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BILL ANALYSIS



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House Bill 4802 (as passed by the House)
Sponsor: Representative Triston Cole
House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services

Date Completed: 11-7-17

CONTENT

The bill would amend Public Act 180 of 1897, which provides for the issuance of marriage licenses and certificates without publicity in certain cases, to allow a party to petition the probate court to unseal records related to a private marriage.

Under the Act, when a person desires to keep the exact date of his or her marriage to a person of the opposite sex a secret, the probate judge may issue, without publicity, a marriage license to any person applying, under oath, if good reason is expressed in the application and determined to be sufficient by the judge. The Act also allows a probate judge, without publicity, to marry individuals under marriageable age if the application for a license is accompanied by either 1) a written request of all of the biological or adoptive living parents of both parties, and their guardian or guardians if either or both parents are dead; or 2) a written request of the parents or guardians of the party under marriageable age, if only one party is underage.

Under the bill, after both parties to a marriage made private under the Act were over 18 years of age, both parties could petition the court to unseal the record of their marriage. If the court received such a petition, the court would be required to enter an order to unseal the record of marriage upon finding all of the following:

- The petitioners were married without publicity.
- The petitioners were both over 18 years of age at the time of filing the petition.
- Both of the petitioners wished to unseal the record of the marriage.

Also, if a party to a marriage made private under the Act were deceased and the surviving party were 18 years of age or older, the surviving party could petition the court to unseal the record of the marriage.

Upon entering an order to unseal a record of marriage in which both parties were over 18, the court would be required to forward a copy of the license and certificate of marriage to the county clerk in the county in which the license was issued. The court also would be required to forward a copy of the record to the State Registrar.

Access to a record of marriage unsealed under the bill would be the same as access to a vital record provided under Part 28 (Vital Records) of the Public Health Code. (Under Part 28, a person or governmental entity may not permit inspection of or disclose information contained in vital records, or copy or issue a copy of all or part of a record, except as authorized by Part 28, by rule, or by order of a court of competent jurisdiction. Vital records and information

contained in them are not subject to the Freedom of Information Act. Procedures must provide for adequate standards of security and confidentiality of vital records.)

Under the Act, all knowledge of facts that come to the probate judge, the State Registrar or an agent or employee of the State Registrar, the physician endorsing an application, or a witness to the marriage under a license issued without publicity is privileged communication. The Act provides for criminal and civil penalties for a violation of confidentiality. Under the bill, these penalties would not apply to a marriage license that was unsealed as provided above.

The bill would take effect 90 days after it was enacted.

MCL 551.203 & 551.204

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have a negative fiscal impact on local court funding units and no fiscal impact on the State. An increased number of petitions would impose incremental resource demands on local courts and staff. The extent of the impact would depend on how many petitions were made and how they affected court caseloads and related administrative costs.

Fiscal Analyst: Ryan Bergen

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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.