

# HOUSE BILL No. 5473

February 5, 2004, Introduced by Reps. Wojno, Hummel, Bieda, Wenke, Gleason, Kooiman, Vander Veen, Sak, Richardville, Cheeks, Mortimer, Hoogendyk, Sheen and Taub 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 sections 3 and 4 (MCL 551.103 and 551.104), section 3 as amended by 1984 PA 346.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3. (1) ~~Every person who becomes~~ **An individual who is**  
 2 18 years of age ~~shall be~~ **or older is** capable by law of  
 3 contracting marriage. ~~Every person who becomes~~ **An individual**  
 4 **who is** 16 years of age but is less than 18 years of age ~~shall~~  
 5 ~~be~~ **is** capable of contracting marriage with the written consent  
 6 of 1 of the **individual's** parents ~~of the person or the person's~~  
 7 **or of the individual's** legal guardian, as provided in this  
 8 section. As proof of age, ~~the~~ **a** party to the intended  
 9 marriage, in addition to the statement of age in the application,

1 when requested by the county clerk, shall submit a birth  
2 certificate or other proof of age. ~~The~~

3       **(2) A county clerk on the application made shall fill out**  
4 **the blank spaces of the license according to the sworn answers of**  
5 **the applicant, taken before the county clerk ~~—~~ or some person**  
6 **duly authorized by law to administer oaths. ~~When~~ If it appears**  
7 **from the ~~affidavit~~ sworn statement that either the applicant is**  
8 **applying for a license for the marriage to ~~a person who has not~~**  
9 **~~become~~ an individual who is not 18 years of age or older or that**  
10 **the applicant ~~has not become~~ is not 18 years of age or older,**  
11 **or both, ~~persons applying for a license are less than 18 years~~**  
12 **~~of age,~~ the county clerk shall require that ~~there first be~~**  
13 **~~produced~~ the written consent of 1 of the parents of each ~~of the~~**  
14 **~~persons~~ individual who is less than 18 years of age or of the**  
15 **~~person's~~ individual's legal guardian be produced. The consent**  
16 **shall be to the marriage and to the issuing of the license for**  
17 **which application is made. The consent shall be given personally**  
18 **in the county clerk's presence ~~of the county clerk~~ or shall be**  
19 **acknowledged before a notary public or other officer authorized**  
20 **to administer oaths unless the person does not have a living**  
21 **parent or guardian.**

22       **(3) A county clerk shall not issue a marriage license to an**  
23 **individual who fails to sign and file with the county clerk an**  
24 **application for a marriage license that includes a statement with**  
25 **a check-off box indicating that both parties to the intended**  
26 **marriage have or have not received premarital education.**

27       **(4) A license shall not be issued by the county clerk until**

1 the requirements of this section are complied with. The written  
2 consent shall be preserved on file in the office of the county  
3 clerk. If the parties are legally entitled to be married, the  
4 county clerk shall sign the license and certify the fact that it  
5 is properly issued, and the clerk shall make a correct copy of  
6 the license in the books of registration.

7 (5) ~~(2)~~ A fee of \$20.00 shall be paid by the party  
8 applying for the license. ~~which shall be paid by the~~ **The** county  
9 clerk **shall pay the fee** into the **county** general fund. ~~of the~~  
10 ~~county.~~ The county board of commissioners shall allocate \$15.00  
11 of each fee collected to the circuit court for family counseling  
12 services, which shall include counseling for domestic violence  
13 and child abuse. If family counseling services are not  
14 established in the county, the circuit court may use the money  
15 allocated to contract with public or private agencies providing  
16 similar services. ~~Funds~~ **Money** allocated to the circuit court  
17 ~~pursuant to~~ **by** this section ~~which are~~ **that is** not expended  
18 shall be returned to the **county** general fund ~~of the county~~ to  
19 be held in escrow until circuit court family counseling services  
20 are established. ~~pursuant to Act No. 155 of the Public Acts of~~  
21 ~~1964, as amended, being sections 551.331 to 551.344 of the~~  
22 ~~Michigan Compiled Laws.~~ A probate court may order the county  
23 clerk to waive the marriage license fee in cases in which the fee  
24 would result in undue hardship. If both parties named in the  
25 application are nonresidents of the state, an additional fee of  
26 \$10.00 shall be paid by the party applying for the license, which  
27 ~~shall be deposited by~~ the county clerk **shall deposit** into the

1 **county** general fund. ~~of the county.~~ The county clerk shall give  
2 the license filled out and signed, together with the blank form  
3 of certificate, to the party applying, for delivery to the  
4 ~~clergyman~~ **cleric** or magistrate who is to officiate at the  
5 marriage.

6 (6) On the return of ~~the~~ a license to the county clerk,  
7 with the **cleric's or magistrate's** certificate ~~of the clergyman~~  
8 ~~or magistrate~~ that the marriage has been performed, the county  
9 clerk shall record in the book of registration in the proper  
10 place of entry the information prescribed by the director of  
11 ~~public~~ **community** health. The licenses and certificates issued  
12 and returned shall be forwarded to the state registrar appointed  
13 by the director of ~~public~~ **community** health on the forms and in  
14 the manner prescribed by the director.

15 (7) ~~(3)~~ A charter county ~~which~~ **that** has a population of  
16 over 2,000,000 may impose by ordinance a marriage license fee or  
17 nonresident marriage license fee, or both, different in amount  
18 than the fee prescribed by subsection ~~(2)~~ (5). The charter  
19 county shall allocate the fee for family counseling services as  
20 prescribed by subsection ~~(2)~~ (5). A charter county shall not  
21 impose a fee ~~which~~ **that** is greater than the cost of the service  
22 for which the fee is charged. **As used in this section and in**  
23 **section 4, "premarital education" means a program that emphasizes**  
24 **skill-building strategies and includes, at least, conflict**  
25 **management, communication skills, financial matters, and, if the**  
26 **couple has or intends to have children, child and parenting**  
27 **responsibilities. The program shall be at least 4 hours long and**

1 shall be conducted by 1 or more of the following individuals:

2 (a) A licensed professional counselor, licensed marriage and  
3 family therapist, licensed or limited licensed psychologist, or  
4 certified social worker or social worker licensed or registered  
5 as required in article 15 of the public health code, 1978 PA 368,  
6 MCL 333.16101 to 333.18838.

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

9 (c) An official representative of a religious institution or  
10 his or her designee.

11 Sec. 4. ~~It shall be the duty of the clergyman~~ **The cleric**  
12 or magistrate ~~—, officiating at a marriage —, to~~ **shall** fill in  
13 the spaces of the certificate left blank for the entry of the  
14 time and place of the marriage, the names and residences of 2  
15 witnesses, and his **or her** own signature in certification that the  
16 marriage has been performed by him ~~and any and all information~~  
17 **or her. The cleric or magistrate shall fill in the appropriate**  
18 **space of the certificate indicating whether the parties have or**  
19 **have not received premarital education. Information** required to  
20 be filled in in the spaces left blank in the certificate shall be  
21 typewritten or legibly printed. He **or she** shall separate the  
22 duplicate license and certificate, ~~and~~ deliver the half part  
23 designated duplicate to 1 of the parties ~~—, so joined in—~~ **to the**  
24 marriage, and within 10 days return the original to the county  
25 clerk ~~issuing the same~~ **who issued them. It shall be the duty**  
26 ~~of such clergyman~~ **The cleric** or magistrate ~~to~~ **shall** keep an  
27 accurate record of all marriages solemnized in a book used

1 expressly for that purpose.