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SENATE BILL 1182

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

MARK L. BOITANO

AN ACT

RELATING TO DOMESTIC AFFAIRS; REQUIRING PREMARITAL EDUCATION AND COUNSELING; LIMITING RELIANCE ON INCOMPATIBILITY AS A GROUNDS FOR DISSOLUTION OF MARRIAGE; REQUIRING PRE-DIVORCE COUNSELING UNDER CERTAIN CONDITIONS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 40-1-10 NMSA 1978 (being Laws 1905, Chapter 65, Section 1, as amended) is amended to read:

"40-1-10. LICENSE REQUIRED-- COUNTY CLERK-- PREMARITAL EDUCATION AND COUNSELING-- FEE. --

A. Each couple desiring to marry in New Mexico shall obtain a license from a county clerk and file ~~[the same]~~ it for recording in the county issuing the license, following the marriage ceremony. Except as provided in Section ~~[57-1-6 NMSA~~

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1 ~~1953]~~ 40-1-6 NMSA 1978, a county clerk shall issue no license
2 for the marriage of any person under the age of majority without
3 the consent of his parent or guardian. It ~~[shall be]~~ is the
4 duty of each county clerk to require the affidavit of at least
5 two reliable persons who are acquainted with the age of the
6 applicant for license, as to the age of whom a county clerk may
7 be in doubt, and the failure of any county clerk to perform his
8 duty under this section shall be grounds for the removal of the
9 county clerk from office in the manner provided for the removal
10 from office of county officers for misfeasance or malfeasance in
11 office.

12 B. A couple that applies for a marriage license
13 pursuant to the provisions of Subsection A of this section shall
14 together complete a program in premarital education or
15 counseling. If one or both the parties is a minor, a parent or
16 legal guardian of each minor party must attend the program. The
17 couple applying for the license shall verify completion of the
18 program by filing a statement to that effect and a certificate
19 of completion from the administrator of the premarital education
20 or counseling program with the application for the license.

21 C. A premarital education or counseling program
22 required by Subsection B of this section shall provide a minimum
23 of three hours of education or counseling and shall only be
24 conducted by one or more of the following:

25 (1) a licensed marriage and family therapist;

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- 1 (2) a licensed social worker;
2 (3) a licensed psychiatrist or licensed
3 psychologist; or
4 (4) an official representative of a religious
5 institution or his designee.

6 D. A premarital education or counseling program
7 shall include training for couples intending to marry that
8 covers the following topics:

- 9 (1) conflict management and communication
10 skills;
11 (2) roles of marriage partners;
12 (3) financial responsibilities;
13 (4) children and parenting responsibilities;

14 and

15 (5) if one of the parties is a minor, minors and
16 marriage and extended family roles and the marriage.

17 E. A couple applying for a marriage license may
18 choose not to comply with the provisions of Subsection B of this
19 section. If the couple chooses not to comply, the clerk shall
20 not deliver the marriage license until a period of sixty days
21 has elapsed from the date of the application."

22 Section 2. Section 40-4-1 NMSA 1978 (being Laws 1973,
23 Chapter 319, Section 1) is amended to read:

24 "40-4-1. DISSOLUTION OF MARRIAGE--LIMITATIONS ON
25 INCOMPATIBILITY. --

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1 A. On the petition of either party to a marriage,
2 and subject to the provisions of Subsection B of this section, a
3 district court may decree a dissolution of marriage on any of
4 the following grounds:

- 5 [A-] (1) incompatibility;
6 [B-] (2) cruel and inhuman treatment;
7 [C-] (3) adultery; or
8 [D-] (4) abandonment.

9 B. The court shall decree a dissolution of marriage
10 on the grounds of incompatibility only under the following
11 circumstances:

12 (1) if no minor children of the marriage reside
13 with either of the parties to the marriage and both parties to
14 the marriage agree, or both parties allege that incompatibility
15 exists; or

16 (2) if the district court finds that domestic
17 abuse, as that term is defined in the Family Violence Protection
18 Act, has occurred and has entered an order of protection
19 pursuant to the provisions of that act. "

20 Section 3. [NEW MATERIAL] COUNSELING REQUIRED PRIOR TO
21 DISSOLUTION OF MARRIAGE. --In a proceeding for dissolution of
22 marriage other than a proceeding in which incompatibility is
23 allowed as a grounds for dissolution of marriage, the court
24 shall require that the parties undergo counseling. In cases
25 where minor children are involved, the court shall require no

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1 less than six hours of counseling. Costs for the counseling
2 shall be paid by the parties and may be allocated between the
3 parties as determined by the court.