1997 ASSEMBLY BILL 428

June 17, 1997 – Introduced by Representatives FOTI, LADWIG, SCHAFER, MUSSER, J. LEHMAN, JENSEN, OTT, GUNDERSON, DOBYNS, FREESE, WARD, AINSWORTH, KELSO, OLSEN, SYKORA, SERATTI, OWENS, WALKER, GOETSCH and ALBERS, cosponsored by Senators ROESSLER and FARROW. Referred to Committee on Children and Families.

1 AN ACT *to amend* 765.12 (1); and *to create* 765.10 of the statutes; **relating to:**

2 requiring an HIV test for the receipt of a marriage license.

Analysis by the Legislative Reference Bureau

Under current law, a county clerk must issue marriage licenses to applicants who fulfill requirements as to age or parental consent, state residency, timeliness and identification.

This bill requires that each party applying for a marriage license in this state present to the county clerk a physician's statement that, no longer than 30 days before applying, the party has been tested for the presence of HIV, the virus that causes acquired immunodeficiency syndrome (AIDS), and that each party intending to marry has provided the other party with the test results. The bill permits a county clerk who reasonably suspects that a physician's statement is invalid to contact the physician. The bill prohibits refusal to issue a marriage license solely because the party is infected with HIV or has an illness or medical condition that is caused by, arises from or is related to an HIV infection. Parties who wish to marry are not required to provide the county clerk with the results of the tests.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 765.10 of the statutes is created to read:

1   **765.10 HIV test required. (1)** In this section:

2   (a) "HIV" means any strain of the human immunodeficiency virus that causes

3   acquired immunodeficiency syndrome.

4   (b) "HIV infection" means the pathological state produced by a human body in

5   response to the presence of HIV.

6   **(2)** A county clerk may not issue a marriage license unless each party intending

7   to marry does all of the following:

8   (a) Provides to the county clerk a statement of a physician that, no more than

9   30 days before applying for the marriage license, the party has been tested for the

10 presence of HIV.

11   (b) Swears or affirms that he or she has provided the other party intending to

12 marry with the result of the test described in par. (a).

13   **(3)** If a county clerk reasonably suspects that the statement of a physician that

14 a party provides under sub. (2) (a) is invalid, he or she may inquire of the physician,

15 and, notwithstanding s. 146.82 (1), the physician may inform the county clerk as to

16 whether the party was tested.

17   **(4)** No county clerk who has access to a test result for the presence of HIV may

18 refuse to issue a marriage license under s. 765.12 solely because a party applying for

19 a marriage license has an HIV infection or an illness or medical condition that is

20 caused by, arises from or is related to an HIV infection.

21   **(5)** A party intending to marry is not required to provide the county clerk with

22 the result of the test described in sub. (2) (a).

23   **Section 2.** 765.12 (1) of the statutes is amended to read:

24   765.12 **(1)** If ss. 765.02, 765.05, 765.08 ~~and,~~ 765.09 <u>and 765.10</u> are complied

25 with, and if there is no prohibition against or legal objection to the marriage, the

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1   county clerk shall issue a marriage license. With each marriage license the county

2   clerk shall provide a pamphlet describing the causes and effects of fetal alcohol

3   syndrome. After the application for the marriage license the clerk shall, upon the

4   sworn statement of either of the applicants, correct any erroneous, false or

5   insufficient statement in the marriage license or in the application therefor which

6   shall come to the clerk's attention prior to the marriage and shall show the corrected

7   statement as soon as reasonably possible to the other applicant.

8   **(END)**