by Section 16905 from issuing unpaid public awareness campaigns or educational or promotional materials.

Lastly, the bill would revise the definition of “practice of marriage and family therapy” to include services provided to individuals.

**FISCAL IMPACT:**

House Bill 5468 would reduce income tax revenue by less than an estimated \$1.5 million on an annual basis. The fiscal impact would affect General Fund/General Purpose (GF/GP) revenue.

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■ 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.