



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5467 (Substitute S-2 as reported)
House Bill 5468 (Substitute S-2 as reported)
House Bill 5469 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 5470 (Substitute S-3 as reported by the Committee of the Whole)
House Bill 5471 (Substitute S-2 as reported by the Committee of the Whole)
House Bill 5472 (Substitute H-3 as reported without amendment)
House Bill 5473 (Substitute S-2 as reported)
House Bill 5474 (Substitute S-1 as reported)
Sponsor: Representative Joanne Voorhees (H.B. 5467)
Representative John Stahl (H.B. 5468)
Representative Lauren Hager (H.B. 5469)
Representative Barb Vander Veen (H.B. 5470)
Representative John Moolenaar (H.B. 5471)
Representative Ken Bradstreet (H.B. 5472)
Representative Lisa Wojno (H.B. 5473)
Representative John Gleason (H.B. 5474)

House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bills would amend various acts to do the following:

- Provide for a delayed marriage license if the parties did not meet premarital education requirements.
- Allow an income tax credit for taxpayers who attended a premarital education program.
- Require the parties to a divorce to complete a divorce effects program and questionnaire, if they were parents of a minor child.
- Require a court to make certain declarations if a parenting plan had been filed and approved in a child custody matter.
- Revise and expand exemptions for certain people to marriage and family therapist regulations.
- Delete a requirement that the prosecutor or Friend of the Court be involved in a divorce action.

House Bill 5467 (S-2) would amend Public Act 128 of 1887, which provides for the civil licensing and registration of marriage, to specify that if a party to a marriage license application did not comply with the premarital education requirement proposed by Senate Bill 964, the county clerk could not deliver the marriage license until at least 28 days after the date of application, and the license would be void unless the marriage was solemnized within 58 days after application. (Under the Act, a marriage license generally may not be delivered within a three-day period, including the date of application, and is void unless the marriage is solemnized within 33 days after application.) As currently allowed, a clerk could deliver a license immediately for good and sufficient reason. The bill is tie-barred to Senate Bill 964.

House Bill 5468 (S-2) would amend the Income Tax Act to provide that, for tax years beginning after December 31, 2005, a taxpayer could claim a credit against his or her income tax equal to the cost paid during the tax year for a premarital education program or \$50, whichever was less. The bill is tie-barred to House Bill 5469.

House Bill 5469 (S-1) would amend Public Act 128 of 1887 to specify that, if the parties to a marriage attended and completed a premarital education program, they could claim the income tax credit available under House Bill 5468. The bill is tie-barred to Senate Bill 964.

House Bill 5470 (S-3) would amend the divorce Act to require the parties to a divorce to complete, either together or separately, a divorce effects program and a questionnaire before the judgment of divorce was entered, if the parties were a minor child's parents, if either party were a minor child's physical custodian at the time the complaint for divorce was filed, or if the wife were pregnant and the husband would be the child's presumed father. A divorce effects program would have to cover specified subjects related to a child involved in the action (e.g., developmental stages, responses to divorce, and education or counseling options); parties to the action (e.g., communication skills, conflict resolution skills, and reconciliation and counseling options and remarriage issues); and court procedure and process.

The parties would have to complete the questionnaire before completing the divorce effects program. The questionnaire would have to include questions as to the effect the divorce would have on the parties to the divorce and their children.

The court could not order a divorce effects program if a party to the marriage filed a sworn statement that he or she was a victim of domestic violence by the other party. The court otherwise could excuse a party from attending a divorce effects program for good cause, including availability of the program, the party's incarceration, or the party's ability to pay. If a party were not exempt or excused and failed to complete a program, the court could hold him or her in contempt, impose another sanction reasonable in the circumstance, and enter a judgment of divorce despite the party's failure to complete a program.

The questionnaire and the statement would be confidential; they could be reviewed only by the program provider (in the case of a divorce effects program), the court or court staff, and, during a criminal investigation, by law enforcement or a prosecutor; and they would not be a part of the public record of the divorce action.

House Bill 5471 (S-2) would amend the Child Custody Act to specify that, if a parenting plan had been filed with and approved by the court, the court would have to declare that plan as establishing the rights and duties as to the child's custody, support, and parenting time, unless the court determined on the record by clear and convincing evidence that the plan was not in the child's best interests. The bill is tie-barred to Senate Bill 966 (which would require the court to make a parenting plan form available for parents' use).

House Bill 5472 (H-3) would amend the divorce Act to allow, rather than require, the prosecuting attorney or Friend of the Court to appear and present evidence. The bill also would delete a provision under which the prosecuting attorney must receive \$5 from the county treasurer for each case in which he or she investigates and appears.

House Bill 5473 (S-2) would amend Public Act 128 of 1887 to provide that, based on information supplied by the parties to a marriage, the cleric or magistrate officiating at the marriage would have to fill in the appropriate space of the marriage certificate indicating whether the parties did or did not receive premarital education. Parties who did receive premarital education would have to verify completion of the education by a sworn statement to that effect in the marriage license or certificate. The bill is tie-barred to Senate Bills 963 and 964 (which propose premarital education requirements).

House Bill 5474 (S-1) would revise Part 169 of the Public Health Code, which regulates marriage and family therapists but does not apply to certain professionals. Among those exempt is an ordained cleric or other religious practitioner who is employed by or working under the authority of a tax-exempt charitable organization, if the advice or counsel given by the cleric or other religious practitioner is incidental to his or her duties and he or she does not hold himself or herself out to the public as a licensed marriage and family therapist or use only the titles restricted for those professionals, and if no fee or donation is exacted for the service. Under the bill, this exemption would 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. (The advice or counsel would not have to be incidental to his or her duties.) The bill also specifies that Part 169 would not prohibit a service provider from accepting a voluntary contribution.

The bill also would exempt from Part 169 an ordained cleric or other religious practitioner who was authorized by law to officiate at a marriage, if he or she provided a written affidavit clearly stating that he or she was a member of the clergy or a religious practitioner, was not a licensed marriage and family therapist, and did not use any of the restricted titles, and that the advice, guidance, or teaching was based on the provider's religious beliefs, creeds, or doctrines.

The bill is tie-barred to Senate Bill 959 (which states that Part 169 would not prohibit an exempt individual from issuing unpaid public awareness campaigns or promotional materials).

All of the bills except House Bill 5468 (S-2) and 5472 (H-3) would take effect on October 1, 2004.

MCL 551.103 & 551.103a (H.B. 5467)
Proposed MCL 206.263 (H.B. 5468)
Proposed MCL 551.112 (H.B. 5469)
Proposed MCL 552.5 (H.B. 5470)
MCL 722.24 (H.B. 5471)
552.45 (H.B. 5472)
551.104 (H.B. 5473)
333.16905 (H.B. 5474)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 5467 (S-2)

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

House Bills 5468 (S-2) & 5469 (S-1)

These bills would reduce income tax revenue by an estimated \$2 million on a full-year basis. All of this loss in revenue would have an impact on General Fund/General Purpose revenue. These bills would not have any direct fiscal impact on local government.

House Bill 5470 (S-3)

The bill would require private parties to pay divorce effects program providers directly; therefore, it would have no direct fiscal impact on State or local government. By allowing courts to hold in contempt parties who failed to complete a required program, however, the bill could increase court revenue through the use of fines or increase local corrections costs if incarceration were used as a sanction.

House Bill 5471 (S-2)

To the extent that the proposed changes would affect judicial efficiency and administrative costs, the bill could have an indeterminate fiscal impact on local court funding units. The bill would have no fiscal impact on the State.

House Bill 5472 (H-3)

The bill would result in savings to counties. No Statewide data are available regarding the amount that is currently paid to county prosecutors under the divorce Act. The Prosecuting Attorneys Coordinating Council reports that several counties have negotiated the elimination of the payment to the prosecutor's office.

House Bill 5473 (S-2)

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

House Bill 5474 (S-1)

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

Date Completed: 9-28-04

Fiscal Analyst: David Zin, Jay Wortley, Bethany Wicksall,
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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.