

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Judiciary Committee

BILL: CS/SB 2438

INTRODUCER: Judiciary Committee and Senator Storms

SUBJECT: Premarital Preparation

DATE: March 21, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Daniell	Maclure	JU	Fav/CS
2.			GO	
3.			HA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill makes statutory changes to Florida’s family law handbook, which is renamed the Florida Marriage Handbook (handbook) and divided into two parts. Specifically, the bill creates the Marriage Education Committee (committee) to provide information for the handbook relating to resources, information, and skills to help couples have a healthy and successful marriage. The committee shall consist of seven marriage education and family advocates appointed by the Governor, President of the Senate, and Speaker of the House of Representatives. These advocates must either be qualified as premarital preparation course providers or individuals certified in marriage education and who have been providing such services for four years. Members of the committee are appointed for a one-year term, and the committee is reconstituted every 10 years for purposes of reviewing and updating the handbook.

The bill provides content that the committee may include in the handbook, such as:

- Resources dealing with conflict resolution, communication skills, family expectations, financial responsibilities and management, and children and parenting responsibilities.
- Current information from marriage education and family advocates which is intended to assist couples in forming and maintaining a long-term marital relationship.

- Information regarding premarital education, marriage enrichment education, and resources that are available to help restore a marriage that is potentially moving toward dissolution.
- Contact information and website links to additional resources and local professional and community services to further assist couples.

Lastly, the bill requires that the Florida Marriage Handbook be reviewed and a report sent to the Legislature every 10 years in October explaining the changes made and recommendations for further updates to the handbook. The bill provides that the committee is to prepare the report for its portion of the handbook and that the Family Law Section of The Florida Bar (Family Law Section) is to prepare the report for its portion of the handbook.

The bill also makes technical and conforming changes; however, the bill does not substantively amend the information provided by, or the responsibilities of, the Family Law Section related to the handbook under current law.

This bill substantially amends section 741.0306, Florida Statutes.

II. Present Situation:

Premarital Preparation

It is estimated that between 40 and 50 percent of first marriages, and approximately 60 percent of second marriages, end in divorce in the United States.¹ Concern regarding divorce may relate to its impact on children. Research shows that divorce places children two to three times more at risk for psychological and behavioral problems and that “a stable, healthy, two-parent family is the optimal environment for children’s development and well-being.”² Additionally, some maintain that the public indirectly benefits from strong marriages in the form of lower crime rates and lower economic costs.³ No studies have put a definitive price on the public costs of divorce, but, based on two studies, the estimate ranges between \$33 billion and \$112 billion a year.⁴

Research has indicated that premarital preparation can be effective in supporting healthy marriages and reducing divorce. Premarital education is often defined as “education to help individuals and couples explore relationship strengths and weaknesses, learn what it takes to have a successful marriage, and develop and practice relationship skills and virtues that sustain healthy marriages.”⁵ Premarital preparation courses usually involve a couples-group format and

¹ Alan J. Hawkins, *Will Legislation to Encourage Premarital Education Strengthen Marriage and Reduce Divorce?*, 9 J. L. & FAM. STUD. 79, 80 (2007).

² *Id.* at 81.

³ *Id.* at 82.

⁴ See David Schramm, *Individual and Social Costs of Divorce in Utah*, 27 J. FAM. ECON. ISSUES 133, 146 (2006) (estimating that divorce will cost the United States \$33 billion annually based on extrapolations from Utah, where divorce cost the state nearly \$300 million in 2001); Institute for American Values et al., *The Taxpayer Costs of Divorce and Unwed Childbearing*, 17 (2008) (estimating that family fragmentation costs U.S. taxpayers approximately \$112 billion each year, or over \$1 trillion per decade).

⁵ Alan J. Hawkins, *supra* note 1, at 84.

include discussions about the expectations of marriage, effective communication, problem-solving skills, and managing finances.⁶

Florida has taken several steps related to promoting healthy marriages. In 1998, the Legislature enacted the “Marriage Preparation and Preservation Act of 1998 (Act).”⁷ With the passage of the Act, Florida became the first state to pass marriage education legislation, including implementation of a reduction in the marriage license fee for couples who participate in a premarital preparation course and of a provision related to marriage and relationship skill-based education classes in high school. In 1999, Governor Jeb Bush became the first governor to sign a Community Marriage Policy,⁸ and in 2003, Florida created the Commission on Marriage and Family Support (Commission).⁹ The goal of the Commission is to strengthen marriages, support parents and families, and promote child well-being.¹⁰ Finally, in 2007, Governor Charlie Crist signed a proclamation declaring February 14 as Florida Healthy Marriage Day.¹¹

Family Law Handbook

Several states have created handbooks that are distributed to marriage license applicants.¹² These handbooks cover topics such as: managing a marriage, developing a household budget, raising children, and managing conflicts. A variety of legal issues that could arise during or after a marriage are also usually included in the handbook. Finally, the handbooks often include a list of marriage resources that direct couples on where to go if they need more information.

In 1998, the Legislature enacted a law creating a family law handbook to explain portions of Florida law pertaining to the rights and responsibilities of marital partners to each other and their children, both during the marriage and upon dissolution.¹³ The family law handbook is created by the Family Law Section of The Florida Bar and must be reviewed for accuracy by the Family Court Steering Committee of the Florida Supreme Court.¹⁴ The family law handbook is

⁶ *Id.* at 84-85.

⁷ Chapter 98-403, Laws of Fla.

⁸ See Smart Marriages, The Coalition for Marriage, Family, and Couples Education, *Marriage and Divorce Legislation*, <http://www.smartmarriages.com/legislation.html> (last visited Mar. 15, 2010).

⁹ Chapter 2003-122, Laws of Fla.

¹⁰ See s. 383.0115, F.S.; Comm’n on Marriage & Family, *About the Commission*, <http://floridafamilies.org/aboutus.html> (last visited Mar. 15, 2010).

¹¹ Charlie Crist, Governor, *Florida Healthy Marriage Day*, available at <http://www.healthymarriageinfo.org/docs/floridaproclamation.pdf> (last visited Mar. 15, 2010).

¹² In addition to Florida, the following states have marriage handbooks: Alabama, Colorado, Louisiana, Oklahoma, Texas, Utah, and Washington. Examples of the handbooks can be found at the following links: Alabama, <http://www.aces.edu/pubs/docs/H/HE-0829/HE-0829.pdf>; Colorado, <http://www.smartmarriages.org/colorado.handbook.html> (handbook is no longer distributed, but is still posted online for reference); Louisiana, www.dss.state.la.us/assets/docs/searchable/OFS/GuideMarriageChild/MarriageMatters.pdf; Oklahoma, <http://www.marriageok.net/MarriageOKMagazine.pdf>; Texas, http://www.oag.state.tx.us/AG_Publications/pdfs/marriage.pdf; and Utah, http://extension.usu.edu/files/publications/publication/Marriage_2007.pdf; Washington, <http://www.courts.wa.gov/newsinfo/content/pdf/FamilyLawHandbook.pdf> (last visited Mar. 15, 2010).

¹³ Chapter 98-403, s. 7, Laws of Fla., codified in s. 741.0306, F.S. An example of the Florida family law handbook can be found at http://www.flclerks.com/PDF/2000_2001_pdfs/7-99_VERSION_Family_Law_Handbook.pdf (last visited Mar. 15, 2010).

¹⁴ Section 741.0306(1), F.S.

available, in hard copy or electronic media, from the clerk of the circuit court.¹⁵ The family law handbook must be reviewed and updated annually.¹⁶

The family law handbook may include, but is not limited to, the following information:

- Prenuptial agreements;
- Shared parental responsibility for children;
- Permanent relocation restrictions on parents with primary residential responsibility;
- Child support for minor children;
- Property rights, including equitable distribution, special equity, premarital property, and nonmarital property;
- Alimony;
- Domestic violence and child abuse and neglect;
- Court process for dissolution with or without legal assistance;
- Parent education course requirements for divorcing parents with children;
- Community resources that are available for separating or divorcing persons and their children; and
- Women's rights specified in the Battered Women's Bill of Rights.¹⁷

III. Effect of Proposed Changes:

This bill amends s. 741.0306, F.S., relating to the Florida family law handbook, which is renamed the Florida Marriage Handbook (handbook) by the bill. The bill divides the handbook into two parts: Part A, which will provide resources, information, and skills to help couples have a healthy and successful marriage; and Part B, which will explain Florida law pertaining to the rights and responsibilities of marital partners to each other and to their children, both during a marriage and upon dissolution. The information contained in Part B of the handbook is already contained in the family law handbook under current law and is provided by the Family Law Section of The Florida Bar (Family Law Section). This bill does not substantively amend the information provided by, or the responsibilities of, the Family Law Section under current law.

The bill creates the Marriage Education Committee (committee) to provide the information contained in Part A of the handbook. The bill does not specify how the committee and the Family Law Section will coordinate to ensure the two parts come together to create the handbook.

The committee shall consist of seven marriage education and family advocates appointed as follows:

- Three advocates appointed by the Governor;
- Two advocates appointed by the President of the Senate; and
- Two advocates appointed by the Speaker of the House of Representatives.

¹⁵ Section 741.0306(2), F.S.

¹⁶ Section 741.0306(4), F.S.

¹⁷ Section 741.0306(3), F.S.

The bill defines the term “marriage education and family advocate” as “an individual who meets the criteria to be a premarital preparation course provider as defined in s. 741.0305, or an individual who is certified in a marriage education curriculum and who has been providing marriage education services for at least 4 years.” Persons authorized to be a premarital preparation course provider pursuant to s. 741.0305(3), F.S., are:

- A psychologist licensed under ch. 490, F.S.;
- A clinical social worker licensed under ch. 491, F.S.;
- A marriage and family therapist licensed under ch. 491, F.S.;
- A mental health counselor licensed under ch. 491, F.S.;
- An official representative of a religious institution which is recognized under s. 496.404(19), F.S., if the representative has relevant training; or
- Any other provider designated by a judicial circuit, including, but not limited to, school counselors who are certified to offer such courses.

The committee members shall be appointed upon the bill becoming a law for a one-year term in order to initially create Part A the handbook. Every 10 years thereafter, the Governor, President of the Senate, and Speaker of the House of Representatives shall appoint a new committee to review and update Part A of the handbook. For administrative purposes only, the committee is placed within the Department of Children and Family Services.

The bill provides that the following information may be included in Part A of the handbook:

- Resources dealing with conflict resolution, communication skills, family expectations, financial responsibilities and management, and children and parenting responsibilities.
- Current information from marriage education and family advocates which is intended to assist couples in forming and maintaining a long-term marital relationship.
- Information regarding premarital education, marriage enrichment education, and resources that are available to help restore a marriage that is potentially moving toward dissolution.
- Contact information and website links to additional resources and local professional and community services to further assist couples.

It is unclear whether the intent of the bill, by recommending inclusion of information to local professional and community services in the handbook, is to have a customized handout for each county or city. If the intent is to continue to have one standardized handbook that is used throughout the entire state, the bill does not specify how the local professional and community service providers will be selected for inclusion in the handbook.

The bill also provides that the Florida Marriage Handbook must be reviewed and a report provided to the Legislature every 10 years in October, or as soon thereafter as practicable, explaining any changes made to the handbook and providing recommendations for additional updates. The committee is responsible for providing the report for Part A of the handbook, and the Family Law Section is responsible for providing the report for Part B of the handbook.

Finally, this bill makes technical and conforming changes.

This bill provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides that the Marriage Education Committee is to be placed within the Department of Children and Family Services (department) for administrative purposes only. Although the department may experience some administrative costs because of this requirement, it does not appear that those costs would be significant.

VI. Technical Deficiencies:

Under current law, subsection (3) of s. 741.0306, F.S., provides that the information contained in the handout “*may* be reviewed and updated annually.” However, in subsection (4), the statute provides that the information contained in the handout “*shall* be reviewed and updated annually.” These two provisions of current law appear to be inconsistent, and the Legislature may wish to amend the bill to correct the inconsistency.

Additionally, there are several parts of the bill, as well as sections of current law, that are repetitious.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Judiciary on March 18, 2010:

The committee substitute:

- Defines the term “marriage education and family advocate” to mean an individual qualified to be a premarital preparation course provider or an individual certified in a marriage education curriculum and who has been providing marriage education services for at least four years;
- Changes the number of marriage education and family advocates who sit on the Marriage Education Committee (committee) from six to seven;
- Provides that the Governor is to appoint three, rather than two, marriage education and family advocates for the committee;
- Specifies that the report on the Florida Marriage Handbook is to be provided to the Legislature every 10 years in October. The bill did not provide a date for when the report was due;
- Provides that the committee is responsible for submitting the report on Part A of the handbook to the Legislature, and that the Family Law Section of The Florida Bar is responsible for submitting the report on Part B of the handbook; and
- Makes technical changes.

- B. **Amendments:**

None.