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PERSONS AUTHORIZED TO PERFORM MARRIAGES

House Bill 5684 (Substitute H-3)
House Bill 5685 as introduced
First Analysis (10-3-00)

Sponsor: Rep. Liz Brater
Committee: Family and Civil Law

THE APPARENT PROBLEM:

Under current law (the act entitled “Of Marriage and the Solemnization Thereof”, part of the Revised Statutes of 1846), the list of persons authorized to solemnize or perform marriages includes district court judges and magistrates, municipal judges, probate judges, federal judges, mayors, county clerks, and clergy. However, the existing law defines a clergy person as “a minister of the gospel, anywhere in the state, if the minister is ordained or authorized to solemnize marriages according to the usages of the denomination, and is a pastor of a church in this state, or continues to preach the gospel in this state”, and also as “a minister of the gospel, anywhere in the state, if the minister is not a resident of this state but is authorized to solemnize marriages under the laws of the state in which the minister resides”. The “gospel” is a term specific to Christianity that refers to the first four books of the New Testament of the Bible. Although the act also includes a later section that allows the solemnization of marriages through faiths other than Christianity, there are many who believe that the archaic language of the act should be updated to clearly reflect that marriages may be performed by all faiths.

THE CONTENT OF THE BILL:

House Bill 5684 would amend the act entitled “Of Marriage and the Solemnization Thereof”, part of the Revised Statutes of 1846 (MCL 551.7 and 551.16) to delete the current “minister of the gospel” descriptions and instead would allow marriages to be solemnized by a clergy member of any religious denomination or by any other person who is authorized by a religious denomination or an Indian nation or tribe in accordance with their prescriptions to solemnize marriages. However, this authorization to perform marriages would apply only to those individuals who were in good standing with the religious denomination or Indian nation or tribe.

House Bill 5684 would amend Public Act 128 of 1887 (MCL 551.101 et al.), which concerns marriage, to delete references to “clergyman or magistrate”, and instead refer to “the individual who is to solemnize the marriage”, “individual who is to officiate at the marriage”, “the officiating individual”, and so forth.

The bills are tie barred.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact. (9-28-00)

ARGUMENTS:

For:

While the current law does allow faiths other than Christianity to solemnize marriages, the language allows it in a backhanded manner. Faiths other than Christianity must rely on a clause in the act that states that the act’s provisions as far as they relate to “the manner of solemnizing marriages, shall not affect marriages among the people called Friends or Quakers; nor marriages among people of any other particular denomination, having, as such, any peculiar mode of solemnizing marriages”. The bill would remove the archaic language that implies a preference towards Christianity over other religions and replaces it with language that more accurately reflects the religious diversity within the state.

Against:

The bill is unnecessary. No one is using the current law to restrict or deny anyone’s right to solemnize marriages, and in fact the bill goes no further than current law in allowing faiths other than Christianity to solemnize marriages.

Response:

The legislature has made a significant effort during this session to repeal or amend outdated, inapplicable, or irrelevant laws. While the language of this particular act was not identified by the Senate Law Revision Task Force as arcane or irrelevant, the fact remains that the current language embodies a measure of disrespect in its manner of dealing with non-Christian faiths. As a result, having had the language called to its attention, the legislature should take advantage of the opportunity to bring the language up to date.

POSITIONS:

The Michigan Jewish Conference supports the bill. (9-28-00)

The Jewish Community Council of Metropolitan Detroit supports the bill. (9-28-00)

The Michigan Board of Rabbis supports the bill. (9-28-00)

Analyst: W. Flory

#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.