

**NORTH CAROLINA GENERAL ASSEMBLY**

**LEGISLATIVE FISCAL NOTE**

**BILL NUMBER:** House Bill 142 (Fifth Edition)

**SHORT TITLE:** Amend Marriage Statutes

**SPONSOR(S):** Representative Sutton

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2001-02</u></b>	<b><u>FY 2002-03</u></b>	<b><u>FY 2003-04</u></b>	<b><u>FY 2004-05</u></b>	<b><u>FY 2005-06</u></b>
<b>REVENUES</b>					
General Fund	\$3,960	\$3,960	\$3,960	\$3,960	\$3,960
Local Government	\$1,890	\$1,890	\$1,890	\$1,890	\$1,890
<b>EXPENDITURES</b>	\$18,000	\$18,000	\$18,000	\$18,000	\$18,000
<b>POSITIONS:</b>	<b>none</b>				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Administrative Office of the Courts, Indigent Defense Costs; County Register of Deeds;					
<b>EFFECTIVE DATE:</b> Sec 17 is effective May 19,2001 through May 28, 2001. Remainder of bill is effective October 1, 2001.					

**BILL SUMMARY:** House Bill 142 modifies the procedures for obtaining a marriage license in several ways. Section 1 allows any mode of solemnization recognized by an Indian Nation or Tribe or religious domination as valid for a marriage. Current law is more restricted; Section 7 makes a corresponding change to the statute that forbids those able to solemnize a marriage from doing it without the parties having obtained a marriage license (penalty remains \$200 and Class 1 Misdemeanor) and Sections 4 and 6 make conforming changes to other statutes. Section 2 requires (i) the written consent by a guardian for a person under 18 to marry to be notarized or signed in presence of register of deeds; (ii) . forbids marriages for those under 14 (iii) clarifies who can move to annul a marriage of underage person which was obtained fraudulently. Section 3 sets up a procedure of judicial review for marriages of persons between 14 and 16 when there is a pregnancy or child involved . Section 4 updates some language defining parent; Section 8

requires applicants for a marriage license to be able to answer certain questions; Section 9 establishes a form for issuing a marriage license without both parties having to appear before the register of deeds; Section 10 broadens the penalty for obtaining a license under false pretense to include those aiding or abetting and increases it from Class 3 to Class 1 Misdemeanor; Section 11 changes the language in the license form to substitute 'State' for 'county' and to extend the options for listing race to conform with Census categories; Section 12 allows corrections by the register of deeds of incorrect information on an application for a marriage license. Section 13 amends statutes describing jurisdiction of district court to include the judicial review for underage marriage. Section 14 requires appointment of a Guardian Ad Litem for the judicial review of 14-16 year olds' marriages. Section 17 allows resident superior court judges to perform marriages between May 19<sup>th</sup> and May 28<sup>th</sup>, 2001.

## **ASSUMPTIONS AND METHODOLOGY:**

### Judicial Branch

#### *Solemnization of Marriage*

Because more categories of individuals would be authorized to perform marriage ceremonies, there is the potential for more instances of marriage ceremonies that don't comply with the law. There is not evidence to suggest, however, that this change would have a significant impact on the Court system. (sections 1, 7)

#### *Underage Marriage*

This bill (section 3) creates a new district court proceeding for persons over 14 but under 16 seeking to marry. These underage parties may seek to marry if there is a pregnancy or child involved. In 1999, there were 887 unmarried females who gave birth. However, we do not expect very many of them to seek to marry. In 1999, there were 92 marriages involving 14 or 15 year old females. Based on this smaller number, the Judicial Branch projected 90 hearings per year. Assuming these proceedings would be similar to emancipation hearings, they could take 15 minutes to 2 hours per case. With 90 cases, this would be up to 180 hours per year. Since this is only about 10% of a court official's (judge, clerk) time, this workload can be absorbed within existing resources.

#### *Appointment of Guardian Ad Litem*

However, the requirement for appointment of Guardian Ad Litem will have a fiscal impact since this kind of proceeding is not currently covered by the state funded Guardian Ad Litem program. Payments to the Guardian Ad Litem are to comply with rules adopted by the Office of Indigent Defense Services. This suggests they would be paid as are other assigned indigent counsel (as opposed to the lower payments for GAL attorneys). AOC used a figure of \$200/hearing based on current GAL costs for delinquency cases. Based on 90 hearings @ \$200 per case, assigned counsel costs would increase \$18,000 each year.

*Misrepresentation*

The bill also increases the penalty for obtaining a marriage license by misrepresentation or false pretenses from a Class 3 to a Class 1 misdemeanor and broadens it to include those who aid or abet. There appear to be a few such instances each year (4 convictions in 2000). Since Class 1 misdemeanors rarely receive active time (15% in 2000) we do not anticipate this having a significant impact on the Judicial Branch or local jails (section 10)

*Forms*

The Judicial Branch may also need to develop and print new forms. We assume this can be absorbed within existing resources.

*Court Fees*

The bill does specify that court fees will be paid by the underage party seeking to marry. These costs are \$44 Court of Justice (to General Fund) and \$21 Facilities/Service to local governments. *If* fees are collected on all 90 projected cases, it would bring in \$3,960 to the General Fund and \$1,890 to local governments. However, these proceedings may be brought in forma pauperis in which case no fees are collected.

Register of Deeds

The revised forms may require new forms to be printed. However, since forms are reprinted periodically, we are not assuming any fiscal impact on counties.

**FISCAL RESEARCH DIVISION 733-4910**

**PREPARED BY:** Elisa Wolper

**APPROVED BY:** James D. Johnson

**DATE:** May 9, 2001



**Signed Copy Located in the NCGA Principal Clerk's Offices**