

HOUSE BILL No. 4731

June 17, 2015, Introduced by Reps. Courser and Gamrat and referred to the Committee on Government Operations.

A bill to amend 1897 PA 180, entitled

"An act to provide for the issuance of marriage licenses and certificates without publicity in certain cases; and to provide criminal and civil penalties for violation of this act,"

by amending the title and sections 1, 2, 3, and 4 (MCL 551.201, 551.202, 551.203, and 551.204), the title and sections 1 and 2 as amended by 1983 PA 199, and by adding section 1a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to provide for the issuance of marriage licenses and certificates without publicity in certain cases; and to provide criminal and civil penalties for violation of this act.

Sec. 1. (1) ~~When~~ **BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 1A, WHEN** a person desires to keep the exact date of his or her marriage to a person of the opposite sex a secret, the judge of probate may issue, without

1 publicity, a marriage license to any person making application,
 2 under oath, if there is good reason expressed in the application
 3 and determined to be sufficient by the judge of probate. **BEGINNING**
 4 **90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED**
 5 **SECTION 1A, WHEN A PERSON DESIRES TO KEEP THE EXACT DATE OF HIS OR**
 6 **HER MARRIAGE TO A PERSON OF THE OPPOSITE SEX A SECRET, THE CLERGY**
 7 **MAY ISSUE, WITHOUT PUBLICITY, A MARRIAGE CERTIFICATE TO ANY PERSON**
 8 **MAKING APPLICATION, UNDER OATH, IF THERE IS GOOD REASON EXPRESSED**
 9 **IN THE APPLICATION AND DETERMINED TO BE SUFFICIENT BY THE CLERGY.**

10 (2) ~~The~~ **BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE**
 11 **AMENDATORY ACT THAT ADDED SECTION 1A, THE** judge of probate **AND**
 12 **BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT**
 13 **THAT ADDED SECTION 1A, THE CLERGY** may marry, without publicity,
 14 persons under marriageable age, as provided in section 3 of ~~Act No.~~
 15 ~~128 of the Public Acts of 1887, being section 551.103 of the~~
 16 ~~Michigan Compiled Laws, 1887 PA 128, MCL 551.103,~~ if the
 17 application for the license is accompanied by 1 of the following:

18 (a) A written request of all of the biological or adopting
 19 living parents of both parties, and their guardian or guardians if
 20 either or both of the parents are dead.

21 (b) A written request of the parents or guardians of the party
 22 under marriageable age if only 1 party to the marriage is under the
 23 marriageable age.

24 (3) If the noncustodial parent has been given notice of the
 25 request for consent by personal service or registered mail at his
 26 or her last known address and the noncustodial parent fails to
 27 enter an objection within 5 days after receipt of notice, then the

1 consent shall be required only of a parent to whom custody of a
2 child has been awarded by a court. The consent shall not be
3 required of a parent confined under sentence in a state or federal
4 penal institution or confined in a ~~mental~~-hospital under
5 adjudication of legal incapacity by a court of competent
6 jurisdiction or upon the return of process by the sheriff of the
7 county in which the parent was last known to reside made not less
8 than 5 ~~nor~~-OR more than 14 days after issuance of the process
9 certifying that after diligent search the parent cannot be found
10 within the county.

11 (4) ~~The~~-BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE
12 AMENDATORY ACT THAT ADDED SECTION 1A, THE judge of probate may
13 authorize an order nunc pro tunc regarding the date to appear on
14 the marriage license.

15 SEC. 1A. AS USED IN THIS ACT, "CLERGY" MEANS A MINISTER OF THE
16 GOSPEL, CLERIC, OR RELIGIOUS PRACTITIONER.

17 Sec. 2. (1) ~~Each~~-BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF
18 THE AMENDATORY ACT THAT ADDED SECTION 1A, EACH application made
19 under this act for a marriage license shall be in the usual form
20 and shall be accompanied by a fee of \$3.00, \$2.00 of which the
21 judge of probate shall keep for services rendered, and \$1.00 of
22 which the judge of probate shall forward to the state registrar for
23 deposit in the state general fund. The judge of probate, upon the
24 filing of an application under this act, shall perform the marriage
25 ceremony. If the applicant or either of the parties to the marriage
26 desires to have the marriage ceremony performed by some person
27 competent to perform the marriage ceremony other than the judge of

1 probate, the judge of probate shall issue a written permit to the
2 person designated by the applicant or contracting party directing
3 that person to perform the marriage ceremony. The party so
4 designated, if competent to perform the marriage ceremony under the
5 laws of this state, may perform the marriage ceremony, but a record
6 shall not be made of the marriage, except the record made by the
7 judge of probate under this act. Upon the performance of the
8 marriage ceremony, the party performing it shall return the
9 marriage certificate to the judge of probate, who shall attach the
10 license and certificate to the application. The papers described in
11 this section shall be executed in duplicate, and the person
12 performing the marriage ceremony shall deliver a certificate of the
13 marriage to the parties.

14 (2) BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE
15 AMENDATORY ACT THAT ADDED SECTION 1A, EACH APPLICATION MADE UNDER
16 THIS ACT FOR A MARRIAGE CERTIFICATE SHALL BE IN THE USUAL FORM AND
17 SHALL BE ACCOMPANIED BY A FEE OF \$3.00, \$2.00 OF WHICH THE CLERGY
18 SHALL KEEP FOR SERVICES RENDERED, AND \$1.00 OF WHICH THE CLERGY
19 SHALL FORWARD TO THE STATE REGISTRAR FOR DEPOSIT IN THE STATE
20 GENERAL FUND. THE CLERGY, UPON THE FILING OF AN APPLICATION UNDER
21 THIS ACT, SHALL PERFORM THE MARRIAGE CEREMONY. UPON THE PERFORMANCE
22 OF THE MARRIAGE CEREMONY, THE CLERGY SHALL RETURN THE MARRIAGE
23 CERTIFICATE TO THE CLERK OF THE COUNTY IN WHICH EITHER OF THE
24 PARTIES BEING MARRIED RESIDES OR THE CLERK OF THE COUNTY IN WHICH
25 THE CEREMONY WAS PERFORMED, WHO SHALL ATTACH THE CERTIFICATE TO THE
26 APPLICATION. THE PAPERS DESCRIBED IN THIS SECTION SHALL BE EXECUTED
27 IN DUPLICATE, AND THE CLERGY PERFORMING THE MARRIAGE CEREMONY SHALL

1 DELIVER A CERTIFICATE OF THE MARRIAGE TO THE PARTIES.

2 Sec. 3. (1) ~~The~~ BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE
3 AMENDATORY ACT THAT ADDED SECTION 1A, THE judge of probate shall
4 file a complete set of all papers in each case in a private file,
5 and, within 10 days after the marriage, shall forward a duplicate
6 to the **STATE** registrar. ~~appointed by the state director of public~~
7 ~~health. The state director of public health~~ REGISTRAR shall file
8 the duplicate in a private file and record the filing in a private
9 register. The file in the probate court, and the duplicate and
10 record in ~~WITH~~ the state department of public health, ~~REGISTRAR,~~
11 shall be open to inspection only upon the written request and
12 proper proof of identification of 1 or both of the partners to the
13 marriage, or upon the written order of a judge of the circuit court
14 of this state, and only for the use designated in the order. The
15 order shall be made only upon the written request of the person ~~or~~
16 ~~persons who were~~ WAS married under this act, or if necessary for
17 the protection of property rights arising from or affected by the
18 marriage.

19 (2) BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE
20 AMENDATORY ACT THAT ADDED SECTION 1A, THE COUNTY CLERK SHALL FILE A
21 COMPLETE SET OF ALL PAPERS IN EACH CASE IN A PRIVATE FILE AND,
22 WITHIN 10 DAYS AFTER THE MARRIAGE, SHALL FORWARD A DUPLICATE TO THE
23 STATE REGISTRAR. THE STATE REGISTRAR SHALL FILE THE DUPLICATE IN A
24 PRIVATE FILE AND RECORD THE FILING IN A PRIVATE REGISTER. THE FILE
25 IN THE COUNTY RECORDS, AND THE DUPLICATE AND RECORD WITH THE STATE
26 REGISTRAR, SHALL BE OPEN TO INSPECTION ONLY UPON THE WRITTEN
27 REQUEST AND PROPER PROOF OF IDENTIFICATION OF 1 OR BOTH OF THE

1 PARTNERS TO THE MARRIAGE, OR UPON THE WRITTEN ORDER OF A JUDGE OF
2 THE CIRCUIT COURT OF THIS STATE, AND ONLY FOR THE USE DESIGNATED IN
3 THE ORDER. THE ORDER SHALL BE MADE ONLY UPON THE WRITTEN REQUEST OF
4 THE PERSON WHO WAS MARRIED UNDER THIS ACT, OR IF NECESSARY FOR THE
5 PROTECTION OF PROPERTY RIGHTS ARISING FROM OR AFFECTED BY THE
6 MARRIAGE.

7 Sec. 4. (1) ~~All~~ BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE
8 AMENDATORY ACT THAT ADDED SECTION 1A, ALL knowledge of facts which
9 ~~shall come~~ THAT COMES to the judge of probate, state registrar or
10 an agent or employee of the state registrar, the physician
11 endorsing the application, or a witness to the marriage under the
12 license issued under this act ~~shall be~~ IS privileged
13 communications. A violation of confidence by the judge of probate,
14 state registrar or an agent or employee of the state registrar, the
15 physician, or a witness is a misdemeanor ~~;~~ punishable by a fine of
16 not less than \$25.00 ~~;~~ ~~nor~~ OR more than \$100.00 ~~;~~ plus the costs of
17 prosecution, ~~and, in default of the payment,~~ imprisonment for not
18 more than 3 months, OR BOTH. An editor, publisher, or proprietor of
19 a newspaper or publication within this state giving publicity to a
20 license or marriage performed under this act is guilty of a
21 misdemeanor punishable by a fine of not less than \$50.00 ~~;~~ ~~nor~~ OR
22 more than \$100.00 ~~;~~ plus the costs of prosecution, ~~and, in default~~
23 ~~of the payment,~~ imprisonment for not more than 30 days, OR BOTH. In
24 addition, the editor, publisher, or proprietor ~~shall be~~ IS liable
25 in an action of libel to the parties married under the license. If
26 the judge of probate performing the marriage ceremony under a
27 license issued under this act neglects to make proper return, the

1 judge shall be fined, in addition to penalties prescribed by the
2 laws of this state, not more than \$50.00.

3 (2) BEGINNING 90 DAYS AFTER THE EFFECTIVE DATE OF THE
4 AMENDATORY ACT THAT ADDED SECTION 1A, ALL KNOWLEDGE OF FACTS THAT
5 COMES TO THE CLERGY, THE STATE REGISTRAR OR AN AGENT OR EMPLOYEE OF
6 THE STATE REGISTRAR, THE PHYSICIAN ENDORSING THE APPLICATION, OR A
7 WITNESS TO THE MARRIAGE UNDER THE CERTIFICATE ISSUED UNDER THIS ACT
8 IS PRIVILEGED COMMUNICATIONS. A VIOLATION OF CONFIDENCE BY THE
9 CLERGY, THE STATE REGISTRAR OR AN AGENT OR EMPLOYEE OF THE STATE
10 REGISTRAR, THE PHYSICIAN, OR A WITNESS IS A MISDEMEANOR PUNISHABLE
11 BY A FINE OF NOT LESS THAN \$25.00 OR MORE THAN \$100.00 PLUS THE
12 COSTS OF PROSECUTION, IMPRISONMENT FOR NOT MORE THAN 3 MONTHS, OR
13 BOTH. AN EDITOR, PUBLISHER, OR PROPRIETOR OF A NEWSPAPER OR
14 PUBLICATION WITHIN THIS STATE GIVING PUBLICITY TO A CERTIFICATE OR
15 MARRIAGE PERFORMED UNDER THIS ACT IS GUILTY OF A MISDEMEANOR
16 PUNISHABLE BY A FINE OF NOT LESS THAN \$50.00 OR MORE THAN \$100.00
17 PLUS THE COSTS OF PROSECUTION, IMPRISONMENT FOR NOT MORE THAN 30
18 DAYS, OR BOTH. IN ADDITION, THE EDITOR, PUBLISHER, OR PROPRIETOR IS
19 LIABLE IN AN ACTION OF LIBEL TO THE PARTIES MARRIED UNDER THE
20 CERTIFICATE. IF THE CLERGY PERFORMING THE MARRIAGE CEREMONY UNDER A
21 CERTIFICATE ISSUED UNDER THIS ACT NEGLECTS TO MAKE PROPER RETURN,
22 THE CLERGY SHALL BE FINED, IN ADDITION TO PENALTIES PRESCRIBED BY
23 THE LAWS OF THIS STATE, NOT MORE THAN \$50.00.

24 Enacting section 1. This amendatory act does not take effect
25 unless and until the United States Supreme Court determines that
26 section 25 of article I of the state constitution of 1963 is
27 unconstitutional.

1 Enacting section 2. This amendatory act does not take effect
2 unless all of the following bills of the 98th Legislature are
3 enacted into law:

4 (a) Senate Bill No.____ or House Bill No. 4733 (request no.
5 02477'15).

6 (b) Senate Bill No.____ or House Bill No. 4732 (request no.
7 02477'15 a).