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FILED JAN 31 2002

SENATE FILE 2106
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 353)

Passed Senate, Date 3-6-02 Passed House, Date _____
Vote: Ayes 25 Nays 24 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing covenant marriages and providing an effective
2 date.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2106

1 Section 1. NEW SECTION. 595.3B COVENANT MARRIAGE --
2 APPLICATION FORM.

3 1. The county registrar shall provide each applicant for a
4 marriage license with a copy of the informational pamphlet on
5 covenant marriage prepared by the office of the attorney
6 general pursuant to section 595A.6.

7 2. In addition to any other information contained in an
8 application form for a marriage license, the application form
9 shall contain a place to acknowledge, over the signature of
10 both parties to the marriage, the awareness of the parties of
11 the option to designate their marriage as a covenant marriage,
12 and the intent of the parties to designate their marriage as a
13 covenant marriage or a noncovenant marriage.

14 3. If the parties designate their marriage a covenant
15 marriage, the parties shall also attach a copy of the
16 declaration of intent as provided in section 595A.2.

17 Sec. 2. Section 595.4, Code 2001, is amended by adding the
18 following new unnumbered paragraph:

19 NEW UNNUMBERED PARAGRAPH. A license to marry shall
20 indicate whether the marriage will be designated a covenant
21 marriage.

22 Sec. 3. Section 595.13, Code 2001, is amended to read as
23 follows:

24 595.13 CERTIFICATE -- RETURN.

25 After the marriage has been solemnized, the officiating
26 minister or magistrate shall return the certificate of
27 marriage within fifteen days to the county registrar who
28 issued the marriage license upon the blank provided for that
29 purpose. The certificate of marriage shall indicate whether
30 the marriage is a covenant marriage.

31 Sec. 4. NEW SECTION. 595A.1 COVENANT MARRIAGE -- INTENT
32 -- CONDITIONS TO CREATE.

33 1. A man and woman who intend to enter a covenant marriage
34 shall include this intent on the marriage license application
35 form pursuant to section 595.3B and by executing a declaration

1 of intent to contract a covenant marriage as provided in
2 section 595A.2.

3 2. A covenant marriage is a contract entered into by one
4 man and one woman who understand and agree that the marriage
5 between them is a lifelong relationship, as indicated in the
6 declaration of intent signed by both parties. Parties to a
7 covenant marriage shall receive premarital education prior to
8 entering the covenant marriage which emphasizes the nature and
9 purposes of marriage and the responsibilities of marriage.
10 Only when there has been a complete and total breach of the
11 marital covenant contract shall the nonbreaching party be
12 allowed to seek a declaration that the marriage is no longer
13 legally recognized.

14 3. Parties to a covenant marriage shall receive at least
15 twelve hours of premarital education that is provided by a
16 licensed or ordained minister, or the minister's designee, a
17 person authorized to solemnize marriages under section
18 595.10, or a marital and family therapist licensed pursuant to
19 chapter 154D. The education provided shall include a
20 discussion of the seriousness of marriage and that it is a
21 commitment for life, the teaching of communication skills, the
22 teaching of conflict management skills, and a discussion of
23 the obligation to seek marital counseling in times of marital
24 difficulties.

25 4. The declaration of intent to enter a covenant marriage
26 is aspirational only and a failure by a party to comply with
27 the statements contained in the declaration does not
28 constitute additional grounds for dissolution of a covenant
29 marriage beyond those provided in section 595A.4.

30 Sec. 5. NEW SECTION. 595A.2 COVENANT MARRIAGE --
31 CONTENTS OF DECLARATION OF INTENT.

32 1. A declaration of intent to contract a covenant marriage
33 shall contain all of the following:

34 a. A statement by the parties to the following effect:

35 "We, (names of both parties), solemnly declare our intent

1 to enter into a covenant marriage and we agree to live
2 together as husband and wife as long as we both live. We have
3 chosen each other carefully and voluntarily accept the
4 exclusive grounds for dissolution of a covenant marriage. We
5 have received the required premarital education, which
6 included a discussion of the seriousness of marriage and that
7 it is a commitment for life, the teaching of communication
8 skills, the teaching of conflict management skills, and a
9 discussion of the obligation to seek marital counseling in
10 times of marital difficulties. We have read the pamphlet
11 regarding covenant marriage and understand that a covenant
12 marriage is for life. If either of us experiences serious
13 difficulties with the marriage, we accept the ethical
14 responsibility to inform the other spouse about the extent of
15 those problems in time for corrective action to be taken and
16 will make all reasonable efforts to preserve our marriage,
17 including participation in marital counseling."

18 b. A statement from the person who provided the premarital
19 education to the following effect:

20 "I, (name of provider), confirm that (names of both parties
21 to the marriage) received at least twelve hours of premarital
22 education that complies with Iowa Code section 595A.1. I am a
23 licensed or ordained minister, a person authorized to
24 solemnize marriages under Iowa Code section 595.10 or a
25 marital and family therapist licensed pursuant to Iowa Code
26 chapter 154D."

27 c. (1) The signature of both parties, witnessed by a
28 notary public.

29 (2) If one or both of the parties are minors, the written
30 consent or authorization of those persons required under
31 section 595.2 to consent to or authorize the marriage of
32 minors.

33 2. The declaration of intent shall be prepared in
34 duplicate originals, one of which shall be retained by the
35 parties and the other of which shall be filed with the county

1 registrar.

2 Sec. 6. NEW SECTION. 595A.3 COVENANT MARRIAGE --
3 APPLICABILITY TO EXISTING MARRIAGES.

4 1. On or after January 1, 2003, married parties may
5 designate their marriage as a covenant marriage by executing a
6 declaration of intent in accordance with this section.

7 2. The declaration of intent shall be filed with the
8 county registrar with whom the marriage license of the parties
9 is filed. If the parties were married outside of the state, a
10 copy of the foreign marriage certificate, with the declaration
11 of intent attached, shall be filed with the county registrar
12 in the county in which the parties reside. The county
13 registrar shall make a notation on the marriage certificate of
14 the declaration of intent of a covenant marriage and shall
15 attach a copy of the declaration to the certificate.

16 3. A declaration of intent to designate an existing
17 marriage as a covenant marriage shall contain all of the
18 following:

19 a. A statement by the parties to the following effect:

20 "We, (names of both parties), solemnly declare that our
21 marriage is a covenant marriage and we agree to live together
22 as husband and wife as long as we both live. We voluntarily
23 accept the exclusive grounds for dissolution of a covenant
24 marriage. We have received the required marital education,
25 which included a discussion of the obligation to seek marital
26 counseling in times of marital difficulties and an explanation
27 of the exclusive grounds for dissolving a covenant marriage.
28 We have read the informational pamphlet regarding covenant
29 marriage and understand that a covenant marriage is for life.
30 If either of us experiences serious difficulties with the
31 marriage, we accept the ethical responsibility to inform the
32 other spouse about the extent of those problems in time for
33 corrective action to be taken and will make all reasonable
34 efforts to preserve our marriage, including participation in
35 marital counseling. With full knowledge of what this

1 commitment means, we declare that our marriage will be bound
2 by the state law on covenant marriage and we promise to love,
3 honor, and care for one another as husband and wife for the
4 rest of our lives."

5 b. A statement from the person who provided the marital
6 education to the following effect:

7 "I, (name of provider), confirm that (names of both parties
8 to the marriage) received marital education that complies with
9 Iowa Code section 595A.3. I am a licensed or ordained
10 minister, a person authorized to solemnize marriages under
11 Iowa Code section 595.10 or a marital and family therapist
12 licensed pursuant to Iowa Code chapter 154D."

13 c. The signature of both parties, witnessed by a notary
14 public.

15 4. The marital education provided to parties to a marriage
16 who wish to designate their marriage as a covenant marriage
17 shall be provided by a licensed or ordained minister, a person
18 authorized to solemnize marriages under section 595.10, or a
19 marital and family therapist licensed pursuant to chapter
20 154D. The education provided shall include a discussion of
21 the obligation to seek marital counseling in times of marital
22 difficulties and an explanation of the exclusive grounds for
23 dissolution of a covenant marriage. The educator shall
24 provide the parties with the informational pamphlet on
25 covenant marriage developed by the office of the attorney
26 general pursuant to section 595A.6.

27 Sec. 7. NEW SECTION. 595A.4 DISSOLUTION OF A COVENANT
28 MARRIAGE -- EXCLUSIVE GROUNDS.

29 1. Notwithstanding any other law to the contrary, and
30 subsequent to the parties obtaining marital counseling, a
31 party to a covenant marriage may obtain a dissolution of
32 marriage, only upon proof of any of the following:

33 a. The other party has committed adultery.

34 b. The other party has committed a felony and has been
35 sentenced to imprisonment.

1 c. The other party has abandoned the matrimonial domicile
2 for a period of one year and refuses to return.

3 d. The other party has physically or sexually abused the
4 party seeking the dissolution or a child of one of the
5 parties.

6 e. The parties have been living separate and apart
7 continuously without reconciliation for a period of two years.

8 2. In all proceedings for dissolution of marriage pursuant
9 to subsection 1, the court may issue an order of temporary
10 support and maintenance during the pendency of the
11 proceedings. Notwithstanding the time period requirements of
12 the grounds specified pursuant to subsection 1, paragraph "c"
13 or "e", a party to a covenant marriage may petition the court
14 for separate support and maintenance prior to the elapsing of
15 the specified time period.

16 3. In all proceedings for dissolution of marriage pursuant
17 to subsection 1, the court shall order the parties to complete
18 at least twelve hours of marital counseling that involves both
19 parties and emphasizes the principles of reconciliation. The
20 court may require the parties to pay an equal share of the
21 costs of the counseling or may apportion the cost between the
22 parties based on the ability to pay. The counseling shall be
23 provided by a licensed or ordained minister or the minister's
24 designee, a person authorized to solemnize a marriage pursuant
25 to section 595.10, or a marital and family therapist licensed
26 pursuant to chapter 154D. The court may waive all or part of
27 the counseling requirement to the extent the parties have
28 already received the required twelve hours of marital
29 education within one year of the petition for dissolution of
30 marriage.

31 Sec. 8. NEW SECTION. 595A.5 COVENANT MARRIAGE -- OTHER
32 APPLICABLE LAWS.

33 1. A covenant marriage shall be governed by all of the
34 nonconflicting provisions of chapter 595.

35 2. A dissolution of a covenant marriage shall be governed

1 by all of the nonconflicting provisions of chapter 598.

2 Sec. 9. NEW SECTION. 595A.6 ATTORNEY GENERAL --
3 PAMPHLET.

4 Prior to July 1, 2002, the office of the attorney general
5 shall develop an informational pamphlet entitled "Covenant
6 Marriage Option" which shall outline in sufficient detail the
7 requirements for entering into a covenant marriage or
8 designating an existing marriage as a covenant marriage, the
9 implications of entering into a covenant marriage or
10 designating an existing marriage as a covenant marriage, the
11 grounds for dissolution of a covenant marriage, and the legal
12 differences between a covenant marriage and a noncovenant
13 marriage. The informational pamphlet shall be made available
14 to all offices of the county registrar and to all persons who
15 provide premarital and marital education under this chapter.

16 Sec. 10. EFFECTIVE DATE. The section of this Act creating
17 section 595A.6 relating to the pamphlet developed by the
18 attorney general, being deemed of immediate importance, takes
19 effect upon enactment.

20 EXPLANATION

21 This bill establishes the procedure and requirements for a
22 covenant marriage. The bill requires the county registrar to
23 provide each applicant for a marriage license with an
24 informational pamphlet on covenant marriage, prepared by the
25 office of the attorney general. The bill requires the
26 application form for a marriage license to include a place for
27 the parties to indicate that they have been informed of the
28 option to designate the marriage a covenant marriage, and to
29 indicate, with their signatures, their intent to designate
30 their marriage a covenant marriage or a noncovenant marriage.
31 If the parties designate their marriage a covenant marriage,
32 they are to attach a copy of the declaration of their intent
33 to the marriage license application. The license to marry and
34 the certificate of marriage are also to indicate whether the
35 marriage is designated a covenant marriage.

1 The bill describes a covenant marriage, requires that the
2 parties to a covenant marriage complete at least 12 hours of
3 premarital education, and provides that the declaration of
4 intent to enter a covenant marriage is aspirational and
5 failure of a party to comply with the statements included in
6 the declaration does not provide additional grounds for
7 dissolution beyond those provided in the bill.

8 The bill specifies the contents of the declaration of
9 intent and requires a statement relating to the intent of the
10 parties to designate their marriage as a covenant marriage,
11 requires a statement from the person who provided the
12 premarital education relating to confirmation of the
13 completion by the parties of the required education, and
14 requires the signature of each party, or if one or both of the
15 parties are minors, the written consent or authorization of
16 those persons designated by law to provide consent or
17 authorization. The declaration of intent is to be prepared in
18 duplicate originals with one original being retained by the
19 parties and one original being filed with the county
20 registrar.

21 The bill also provides a procedure for parties to an
22 existing marriage on or after January 1, 2003, to designate
23 their marriage as a covenant marriage.

24 The bill provides the exclusive grounds for obtaining a
25 dissolution of a covenant marriage which include: that a
26 party commits adultery, commits a felony and is imprisoned,
27 abandons the matrimonial domicile for one year and refuses to
28 return, physically or sexually abuses the other party or a
29 child of one of the parties, or is living separate and apart
30 continuously without reconciliation for a period of two years.
31 In all proceedings for dissolution based on a covenant
32 marriage, the court is to order the parties to complete at
33 least 12 hours of marital counseling. The court may waive the
34 requirement to the extent that the parties have already
35 completed other required education.

1 The bill provides that nonconflicting provisions of the
2 marriage chapter (Code chapter 595) and the dissolution
3 chapter (Code chapter 598) apply to covenant marriages.

4 The bill directs the office of the attorney general, prior
5 to July 1, 2002, to develop a pamphlet entitled "Covenant
6 Marriage Option" to outline the requirements of a covenant
7 marriage, the implications of entering into a covenant
8 marriage, the grounds for dissolution of a covenant marriage,
9 and the legal differences between covenant and noncovenant
10 marriages. The pamphlet is to be available at the offices of
11 the county registrar and to all persons who provide premarital
12 and marital education. This section of the bill takes effect
13 upon enactment.

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SENATE FILE 2106

S-5034

- 1 Amend Senate File 2106 as follows:
- 2 1. Page 6, by inserting after line 7, the
- 3 following:
- 4 "f. The other party has habitually abused drugs or
- 5 alcohol."

By JACK HOLVECK
JOHNIE HAMMOND

S-5034 FILED FEBRUARY 13, 2002

0/0

3/6/02 (p 525)

SENATE FILE 2106

S-5035

- 1 Amend Senate File 2106 as follows:
- 2 1. Page 6, by inserting after line 7, the
- 3 following:
- 4 "f. The parties both agree to a dissolution of
- 5 marriage."

By JACK HOLVECK
JOHNIE HAMMOND

S-5035 FILED FEBRUARY 13, 2002

0/0 3-6-02

(p. 525)



SENATE FILE 2106

S-5093

1 Amend Senate File 2106 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. Section 331.605, subsection 6, Code
5 2001, is amended to read as follows:

6 6. a. (1) ~~For~~ Except as provided in subparagraph
7 (2), for filing an application for the license to
8 marry, ~~thirty-five~~ fifty dollars, which includes
9 payment for one certified copy of the original
10 certificate of marriage, to be issued following filing
11 of the original certificate of marriage, four dollars
12 of which shall be retained by the county pursuant to
13 subsection 5 and fifteen dollars of which shall be
14 retained by the county recorder.

15 (2) For filing an application for the license to
16 marry, twenty dollars, if the applicants submit and
17 the county registrar approves the certificate of
18 completion of premarital education pursuant to section
19 595.3B. The fee includes payment for one certified
20 copy of the original certificate of marriage, to be
21 issued following filing of the original certificate of
22 marriage. Four dollars of the fee shall be retained
23 by the county pursuant to subsection 5.

24 b. ~~For~~ Unless a license becomes valid in
25 accordance with section 595.4, subsection 3, paragraph
26 "a", for issuing an application for an order of the
27 district court authorizing the validation of a license
28 to marry before the expiration of ~~three~~ thirty days
29 from the date of issuance of the license, five
30 dollars. The district court shall authorize the early
31 validation of a marriage license without the payment
32 of any fees imposed in this subsection upon showing
33 that the applicant is unable to pay the fees.

34 Sec. 2. NEW SECTION. 595.3B APPLICATION --
35 PREMARITAL EDUCATION.

36 1. An application form for a marriage license
37 shall have attached a certificate form to be used by
38 the parties to document completion of premarital
39 education by the parties. The certificate shall be
40 completed by the parties and signed by the person who
41 provided the premarital education. The certificate
42 shall require provision of all of the following
43 information:

44 a. The name of the person providing the premarital
45 education and the person's signature verifying
46 completion of the premarital education by the parties.

47 b. The number of hours of premarital education
48 completed.

49 c. Whether the premarital education was provided
50 by personal instruction, videotaped instruction,

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1 instruction via other electronic media, or a
2 combination of these methods.
3 2. Only premarital education provided by the
4 following persons meets the requirement of provision
5 of premarital education under this section:
6 a. A person ordained or designated as a leader of
7 a party's religious faith or the person's designee.
8 b. A person licensed to practice psychology
9 pursuant to chapter 154B.
10 c. A person licensed to practice social work
11 pursuant to chapter 154C.
12 d. A person licensed to practice marital and
13 family therapy pursuant to chapter 154D.
14 3. If the parties applying for a license to marry
15 complete the premarital education certificate and the
16 certificate is approved, the parties shall pay a
17 license fee of only twenty dollars pursuant to section
18 331.605, subsection 6.

19 Sec. 3. Section 595.4, Code 2001, is amended to
20 read as follows:

21 595.4 AGE AND QUALIFICATION -- VERIFIED
22 APPLICATION -- WAITING PERIOD -- EXCEPTION.

23 1. ~~Previous~~ Prior to the issuance of any license
24 to marry, the parties desiring the license shall sign
25 and file a verified application with the county
26 registrar which application either may be mailed to
27 the parties at their request or may be signed by them
28 at the office of the county registrar in the county in
29 which the license is to be issued. The application
30 shall include the social security number of each
31 applicant and shall set forth at least one affidavit
32 of some competent and disinterested person stating the
33 facts as to age and qualification of the parties.
34 Upon the filing of the application for a license to
35 marry, the county registrar shall file the application
36 in a record kept for that purpose and shall take all
37 necessary steps to ensure the confidentiality of the
38 social security number of each applicant. All
39 information included on an application may be provided
40 as mutually agreed upon by the division of records and
41 statistics and the child support recovery unit,
42 including by automated exchange.

43 2. Upon receipt of a verified application, the
44 county registrar may issue the license ~~which shall not~~
45 ~~become valid until the expiration of three days after~~
46 ~~the date of issuance of the license.~~ If the license
47 has not been issued within six months from the date of
48 the application, the application is void.

49 3. A license issued under subsection 2 shall
50 become valid as follows:

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1 a. If the parties desiring the license have
2 participated in premarital education and have
3 documented completion of premarital education in
4 accordance with section 595.3B, the license shall
5 become valid upon the expiration of three days after
6 the date of issuance of the license.

7 b. If the parties desiring the license have not
8 participated in premarital education and have not
9 documented completion of premarital education in
10 accordance with section 595.3B, the license shall not
11 become valid until the expiration of thirty days after
12 the date of issuance of the license.

13 4. A If the parties are subject to subsection 3,
14 paragraph "b", a license to marry may be validated
15 prior to the expiration of ~~three~~ thirty days from the
16 date of issuance of the license in cases of emergency
17 or extraordinary circumstances. An order authorizing
18 the validation of a license may be granted by a judge
19 of the district court under conditions of emergency or
20 extraordinary circumstances upon application of the
21 parties filed with the county registrar. ~~No~~ An order
22 may shall not be granted unless the parties have filed
23 an application for a marriage license in a county
24 within the judicial district. An application for an
25 order shall be made on forms furnished by the county
26 registrar at the same time the application for the
27 license to marry is made. After examining the
28 application for the marriage license and issuing the
29 license, the county registrar shall refer the parties
30 to a judge of the district court for action on the
31 application for an order authorizing the validation of
32 a marriage license prior to expiration of ~~three~~ thirty
33 days from the date of issuance of the license. The
34 judge shall, if satisfied as to the existence of an
35 emergency or extraordinary circumstances, grant an
36 order authorizing the validation of a license to marry
37 prior to the expiration of ~~three~~ thirty days from the
38 date of issuance of the license to marry. The county
39 registrar shall validate a license to marry upon
40 presentation by the parties of the order authorizing a
41 license to be validated. A fee of five dollars shall
42 be paid to the county registrar at the time the
43 application for the order is made, which fee is in
44 addition to the fee prescribed by law for the issuance
45 of a marriage license.

46 Sec. 4. Section 598.17, Code 2001, is amended by
47 adding the following new unnumbered paragraph:
48 NEW UNNUMBERED PARAGRAPH. A decree dissolving a
49 marriage shall not be entered unless the court finds
50 clear and convincing evidence that dissolution of the

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1 marriage is in the best interests of each minor child
2 of the parties."

3 2. Title page, by striking lines 1 and 2, and
4 inserting the following: "An Act relating to marriage
5 including premarital education, marriage license fees,
6 and continuation of marriage."

By NEAL SCHUERER

S-5093 FILED FEBRUARY 28, 2002

adapted
3-6-02 (p. 525)

SENATE FILE 2106

S-5121

1 Amend the amendment, S-5093 to Senate File 2106 as
2 follows:
3 1. Page 3, line 50, by striking the words "clear
4 and convincing" and inserting the following: "by a
5 preponderance of the".

By NEAL SCHUERER

S-5121 FILED MARCH 6, 2002
RULED OUT OF ORDER

(p. 524)

SENATE FILE 2106

S-5122

1 Amend the amendment, S-5093, to Senate File 2106 as
2 follows:
3 1. Page 4, line 1, by striking the words "each
4 minor child" and inserting the following: "the
5 majority of the minor children".

By NEAL SCHUERER

S-5122 FILED MARCH 6, 2002
RULED OUT OF ORDER

(p. 524)

SENATE FILE 2106

S-5123

1 Amend the amendment, S-5093, to Senate File 2106 as
2 follows:
3 1. Page 4, line 2, by inserting after the word
4 "parties." the following: "If the court finds that
5 dissolution is not in the best interests of the
6 majority of the children of the parties as prescribed
7 in this paragraph, the court shall order the parties
8 to participate in mediation and the parties shall
9 participate in mediation prior to the court entering a
10 final decree dissolving the marriage."

By NEAL SCHUERER

S-5123 FILED MARCH 6, 2002
RULED OUT OF ORDER

(p. 524)

SENATE FILE 2106

S-5124

1 Amend the amendment, S-5093, to Senate File 2106,
2 as follows:
3 1. By striking page 3, line 46 through page 4,
4 line 2.

By MAGGIE TINSMAN

S-5124 FILED MARCH 6, 2002
WITHDRAWN

(p. 522)

SENATE FILE 2106**S-5127**

1 Amend the amendment, S-5093, to Senate File 2106,
2 as follows:
3 1. By striking page 3, line 46 through page 4,
4 line 2.
5 2. Page 4, by striking lines 5 and 6 and
6 inserting the following: "including premarital
7 education and marriage license fees."

By MAGGIE TINSMAN

S-5127 FILED MARCH 6, 2002

ADOPTED

(p. 524)

SENATE FILE 2106**S-5129**

1 Amend the amendment, S-5093, to Senate File 2106 as
2 follows:
3 1. By striking page 1, line 4, through page 4,
4 line 6, and inserting the following:
5 "Section 1. Section 256.11, subsection 5,
6 paragraph j, Code Supplement 2001, is amended to read
7 as follows:
8 j. One unit of health education which shall
9 include personal health; food and nutrition;
10 environmental health; safety and survival skills;
11 consumer health; family life; human growth and
12 development; substance abuse and nonuse; emotional and
13 social health; health resources; and prevention and
14 control of disease, including sexually transmitted
15 diseases and acquired immune deficiency syndrome. The
16 family life component in grades eleven and twelve
17 shall include instruction regarding marriage and the
18 family."
19 2. Title page, lines 1 and 2, by striking the
20 words "covenant marriages and providing an effective
21 date" and inserting the following: "an educational
22 standards requirement relating to marriage and
23 family".

By MATT McCOY

S-5129 FILED MARCH 6, 2002

RULED OUT ORDER

(p. 523)

Legislative Fiscal Bureau

Fiscal Note

SF 2106 - Covenant Marriage (LSB 6608 SV)

Analyst: Jennifer Dean (Phone: (515) 281-7846) (Jennifer.Dean@legis.state.ia.us)

Fiscal Note Version - New

Requested by Senator Neal Schuerer

Description

Senate File 2106 establishes the procedure and requirements for a covenant marriage. The Bill requires the county registrar to provide each applicant for a marriage license with an informational pamphlet on covenant marriage, prepared by the Office of the Attorney General. Senate File 2106 requires that the parties to a covenant marriage complete at least 12 hours of premarital education. The Court shall order parties to a covenant marriage, who are seeking a dissolution, to complete at least 12 hours of marriage counseling. Senate File 2106 provides a procedure for an existing marriage to be designated a covenant marriage. The Bill provides the exclusive grounds for obtaining support and maintenance or dissolution of a covenant marriage.

Assumptions

1. A covenant marriage is discretionary on the part of the applicants.
2. County Recorder's Offices are required to perform additional duties. These duties include providing the Covenant Marriage Option pamphlet, and explaining the procedures for a covenant marriage, to each marriage applicant; reformatting the marriage application; and additional record storage requirements.
3. Any counseling costs shall be paid by the marriage applicants or the parties seeking a dissolution of the marriage.
4. There are approximately 23,000 applications for marriage annually.
5. The Office of the Attorney General is required to provide a Covenant Marriage Option pamphlet to county registrars, ministers, marriage and family counselors, justices, judges, and magistrates.
6. There will be 50,000 pamphlets distributed annually.
7. The Attorney General's Office is required to create Covenant Marriage Option pamphlets.
8. The Department of Public Health would be required to reprint and redistribute new marriage licenses to all 100 county courthouses.

Fiscal Impact

Senate File 2106 will result in increased General Fund costs of \$45,000 in FY 2003 and \$38,000 in FY 2004.

State General Fund

The General Fund fiscal impact to the Office of the Attorney General is approximately \$19,000 in FY 2003 and \$12,000 annually to print and distribute the Covenant Marriage Option pamphlet.

Parties to a covenant marriage who are seeking dissolution will be required to appear in District Court. This provision may result in more trials at the District Court level. However, since the covenant marriage provision is optional, the number of covenant marriages that would be dissolved is unknown.

Senate File 2106 would require a revision of the marriage certificate. The Department of Public Health would have increased costs of \$26,000 to reprint and redistribute the updated marriage certificates to all 100 county offices for FY 2003. This would be an annual ongoing expense.

Local Government

Senate File 2106 may also result in increased workloads in County Recorder's Offices. Staff will spend more time with each applicant for a covenant marriage, and the Office may incur additional records storage costs. Because it is not known how many covenant marriage applications will be filed in each county, the fiscal impact to County Recorder's Offices cannot be determined.

Sources

Office of the Attorney General
State Court Administrator's Office
Department of Public Health
Polk County Recorder Office
Story County Recorder Office
Jasper County Recorder Office

/s/ Dennis C Prouty

February 13, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Legislative Fiscal Bureau

Fiscal Note

SF 2106 - Covenant Marriage (LSB 6608 SV.1)

Analyst: Jennifer Dean (Phone: (515) 281-7846) (Jennifer.Dean@legis.state.ia.us)

Fiscal Note Version – Amended Bill

Description

Senate File 2106 establishes options for premarital education. If applicants attended premarital education, the cost for a marriage license is \$20. If applicants did not attend premarital education, the cost for a marriage license is \$50. If applicants complete premarital education, the marriage license is valid upon the expiration of three days. If applicants do not complete premarital education, the marriage license is valid upon the expiration of thirty days. If applicants do not go through premarital education but do not want to wait thirty days for their marriage license, those individuals would pay an additional \$5 to the County Recorder and have a judge authorize their marriage license.

Assumptions

1. There are approximately 23,000 applications for marriage annually.
2. Fifty percent (11,500) of applicants for a marriage license will participate in premarital counseling.
3. For applicants who attend premarital counseling, the cost for a marriage license is \$20. Of this amount, \$4 would be retained by the County Recorder's office and \$16 would go to the General Fund.
4. For applicants who do not attend premarital counseling, the cost for a marriage license is \$50. Of this amount, \$19 would be retained by the County Recorder's office and \$31 would go to the General Fund.
5. Under current law, the cost for a marriage license is \$35. Of this amount, \$4 is retained by the County Recorder's office and \$31 would go to the General Fund.
6. For parties who attend premarital counseling, they can receive their marriage license after three days.
7. For parties who do not attend premarital counseling, they can receive their marriage license after thirty days.
8. For parties who do not attend premarital counseling but want to receive their license earlier than thirty days, the parties can pay \$5 to the County Recorder and a judge will validate their marriage license.
9. Under current law, parties could pay \$5 to the County Recorder to have a judge validate their marriage license prior to three days. Under this legislation, all parties would have to wait at least three days to get married, regardless if premarital counseling was attended or not.

Fiscal Impact

For applicants who receive premarital counseling, the General Fund impact would be a decrease in revenue of approximately \$173,000 annually. There would be no impact on the Counties.

For applicants who do not receive premarital counseling, there would be no General Fund impact and the Counties would receive an increase in revenue of approximately \$173,000.

For applicants who do not take premarital classes but want to be married sooner than the 30-day waiting period, the cost is an additional \$5. The fiscal impact cannot be determined due to insufficient information relating to what would qualify as an emergency or extraordinary circumstance.

Sources

Office of the Attorney General
State Court Administrator's Office
Department of Public Health
Polk County Recorder Office
Story County Recorder Office
Jasper County Recorder Office

/s/ Dennis C Prouty

March 13, 2002

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

H. 3/11/02 Human Res
H. 5/18/02 Amend/Do Pass
H. 8305

SENATE FILE 2106

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SF 353)

(AS AMENDED AND PASSED BY THE SENATE MARCH 6, 2002)

ALL New Language by the Senate

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to marriage including premarital education and
2 marriage license fees.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2106

1 Section 1. Section 331.605, subsection 6, Code 2001, is
2 amended to read as follows:

3 6. a. (1) For Except as provided in subparagraph (2),
4 for filing an application for the license to marry, thirty-
5 five fifty dollars, which includes payment for one certified
6 copy of the original certificate of marriage, to be issued
7 following filing of the original certificate of marriage, four
8 dollars of which shall be retained by the county pursuant to
9 subsection 5 and fifteen dollars of which shall be retained by
10 the county recorder.

11 (2) For filing an application for the license to marry,
12 twenty dollars, if the applicants submit and the county
13 registrar approves the certificate of completion of premarital
14 education pursuant to section 595.3B. The fee includes
15 payment for one certified copy of the original certificate of
16 marriage, to be issued following filing of the original
17 certificate of marriage. Four dollars of the fee shall be
18 retained by the county pursuant to subsection 5.

19 b. For Unless a license becomes valid in accordance with
20 section 595.4, subsection 3, paragraph "a", for issuing an
21 application for an order of the district court authorizing the
22 validation of a license to marry before the expiration of
23 three thirty days from the date of issuance of the license,
24 five dollars. The district court shall authorize the early
25 validation of a marriage license without the payment of any
26 fees imposed in this subsection upon showing that the
27 applicant is unable to pay the fees.

28 Sec. 2. NEW SECTION. 595.3B APPLICATION -- PREMARITAL
29 EDUCATION.

30 1. An application form for a marriage license shall have
31 attached a certificate form to be used by the parties to
32 document completion of premarital education by the parties.
33 The certificate shall be completed by the parties and signed
34 by the person who provided the premarital education. The
35 certificate shall require provision of all of the following

1 information:

2 a. The name of the person providing the premarital
3 education and the person's signature verifying completion of
4 the premarital education by the parties.

5 b. The number of hours of premarital education completed.

6 c. Whether the premarital education was provided by
7 personal instruction, videotaped instruction, instruction via
8 other electronic media, or a combination of these methods.

9 2. Only premarital education provided by the following
10 persons meets the requirement of provision of premarital
11 education under this section:

12 a. A person ordained or designated as a leader of a
13 party's religious faith or the person's designee.

14 b. A person licensed to practice psychology pursuant to
15 chapter 154B.

16 c. A person licensed to practice social work pursuant to
17 chapter 154C.

18 d. A person licensed to practice marital and family
19 therapy pursuant to chapter 154D.

20 3. If the parties applying for a license to marry complete
21 the premarital education certificate and the certificate is
22 approved, the parties shall pay a license fee of only twenty
23 dollars pursuant to section 331.605, subsection 6.

24 Sec. 3. Section 595.4, Code 2001, is amended to read as
25 follows:

26 595.4 AGE AND QUALIFICATION -- VERIFIED APPLICATION --
27 WAITING PERIOD -- EXCEPTION.

28 1. Previous Prior to the issuance of any license to marry,
29 the parties desiring the license shall sign and file a
30 verified application with the county registrar which
31 application either may be mailed to the parties at their
32 request or may be signed by them at the office of the county
33 registrar in the county in which the license is to be issued.

34 The application shall include the social security number of
35 each applicant and shall set forth at least one affidavit of

1 some competent and disinterested person stating the facts as
2 to age and qualification of the parties. Upon the filing of
3 the application for a license to marry, the county registrar
4 shall file the application in a record kept for that purpose
5 and shall take all necessary steps to ensure the
6 confidentiality of the social security number of each
7 applicant. All information included on an application may be
8 provided as mutually agreed upon by the division of records
9 and statistics and the child support recovery unit, including
10 by automated exchange.

11 2. Upon receipt of a verified application, the county
12 registrar may issue the license ~~which shall not become valid~~
13 ~~until the expiration of three days after the date of issuance~~
14 ~~of the license~~. If the license has not been issued within six
15 months from the date of the application, the application is
16 void.

17 3. A license issued under subsection 2 shall become valid
18 as follows:

19 a. If the parties desiring the license have participated
20 in premarital education and have documented completion of
21 premarital education in accordance with section 595.3B, the
22 license shall become valid upon the expiration of three days
23 after the date of issuance of the license.

24 b. If the parties desiring the license have not
25 participated in premarital education and have not documented
26 completion of premarital education in accordance with section
27 595.3B, the license shall not become valid until the
28 expiration of thirty days after the date of issuance of the
29 license.

30 4. A If the parties are subject to subsection 3, paragraph
31 "b", a license to marry may be validated prior to the
32 expiration of three thirty days from the date of issuance of
33 the license in cases of emergency or extraordinary
34 circumstances. An order authorizing the validation of a
35 license may be granted by a judge of the district court under

1 conditions of emergency or extraordinary circumstances upon
2 application of the parties filed with the county registrar.
3 No An order may shall not be granted unless the parties have
4 filed an application for a marriage license in a county within
5 the judicial district. An application for an order shall be
6 made on forms furnished by the county registrar at the same
7 time the application for the license to marry is made. After
8 examining the application for the marriage license and issuing
9 the license, the county registrar shall refer the parties to a
10 judge of the district court for action on the application for
11 an order authorizing the validation of a marriage license
12 prior to expiration of three thirty days from the date of
13 issuance of the license. The judge shall, if satisfied as to
14 the existence of an emergency or extraordinary circumstances,
15 grant an order authorizing the validation of a license to
16 marry prior to the expiration of three thirty days from the
17 date of issuance of the license to marry. The county
18 registrar shall validate a license to marry upon presentation
19 by the parties of the order authorizing a license to be
20 validated. A fee of five dollars shall be paid to the county
21 registrar at the time the application for the order is made,
22 which fee is in addition to the fee prescribed by law for the
23 issuance of a marriage license.

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SENATE FILE 2106

H-8305

- 1 Amend Senate File 2106, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by striking lines 9 and 10, and
4 inserting the following: "subsection 5."
5 2. Page 1, line 23, by striking the word "thirty"
6 and inserting the following: "twenty-one".
7 3. Page 3, line 28, by striking the word "thirty"
8 and inserting the following: "twenty-one".
9 4. Page 3, line 32, by striking the word "thirty"
10 and inserting the following: "twenty-one".
11 5. Page 4, line 12, by striking the word "thirty"
12 and inserting the following: "twenty-one".
13 6. Page 4, line 16, by striking the word "thirty"
14 and inserting the following: "twenty-one".

By COMMITTEE ON HUMAN RESOURCES
BODDICKER of Cedar, Chairperson

H-8305 FILED MARCH 18, 2002

SENATE FILE 2106

H-8568

1 Amend Senate File 2106, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 3 through 27 and
4 inserting the following:

5 "6. a. For filing an application for the license
6 to marry, thirty-five dollars, which includes payment
7 for one certified copy of the original certificate of
8 marriage, to be issued following filing of the
9 original certificate of marriage, four dollars of
10 which shall be retained by the county pursuant to
11 subsection 5. ~~For~~

12 b. Unless a license becomes valid in accordance
13 with section 595.4, subsection 3, paragraph "a", for
14 issuing an application for an order of the district
15 court authorizing the validation of a license to marry
16 before the expiration of ~~three~~ twenty-one days from
17 the date of issuance of the license, five dollars.
18 The district court shall authorize the early
19 validation of a marriage license without the payment
20 of any fees imposed in this subsection upon showing
21 that the applicant is unable to pay the fees."

22 2. Page 2, line 15, by inserting after the figure
23 "154B" the following: "or a person who holds a
24 license or certificate from another state whose
25 requirements are substantially equivalent to those of
26 chapter 154B".

27 3. Page 2, line 17, by inserting after the figure
28 "154C" the following: "or a person who holds a
29 license or certificate from another state whose
30 requirements are substantially equivalent to those of
31 chapter 154C".

32 4. Page 2, line 19, by inserting after the figure
33 "154D" the following: "or a person who holds a
34 license or certificate from another state whose
35 requirements are substantially equivalent to those of
36 chapter 154D".

37 5. Page 2, by striking lines 20 through 23.

38 6. Page 3, line 28, by striking the word "thirty"
39 and inserting the following: "twenty-one".

40 7. Page 3, line 32, by striking the word "thirty"
41 and inserting the following: "twenty-one".

42 8. Page 4, line 12, by striking the word "thirty"
43 and inserting the following: "twenty-one".

44 9. Page 4, line 16, by striking the word "thirty"
45 and inserting the following: "twenty-one".

46 10. Page 4, by inserting after line 23, the
47 following:

48 "Sec. . EMERGENCY OR EXTRAORDINARY CIRCUMSTANCES
49 -- JANUARY 1 THROUGH JUNE 30, 2003. During the period
50 beginning January 1, 2003, and ending June 30, 2003,

H-8568

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H-8568

Page 2

1 in determining whether emergency or extraordinary
2 circumstances exist with regard to a party that
3 applies for validation of a license to marry prior to
4 expiration of twenty-one days in the case of emergency
5 or extraordinary circumstances pursuant to section
6 595.4, subsection 4, as amended in this Act, a judge
7 shall consider the amendment of section 595.4,
8 subsection 4, as amended in this Act, to constitute
9 emergency or extraordinary circumstances and shall
10 grant the order authorizing the validation of the
11 license to marry prior to the expiration of twenty-one
12 days.

13 Sec. ____ . EFFECTIVE DATE. This Act takes effect
14 January 1, 2003."

15 11. Title page, line 2, by inserting after the
16 word "fees" the following: "and providing an
17 effective date".

By BRUNKHORST of Bremer
WARNSTADT of Woodbury

H-8568 FILED APRIL 9, 2002