



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 959, 960, 961, 963, and 964 (as introduced 2-5-04)

Sponsor: Senator Michelle A. McManus (S.B. 959)

Senator Jim Barcia (S.B. 960)

Senator Alan L. Cropsey (S.B. 961)

Senator Bill Hardiman (S.B. 963)

Senator Alan Sanborn (S.B. 964)

Committee: Judiciary

Date Completed: 9-14-04

CONTENT

Senate Bill 959

The bills would amend various statutes to do all of the following:

- **Require a divorcing couple to complete a divorce effects program, if they had a minor child or one of them had physical custody of a minor child, or if the wife were pregnant and the husband would be the child's father under the law.**
- **Allow the parties to a marriage to claim an income tax credit for the cost of a qualifying marriage preservation program.**
- **Require premarital education or counseling or a delay of 27 days between application for and issuance of a marriage license.**
- **Establish criteria for a premarital education or counseling program and a program provider.**
- **Require the person officiating at a wedding to indicate on the marriage certificate whether the parties to the marriage received premarital education.**
- **Under certain circumstances, exempt an ordained cleric or other religious practitioner from regulations regarding marriage and family therapy.**

Part 169 of the Public Health Code regulates marriage and family therapists, but does not apply to certain professionals. Under the bill, Part 169 also would not apply to an ordained cleric or other religious practitioner who was authorized by law to officiate at a marriage, if he or she had done all of the following:

- Officiated at a marriage at least once each year for at least five years.
- Provided at least 100 hours of clerical marriage or family counseling each year for at least five years.
- 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 one or more of the titles restricted for licensed marriage and family therapists under the Code, and that the counseling was based on the provider's religious beliefs, creeds, or doctrines.

Among those currently exempt from Part 169 is an ordained cleric or other religious practitioner who is employed by or working under the authority of an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, if the advice or counsel given by the cleric or other religious practitioner is incidental to his or her duties as a cleric or other religious practitioner and if the cleric or religious practitioner does not hold himself or herself out to the public as a licensed marriage and family therapist or use any of the titles restricted for licensed marriage and family therapists under the Public Health Code, and

Senate Bill 959 would amend the Public Health Code; Senate Bill 960 would amend the divorce Act; and Senate Bills 961, 963, and 964 would amend Public Act 128 of 1887, which provides for the civil licensing and registration of marriage.

if no fee or donation is charged for the service. The bill would delete reference to the advice or counsel being incidental to the cleric's or religious practitioner's duties.

The bill also specifies that Part 169 would not prohibit a service provider from offering a recommended voluntary fee schedule based on an individual's ability to pay, including participation by indigent individuals for no fee. A voluntary contribution could be made directly to the service provider or to the 501(c)(3) organization that employed the service provider or under whose authority he or she worked.

Unless exempted under Part 169, only an individual licensed under that part may "advertise" that he or she offers marriage and family therapy, marriage or family counseling service or advice, marriage or family guidance service or advice, marriage or family relations service or advice, marriage or family problems service or advice, marriage or family relations advice or assistance, service in the alleviation of a marital or family problem, or similar service that is included in the practice of marriage and family therapy. The bill specifies that Part 169 would not prohibit an exempt individual from issuing unpaid public awareness campaigns or educational or promotional materials.

Under the Code, "advertise" means issuing or ordering the printing or distribution of a card, sign, or device or causing, permitting, or allowing a sign or marking on or in a building or structure, or placing material in a newspaper, magazine, or directory, or on radio or television. The bill specifies that "advertise" would not include unpaid public awareness campaigns or educational or promotional materials by individuals exempted from Part 169.

Senate Bill 960

The bill would require the parties to a divorce to complete, either together or separately, a divorce effects program and a questionnaire before entry of the judgment of divorce, if one of the following were true:

- The parties were a minor child's parents.
- Either party was a minor child's physical custodian at the time of filing the complaint for divorce.
- The wife was pregnant and, after the child was born, the husband would be

child's father under the law. If the pregnancy were discovered after the complaint was filed, but before the judgment of divorce was entered, the court could not enter the judgment until the parties completed a divorce effects program and questionnaire.

Parties subject to this requirement would have to complete a divorce effects program covering at least all of the following subjects related to issues about the following:

- A child involved in the action: developmental stages; responses to divorce; symptoms of maladjustment to divorce and responses to maladjustment; and education or counseling options for the child.
- Parties to the action: 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 (FOC).

The provider of a divorce effects program would have to issue a certificate indicating completion, to each individual who completed the program. If the individual conducting a program were an official representative of a religious institution or his or her designee, the program could omit a subject otherwise required, if training, education, or counseling on that subject would violate a tenet of the religious institution.

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. ("Domestic violence" would mean an act of physical, sexual, or serious emotional abuse by an individual against his or her spouse or former spouse, or against another individual with whom he or she has a child in common or with whom he or she has lived.)

The court otherwise could excuse a party to a divorce action from attending a divorce effects program for good cause. If a party were not exempt or excused from a divorce effects program and he or she failed to

complete a program, the court could hold him or her in contempt or impose another sanction reasonable in the circumstance.

Only one or more of the following could conduct a divorce effects program required under the bill:

- A licensed professional counselor, licensed marriage and family therapist, licensed or limited licensed psychologist, or certified social worker or social worker licensed or registered as required by Article 15 of the Public Health Code.
- A psychiatrist as that term is defined in the Mental Health Code.
- An official representative of a religious institution, or his or her designee.
- Court or FOC personnel.

Payment for a divorce effects program would have to be made directly to the program provider. A program provider could use a fee schedule that accommodated families of various financial means, including allowing indigent individuals to participate for no fee.

Senate Bill 961

Under the bill, if the parties to a marriage attended and completed a qualifying marriage preservation program, they could claim the income tax credit proposed by House Bill 5468. (That bill would amend the Income Tax Act to establish an income tax credit for the cost of a premarital education program or \$50, whichever was less.)

Under Senate Bill 961, a qualifying marriage preservation program would have to be designed as either a premarital education or counseling program or a relationship education or counseling program for a married couple that had as its primary focus skill-building strategies for strengthening or preserving marriage. A program would have to include at least conflict management, communication skills, financial matters, and, if a couple had or intended to have children, child and parenting responsibilities. A program would have to be at least four hours long and be conducted by one or more of the following:

- A professional counselor, a marriage and family therapist, or a fully or limited licensed psychologist, licensed under Article 15 of the Public Health Code.

- A social worker or certified social worker who was granted a registration under the Public Health Code.
- A psychiatrist, as defined in the Mental Health Code.
- An official representative of a religious institution, or his or her designee.

The bill is tie-barred to House Bill 5468.

Senate Bill 963

The bill would require the cleric or magistrate officiating at a marriage to fill in the appropriate space of the marriage certificate indicating whether the parties did or did not receive premarital education.

A county clerk could not issue a marriage license to an individual who failed to sign and file with the clerk a marriage application that included a statement with a check-off box indicating that both parties had or had not received premarital education.

“Premarital education” would mean a program that emphasized skill-building strategies and included, at least, conflict management, communication skills, financial matters, and, if the couple had or intended to have children, child and parenting responsibilities. The program would have to be at least four hours long 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 as required in Article 15 of the Public Health Code.
- A psychiatrist as that term is defined in the Mental Health Code.
- An official representative of a religious institution, or his or her designee.

Senate Bill 964

Premarital Education or Counseling Requirement

Under the bill, a man and a woman who intended to apply for a marriage license together would have to complete a program in premarital education or counseling. They would have to verify completion of the program by a statement to that effect in the application’s sworn statement and by filing with the application a certificate of completion from the program administrator.

If an individual who intended to apply for a marriage license were under 18 years old, both parties applying for the license and at least one parent or guardian of each party who was a minor would have to complete and verify a program of premarital education or counseling. The parent's or guardian's attendance requirement would not apply if the minor were emancipated under the emancipation of minors Act.

Extended Waiting Period

If either party to a marriage license application chose not to comply with the premarital education program requirement, a longer waiting period would apply. 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 a marriage is solemnized under the license within 33 days after application. The bill specifies, however, that if a party to a marriage license did not comply with the premarital education requirement, the clerk could not deliver the license until 27 days after the application date and the license would be void unless a marriage was solemnized under it within 63 days after application.

Program & Provider Criteria

A premarital education or counseling program required under the bill would have to emphasize skill-building strategies and include, at least, conflict management, communication skills, financial matters, and, if the couple had or intended to have children, child and parenting responsibilities. The program would have to be at least four hours long 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 as required under Article 15 of the Public Health Code.
- A psychiatrist, as defined in the Mental Health Code.
- An official representative of a religious institution, or his or her designee.

An individual who provided a premarital education or counseling program could offer a fee schedule for the program that accommodated families of various financial means, including allowing participation by

indigent individuals for no fee. Payment for a premarital education or counseling program would have to be made directly to the program provider.

MCL 333.16901 et al. (S.B. 959)
Proposed MCL 552.5 & 552.5a (S.B. 960)
Proposed MCL 551.112 (S.B. 961)
MCL 551.103 & 551.104 (S.B. 963)
MCL 551.102 et al. (S.B. 964)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 959

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

Senate Bill 960

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.

Senate Bill 961

This bill would reduce income tax revenue by a preliminary estimate of \$5 million to \$6 million on a full-year basis. This loss in revenue would have an impact on General Fund/General Purpose revenue. This bill would not have any direct fiscal impact on local governments.

Senate Bill 963 & 964

Fiscal information is not available at this time.

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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.