

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2041

2007 SENATE JUDICIARY

SB 2041

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2041

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 10, 2007

Recorder Job Number: 852

Committee Clerk Signature *Maria Holberg*

Minutes: Relating to marriage license fees.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following testimony:

Testimony In Support of Bill:

Vonette Richter – Legislative Council (meter :09) Introduced and reviewed the bill. Gave out Interim study – Att. #1.

Sen. Lyson asked if the fiscal noted includes a FTE with Human Services (meter 6:55) They did not see this as a large increase in duties.

Sen. Nelson questioned (meter 7:57) If this is an approved TANF Fund designation? Yes under marriage promotion.

Sen Olafson stated (meter 8:41) that this bill has two parts. 1. To encourage people to get pre-marital counseling and 2. Allow people who could not afford counseling to be able to use it.

Sen. Dick Dever, Dist. #32 (meter 9:59) Gave testimony – Att. #2. Submitted additional testimony of Sean E. Brotherson, PhD Att. #2b.

Sen. Nething, Chm, stated how in today's (meter 19:19) society of single family homes life has changed. Discussion of vital statistics.

Sen. Nelson (meter 24:33) questioned how the amount of time for the counseling services was established.

Sen. Fiebiger (meter 26:13) questioned the definition of "councilor".

Tom Freier, Executive Director of ND Family Alliance (meter 28:30) Gave Testimony – Att. #3

Christopher Dobson, Legal Council for the ND Catholic Conference (meter 33:22) Gave testimony in support of bill. Interim Study of social status data and asked what the state can do. Pre-marriage counseling was one of the options discussed and in how it would be directly related to the TANF fund. He discussed different ways to approach costing and related what the Catholic Church currently does. Mr. Dobson related his personal experience of growing up with out a "father" influence and how this would help him when he became a father (meter 38:46

Sen. Nelson questioned (meter 37:00) how less and less people have a religious ceremony and how would this be effective.

Sen. Fieberger stated (meter 41:19) that are we "preaching to the choir" with this bill. The people that would use this program already are doing it anyways. Mr. Dobbs replied that in states that have done this initially this is true, but after the word gets out the numbers increase for people who would not have used these services.

Keith Richardson – Pastor of Cornerstone Church, Bismarck ND (meter 43:01) discussed his personal experience with premarital counseling. Stating that society's views today directly reflect the views on marriage are very similar. The bill is needed to say "our state values marriage".

Larry Giese, Pastor 1st Lutheran Church, Mandan (meter 45:46) Gave testimony in support of bill – Att. #4a recommended amendment to clarify "counselor" Att. #4b. Committee discussed a better wording amendment to fulfill the requirement.

Testimony in Opposition of the Bill:

None

Testimony Neutral to the Bill:

None

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2041**

Senate Judiciary Committee

Check here for Conference Committee

Hearing Date: January 17, 2007

Recorder Job Number: 1287

Committee Clerk Signature

Maria L Solberg

Minutes: Relating to marriage license fees.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Nething passes out amendment – Att. #1 and a memo from **Larry Giese** Att. #1b and 1c

The committee discussed what type on "license" the certified councilor would be, along with the above memos. Discussion of the perception of the bill is in the public.

Sen. Lyson made the motion to Do Pass Amendment 31 and **Sen. Olafson** seconded the amendment. All members were in favor except for **Sen. Marcellais** and the motion passes.

Sen. Nelson made the motion to DO NOT Pass SB 2041 and **Sen. Marcellais** seconded the motion. **Sen. Nething**, **Sen. Lyson** and **Sen. Olafson** were opposed to the motion and **Sen. Fiebiger**, **Sen. Marcellais** and **Sen. Nelson** were in support of the motion.

Motion Fails

Sen. Lyson makes the motion to Do Pass SB 2041 as amended and **Sen. Olafson** seconds the motion. **Sen. Nething**, **Sen. Lyson** and **Sen. Olafson** are in favor. **Sen. Fiebiger**, **Sen. Marcellais** and **Sen. Nelson** are against. Motion Fails.

Sen. Nelson makes the motion "without recommendation- as amended" and **Sen. Lyson** seconds the motion. All members were in favor and the motion passes.

Carrier: **Sen. Olafson.**

Senator David Nething, Chairman closed the hearing.

FISCAL NOTE
 Requested by Legislative Council
 12/26/2006

Bill/Resolution No.: SB 2041

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$110,000	\$0	\$110,000
Appropriations	\$0	\$0	\$0	\$0	\$0	\$110,000

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill provides for a discount of up to \$25 on the cost of a marriage license for qualifying individuals who complete premarital counseling requirements as set forth in the bill. The bill also provides for the DHS to reimburse the counties for any discounts given on marriage license fees.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The fiscal impact was determined by assuming that half of the eligible individuals applying for marriage licenses would take advantage of the discount.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The effect of this bill for the 2007-09 biennium is to increase grant expenditures by \$110,000, all of which would be federal funds. For the 2009-11 biennium grant expenditures would again increase by \$110,000, all of which would be federal funds.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Bill provides an appropriation of \$110,000 of federal funds for the 2005-07 biennium. The appropriation is not included in the executive budget. For the 2009-11 biennium an appropriation of \$110,000 would be required in the grants line.

Name:	Brenda M. Weisz	Agency:	DHS
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Phone Number: 701-258-6149

Date Prepared: 01/03/2007

REPORT OF STANDING COMMITTEE

SB 2041: Judiciary Committee (Sen. Nething, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION and BE REREFERRED to the Appropriations Committee (3 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2041 was placed on the Sixth order on the calendar.

Page 3, line 18, replace "trained or certified" with "licensed" and after "counselor" insert "or therapist"

Renumber accordingly

2007 SENATE APPROPRIATIONS

SB 2041

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2041

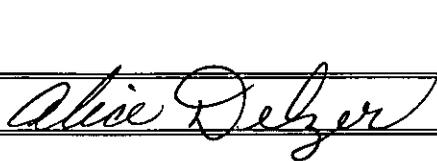
Senate Appropriations Committee

Check here for Conference Committee

Hearing Date: 01-30-07

Recorder Job Number: 2259

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2041 at 9:45 am on January 30, 2007 regarding the NDCC Marriage License Fees and Premarital Counseling Appropriations.

Vonette Richter, Legislative Council explained the purpose of the bill.

Chairman Holmberg asked about the money taken from TANIF Funds. He was informed yes.

Senator Bowman had questions regarding the extra cost in technology.

Tom D. Freier, ND Family Alliance provided written testimony (1) and gave oral testimony in support of the bill.

Senator Mathern had questions concerning the TANIF money funding from the federal government.

There was discussion regarding the matching funds with Maintenance of Effort money.

Senator Kilzer inquired about matching funds and federal dollars and asked for breakdown of the percentage of the matching funds with federal dollars.

Chairman Holmberg had questions concerning the Maintenance of Effort Program.

There was discussion about the concern the counties have of the added expense with technology if this bill does pass.

Senator Christmann inquired how much money was involved.

Chairman Holmberg closed the hearing on SB 2041. Discussion followed.

Senator Tallackson moved for a DO PASS.

Senator Christmann asked if the Counties would want input into this bill, as it will affect them financially. Further discussion followed about whether TANIF can fund this

Senator Tallackson offered to withdraw his DO PASS, however, **Chairman Holmberg** said to go ahead and take the roll on the **DO PASS**. **A roll call was taken resulting in a 14 yeas, 0 no, 0 absent. The motion carried. Senator Olafson will carry the bill.**

The hearing on SB 2041 was closed.

Date: 1-30-07
Roll Call Vote #: /

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2041

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken do pass

Motion Made By Tallackson Seconded By Grindberg

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm	✓		Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 13 No _____

Absent 0

Floor Assignment Jud Com 2041 Sen Olafson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 30, 2007 1:08 p.m.

Module No: SR-20-1530
Carrier: Olafson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2041, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed SB 2041 was placed on the Eleventh order on the calendar.

2007 HOUSE HUMAN SERVICES

SB 2041

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2041

House Human Services Committee

Check here for Conference Committee

Hearing Date February 26, 2007

Recorder Job Number: 3843

Committee Clerk Signature



Minutes:

Chairman Price: We will open the hearing on SB 2041.

Vonette Richter, with Legislative Council staff: I am here to go through the bill and some of the changes and costs. Attached is a portion of the report from the Legislative council's interim judiciary committee. The funds can be used to encourage two parent families.

In section one, the committee questions the voucher after receiving 4 hours of counseling before marriage, who would offer the counseling, and the counseling could cost more than they are receiving back in a voucher when you are talking about qualified counseling. Many churches are already doing counseling, and many of them are already requiring counseling. Section 4 is the appropriation, and the TANIF funds. The dollar amount was based upon the marriages last year and times that by 25.00 and estimated about 50% of the couples would take advantage of this discount.

Senator Dick Dever, District 32: You might want to think about having someone come and explain to you the purposes of TANIF, and what these funds can be used for. See attached testimony, and the attachment of ND teens out of wed lock births and pregnancies. I would like to distribute some testimony from Dr Sean Brotherson who was not able to be here. See attached.

Representative Potter: I am still wondering about the 4 hours. It seems like not very much looking at what is to be discussed in the 4 hours.

Senator Dever: The bill that was introduced in the last session was 12 hours. There was some testimony of some of the churches that they do 8 hours. If you don't think 4 hours is enough, I don't disagree with that. My concern is simply that people sit down and discuss what their situations might be before they get into the situation.

Representative Conrad: I am a little concerned here about the language we are using. What you are saying out of extension is providing education, and in the bill it tells about counseling, and it says very specifically they do not provide counseling. I would like to see the fiscal note for extension service on them providing that education. Is counseling education or is education counseling is that what you are saying?

Senator Dever: I would be willing to bet it would say counseling is educational too.

Representative Weisz: Do you have any data on how many are doing pre marital counseling now?

Senator Dever: No, I don't. I know some churches require it.

Tom Freier, representing the ND Family Alliance: See attached testimony. \$25.00 may not sound that great, but they will have that option. The bill is not mandated but an option. Hopefully the benefits will be great. I think it is a wise investment.

Chairman Price: It is my assumption in most cases if you are married in the church; most churches require some premarital counseling. So that would leave couples not married in the church 25.00 voucher is not going to pay for 4 hours of a licensed councilor or therapist. Do you really think many people will access them if it is going to cost them money?

Mr. Freier: We did have an individual from the clergy who talked about that being an issue and there are other folks that make themselves available to help in any counseling, and he thought they would make themselves available.

Chairman Price: Do you plan to put a directory out there that is going to give this information? If they go to the court house they won't know their options. It is not like looking in the phone book for a licensed therapist.

Mr Freier: I can't speak beyond the clergy, and the volunteers with in the church. It doesn't necessarily have to do with religion. It is an opportunity to visit about this life long adventure.

Representative Potter: Would the 110,000 dollars coming from TANIF funds, do you think that is an appropriate place for the money to come from?

Mr. Freier: Not necessarily how appropriate it is, but I know that as been testified, that is a source of funds that is available and was commissioned to be utilized for that purpose.

Representative Conrad: It might be better to take those 110,000 for marital counseling for people who wouldn't have it available to them through their church. That would be another option that might get as much counseling done for our dollar. Right now we are putting that money into people that are already getting counseling.

Mr. Freier: I suppose that might be another avenue. I think the mechanism to do that might be a little more difficult.

Christopher Dodson, Executive Director of the ND Catholic Conference: See attached testimony. This is one way the state can help develop healthy marriages. This is a good thing for children, adults and society. See attachment on how can the State Strengthen the Institute of Marriage. You asked about access and how available this will be. Testimony that was provided last session and in the interim, there was talk about extension service , and also the Social Service agencies, and pre marital counseling outside of the churches. Some churches

are also discussing whether they would make a section of there house made available to couples that do not belong to their church. They are interested in the social good of marriage not just the religious good. I like the idea of getting a directory available.

Representative Uglem: I am not comfortable with the bill. People who would take advantage of this may already be getting counseling. Was it discussed in the interim to maybe make 2 hours mandatory to be able to get a marriage license with out reimbursement of funds? Are there any other states that do require counseling?

Mr. Dodson: Do you placing undo right to marriage by making it mandatory. To my knowledge I can't think of any other states that do. I know that some TANIF programs require pre marital counseling, but not a condition to the licensing.

Representative Conrad: The cost of 4 hours of counseling out of the church environment, if we took that 110,000 we could provide counseling for 550 couple that wouldn't otherwise be getting it. Wouldn't that be better use of our money than using it for people who are already getting it?

Mr. Dodson: I guess I would question the 200.00. I was thinking of catholic services and the services no matter what religion. .

Chairman Price: Is anyone else in favor of SB 2041? Any one opposed? If not we will close the hearing on SB 2041

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2041

House Human Services Committee

Check here for Conference Committee

Hearing Date: February 28, 2007

Recorder Job Number: 1411

Committee Clerk Signature

Judy Schock

Minutes:

Chairman Price: Let's take out SB 2041. What would the committee like to do?

Representative Potter: I would move a do not pass, seconded by **Representative Conrad**.

The **committee discusses** the counseling if you go to a non religion counselor, what would they charge. Extension would not be available to do this. This is counseling not education.

People who go to a justice of the peace won't utilize this service. The goal is for them to think about the commitment before it happens. It is just not enough of an incentive. Marital council should be for everyone with 2 hours and no refunds.

The vote was taken with 11 yeas, 1 nay, and 0 absent. **Representative Potter** will carry the bill to the floor.

REPORT OF STANDING COMMITTEE (410)
February 28, 2007 5:22 p.m.

Module No: HR-28-4139
Carrier: Potter
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2041, as engrossed: Human Services Committee (Rep. Price, Chairman)
recommends **DO NOT PASS** (11 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING).
Engrossed SB 2041 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2041

Att # 1

1-17-07

Prepared by Tom Freier & Larry Giese
1/12/07

PROPOSED AMENDMENTS TO SENATE BILL 2041

Page 3 line 18, after c. Licensed counselor or therapist.

Nething, David E.

From: Larry Giese [intergen_pastor.firstlutheran@midconetwork.com]
Sent: Tuesday, January 16, 2007 5:09 PM
To: Nething, David E.
Subject: SB2041

Dear Senator Nething,

I had a question about SB 2041 after a telephone conversation this afternoon with a couple from Washington State. Will the premarital counseling completed out of state by a licensed counselor, therapist, or pastor be acceptable to receive the voucher? They plan to marry here in May of 2008. Or, will the bill be geared for instate couples only?

Is there an opinion on this? Thanks for the consideration! Pastor Larry J. Giese
First Lutheran Church, Mandan, ND

1/17/2007

Nething, David E.

From: Larry Giese [intergen_pastor.firstlutheran@midconetwork.com]
Sent: Monday, January 15, 2007 4:19 PM
To: Nething, David E.
Subject: SB2041

Hello Senator Nething, Over the weekend I was in contact with Tom Frier (Family Alliance). We talked about language for SB 2041. I believe you have a copy of my written testimony for page 3 line 18 where it talks about trained or certified counselor. I believe it would be helpful to change the language to "licensed counselor or therapist." These terms are then defined by Century Code in the respective bills that licensed social workers, marriage and family therapists, clinical psychologists, etc. There is also leeway for clergy in all these bills to my knowledge--I know clergy are exempt in the marriage and family therapy bill from the 2005 session. In reference to my comments about procedure with Human Services and the voucher, I'm not sure the bill needs that language. I think Human Services has a way of informing the public through various media resources to accomplish this task. My personal concern, is to have them readily available to process, whether, I as a pastor register with Human Services and have a supply of vouchers with me and I inform Human Services or if the couple needs to contact Human Services directly, and where the voucher could be secured. I fear adding an additional step in preparing for marriage may discourage some couples from getting the voucher, and/or the premarital work which definitely has the potential to have a positive impact on the developing relationship. Thanks for your time. Please email if you have any further questions or comments. I thoroughly enjoyed your committee last Wednesday--probing questions, and raising pertinent issues! I like to see government working in this regard, making ND a great state to live and work!

Pastor Larry Giese
First Lutheran Church, Mandan, ND

1/15/2007

Testimony on SB 2041
Senator Dick Dever
January 10, 2007

Mr. Chairman, members of the committee, for the record I am Senator Dick Dever. I represent District 32 here in Bismarck.

Some of you will recall SB 2361 from the 2005 legislative session, which dealt with this same issue. You might recall that the bill passed the Senate with an increase in the cost of a marriage license at the request of the county recorders. It was amended in the House to further increase the cost of a license to the benefit of the Domestic Violence fund and remove any reference to counseling. In conference committee, the bill was amended to provide for a study of the issue. This bill is a result of that study in the Interim Judiciary Committee.

One of the frustrations that I felt in dealing with the previous bill was that nobody expressed any real reasons for any objections to the counseling part of the bill. I would like to mention several items that I sensed were objections.

Those objections are:

1. Separation of Church and State
2. 32% of couples do not get married by clergy and do not have access to counseling
3. It is an intrusion on the family
4. Women should not be forced to stay in an abusive relationship
5. Counseling does not work
6. It is feel good legislation

I would like to simply make a few comments on each of these points.

Dr. Sean Brotherson is with the NDSU Extension Service. He is involved with government initiatives that encourage marriage and family support. He testified in the interim committee, but was unable to be here this morning. With his permission, I am attaching his testimony to mine. He also sent me an e-mail yesterday discussing the involvement of the Extension Service with parenting education. He is of the feeling that they could provide pre-marital education as a part of that education. If an amendment to the bill would be necessary to reflect that willingness, I would see that as a friendly amendment. If you would like further information from him, I know that you would find him helpful.

Thank you, Mr. Chairman, and I would be happy to respond to any questions.

26
1-10-07

**Written Testimony of Sean E. Brotherson, PhD
Submitted to the Judiciary Committee, ND State Legislature
March 20, 2006**

Testimony Regarding the "Marriage Laws Study"

I appreciate the opportunity to provide testimony to the Judiciary Committee on the subject of family life, marriage, and the role of legislation and other governmental approaches in crafting public policies that strengthen these institutions. I commend the committee for its efforts to pursue a greater understanding of current and emerging efforts in the public policy arena to facilitate and strengthen the development of healthy marital relationships, parent-child relationships, and social cohesion.

Currently, I work as assistant professor and extension family science specialist with the NDSU Extension Service at North Dakota State University. In this position, I am responsible for conducting research on family life and developing and implementing educational programs to support children, families, and communities. I also serve as a resource specialist to state and local agencies and organizations in North Dakota on issues of child and family well-being. During the past decade, I have written and published on governmental approaches to strengthening marriage and fatherhood, father-child relationships, and family stress. I have served on the public policy committee of the National Council on Family Relations, worked with a national Cooperative Extension task force on marriage and relationship education, and directed a regional initiative on strengthening father involvement. These and other professional experiences have allowed me to observe the development of a variety of public policy strategies to support and strengthen marital and family relationships. I will direct my comments toward the essential elements of the study committee's focus, which include preparation for marriage, availability of educational programs to strengthen marriage and parenting, and divorce-related education.

Governmental Approaches to Strengthening Marriage Relationships

Government has traditionally taken an interest in creating an environment for healthy family relationships due to the recognition that healthy families, and strong marriages, provide the seedbed for a good and virtuous society. At the American Bar Association Annual Meeting in 1993, a legal task force entitled the "American Bar Association Presidential Working Group on the Unmet Legal Needs of Children and Their Families" issued its official report on this nation's "children at risk." The report began with an interesting parable that went as follows:

Two men were fishing by a stream when an infant floated past. The first fisherman jumped in, rescued the child and handed him up to safety in the second fisherman's arms. No sooner had they settled the child down on the grass, when a second infant floated along. Again, the fisherman jumped in and rescued the baby. A third baby floated along, a fourth, and so on. The fishermen saved each

in turn. Finally, a whole group of babies came floating downstream. The first fisherman grabbed as many as he could and looked up to see his friend walking away. "Hey," he shouted, "what's wrong with you? Aren't you going to help me save these babies?" To which the second fisherman replied, "You save these babies, I'm going upstream to see who's throwing all those babies into the river."

The report went on to profile issues of concern, outline critical themes, and provide a set of recommendations for a "legal action agenda" to address the needs of children and families at risk. Several factors identified as critical in putting children at risk focused on marriage (or rather its absence) as a context for childrearing, including the growth of single parent families, higher rates of out-of-wedlock or teen childbirth, and an increased divorce rate. Children in all of these circumstances are put at greater risk of being raised in poverty.

The report concluded with an ambitious set of legislative recommendations for its agenda that included income redistribution measures; availability of child care; adequate housing; equitable school financing; gun control legislation; universal health care; environmental safety; enforcement of child support; and so on.¹ Perhaps the most astonishing thing about the report was the fact that it accurately identified the weakened context of marriage as a factor in placing children at risk and suggested that society ought to focus its preventive efforts "upstream," and yet no single proposal or recommendation in the report targeted strengthening marriage itself through legal means as a proper item of attention. The role of legal instruments in fashioning a society that upholds marriage thus seems to be a matter of some question.

Two questions that quickly emerge in considering legislative efforts to support and strengthen marriage include: (1) What reasons exist for giving greater attention to support for healthy marital relationships? (2) How might citizens perceive governmental efforts to support and strengthen healthy marital relationships?

Benefits Accruing from Healthy Marriages

Today we have a large body of social science research on marriage and its effects. Overall, the available research evidence persuasively demonstrates the advantages of marriage for children, adults and the society. Though it is impossible to cover the entire scope of the research in this limited space, let me summarize a few key findings.

- Marriage—especially if it is low-conflict and long-lasting—is a source of economic, educational and social advantage for most children. Researchers now agree that, except in cases of high and unremitting parental conflict, children who grow up in households with their married mother and father do better on a wide range of economic, social, educational, and emotional measures than do children in other kinds of family arrangements.²
- Children from intact families are far less likely to be poor or to experience persistent economic insecurity. In fact, if it were not for the demographic shift from married parent families to other kinds of family structures in recent decades, the child poverty

rate would be significantly lower. For example, according to one study, if family structure had not changed between 1960 and 98, the black child poverty rate in 1998 would have been 28.4 percent rather than 45.6 percent, and the white child poverty rate would have been 11.4 percent rather than 15.4 percent.³ Children who grow up in married parent families are shielded from the economic effects of parental divorce. Estimates suggest that children experience a 70 percent drop in their household income in the immediate aftermath of divorce and, unless there is a remarriage, the income is still 40 to 45 percent lower six years later than for children in intact families.⁴

- Children from intact married parent families are more likely to stay in school. According to a 1994 research review by Sara McLanahan and Gary Sandefur, the risk of high school dropout for children from two-parent biological families is substantially less than that for those from single parent or stepfamilies.⁵ Children from married parent families also have fewer behavioral or school attendance problems and higher levels of educational attainment.
- Warm, responsive, firm and fair parenting helps to promote healthy emotional development and to foster emotional resilience in children. Parents, stepparents and grandparents in all kinds of family arrangements can, and do, manage to establish emotionally warm and secure environments, often against daunting odds. However, parents in long-lasting, low-conflict marriages are more likely to have the time, resources, relational and residential stability to coparent effectively. On average, children reared in married parent families are less vulnerable to serious emotional illness, depression and suicide than children in nonintact families. In addition, young men from married parent households have more positive attitudes toward women, children and family life than men who grew up in nonintact families.⁶
- Married people, on average, are happier, healthier, wealthier, enjoy longer lives, and report greater sexual satisfaction than single, divorced or cohabiting individuals.⁷ They have better health habits and receive more regular health care. They are less likely to attempt or to commit suicide. They are also more likely to enjoy close and supportive relationships with their close relatives and to have a wider social support network. They are better equipped to cope with major life crises, such as severe illness, job loss, and extraordinary care needs of sick children or aging parents.

In addition to the variety of benefits that seem to accrue to children, adults, and society as a result of healthy marriages, there are also significant costs that occur when marriages falter. While we often note the significant impacts of divorce or unhappy marriages on the mental and emotional health of children and adults, in a very real sense there is also a significant economic impact that occurs due to divorce.

Although divorce is a challenging personal issue for those involved, it is more than a personal issue. The public bears a substantial economic cost for divorce. Another study by a Utah State University researcher conservatively estimated that divorce in the United States costs more than \$33 billion a year. The cost to North Dakota's government of nearly 2,000 divorces a year, according to this research, would result in more than \$26 million in direct and indirect costs, about \$13,000 per divorce. The cost to the federal government of the state's divorces would be \$35 to \$40 million.⁸ These substantial costs

include child support enforcement, Medicaid expenses, Temporary Assistance to Needy Families funds, and increased costs to society associated with social problems linked to family breakdown. These figures do not include the additional personal costs to the divorcing family members (e.g., lawyer fees, relocation expenses, etc.), which the researchers estimated to be, on average, nearly \$15,000 per divorce.

Divorce is a significant problem in our society. And it has an expensive price tag. Moreover, divorce intrusively inserts government control into people's personal lives in the form of divorce settlements, child support enforcement, visitation rights, and many other family decision-making issues. Healthy, stable marriages get the work of society done with minimal government involvement in personal lives.

Support for Governmental Efforts to Support Marriage

Recent research suggests that U.S. citizens are generally supportive of efforts to strengthen marriage. For example, 69% of Oklahomans in a statewide survey thought divorces should be harder to obtain, and 76% supported longer waiting periods prior to divorce. Eight of 10 never-married Oklahomans expressed interest in relationship education, two-thirds of married Oklahomans said they would consider usage of such education, and 85% of respondents indicated support for a statewide effort to strengthen marriage and reduce divorce.⁹ In Utah, 81% of those receiving government assistance (TANF) said they would consider using services to strengthen marriage, and 87% suggested that a statewide initiative to strengthen marriage and reduce divorce is a "good" or "very good" idea.¹⁰ These examples suggest some substantive interest in information and services related to strengthening marriage. Although specific studies on such attitudes have not been conducted in North Dakota, it is logical to assume that there would be similar rates of interest in this state.

Governmental Efforts and Preparation for Marriage

Preparation for the challenges of marital responsibility is one dimension of strengthening marriage receiving increased governmental attention. In particular, this may be due to the fact that a majority of divorce tends to occur in the early years of marriage (first three to five years), perhaps suggesting the need for better marital preparation.¹¹ The transition from individual to couple or marital status represents a common experience in the development of a couple relationship, although individual couples enter this transition differently and experience it in multiple ways. Governmental efforts to assist preparation for healthy marriage relationships include (1) incentives to participate in education or counseling prior to marriage, (2) modification of tax or economic assistance policies to benefit couples, and (3) delivery of educational programs on relationships to adolescents and youth. I will comment here on the first and third approaches.

Incentives or Requirements for Premarital Education or Counseling Prior to Marriage.

An emerging pattern in governmental attempts to influence family relationships prior to marriage involves providing incentives to couples or creating requirements that encourage them to pursue premarital education or counseling. A summary of recent state-level incentive activities showed that in 2002 five states had implemented policies to reduce marriage license fees or decrease waiting periods to marry for couples participating in premarital education or counseling. For example, couples in Minnesota receive a \$50 reduction in the cost of a marriage license if they take a 12-hour premarital course that includes training in communication and other topics. Numerous other states also have proposed or adopted similar legislation that seeks to provide incentives for preparation for marriage and make it more readily available.¹² Such incentives appeal to the need for marital preparation while also preserving voluntary action for couples affected by state policies.

In addition to incentive-based approaches, some states encourage couples to have premarital counseling or education or to receive educational resources about marriage. Since 1996 at least six states have attempted to require premarital counseling as a prerequisite to receiving a marriage license, but none of these bills passed into law. It may be that the "mandatory requirement" approach in these instances is seen as too heavy-handed and intrusive. A more successful policy-making approach occurred among states that invested in providing resources or educational opportunities to marrying couples. As examples, activities funded in particular states to promote preparation for healthy marriage include: Marriage handbooks or manuals detailing rights and responsibilities or other issues (AZ, FL, TX, UT); marriage and relationship skills programs that couples may attend (AL, AZ, FL, OK, UT); a video and web site for couples planning to marry (UT); pilot demonstration projects to encourage healthy relationship development among nonmarried couples (often called "family formation") (MI); research to further understand premarital and marital dynamics (AL, OK, TX); and monies for the development of community-based marriage policies or initiatives (WI).¹³ This variety of activities to stimulate better preparation for marriage is likely to increase significantly, if states continue to focus on this topic and access to federal funding expands.

Educational Programs on Relationships and Marriage to Adolescents and Youth

Another category of governmental efforts is linked with providing relationship and marriage education to adolescents and youth in school settings. Relationship education programs targeted at high school settings are more common, and include the video-based program *Partners* from the American Bar Association and the Art of Loving Well Project from Boston University.¹⁴ Governmental efforts to support better preparation for marriage or successful couple relationships through school-based programs sometimes depend on decision-making in local school districts. However, Gardiner et al. (2002) noted that at least nine states pursued statewide efforts to promote marriage and relationship skills education in public school curricula for high school students. Some recent research done with high school students in California and South

Dakota suggests that such school-based programs can positively impact attitudes toward marriage and divorce, conflict resolution skills, and risk-taking behavior among these students.¹⁵ Florida has been explicit in its attempt to further this particular policy step, mandating high school curricula to include marriage and relationship skills programs in all public schools as part of its 1998 Marriage Preparation and Preservation Act. Attempts to institutionalize such courses at the high school level likely will become increasingly common.

Effectiveness of Premarital Education Programs

Can formal premarital education achieve its goal of helping couples form and sustain healthy marriages? And does it have the ability to reduce divorce? The evidence on this question is not yet definitive. But an increasing body of recent research provides evidence that the answer to these questions is yes.

A formal synthesis of studies evaluating the effectiveness of formal marriage preparation programs by scholars from Brigham Young University and the University of Minnesota found evidence supporting the effectiveness of these programs.¹⁶ Of the 13 most rigorous studies, 12 found that couples who participated in premarital education programs had significantly higher relationship skills and marital quality after the program compared to couples who did not participate. The researchers found that the average person who participated in a premarital prevention program was better off after the program than 79 percent of the control-group couples (who did not receive a similar educational experience). Similarly, premarital program participants had a 69 percent chance of improving their relationship quality compared to only a 31 percent chance of improvement for non-participants. In the seven studies that included follow-up evaluations six months to three years after the end of these premarital programs, program participants generally maintained the relationship skills they were taught, including effective conflict negotiation, positive communication, empathy, and self-disclosure. However, more research is needed to assess the effectiveness of premarital education for more disadvantaged populations. Two large-scale research projects funded by the federal government are underway that will be able to investigate this question.¹⁷

In another recent study, researchers following newlywed couples in Louisiana for five years found that couples who sought out premarital education had a substantially lower rate of separation and divorce in the early years of marriage, even controlling for a host of other factors that could influence the likelihood of divorce.¹⁸ In another study, 84 percent of Utahns who said they participated in formal premarital education reported that they were "very happy" in their marriages compared to 71 percent who did not participate in formal premarital education.¹⁹ Those who participated in formal premarital education also reported higher scores on talking to each other as friends, lower negative interaction scores, and lower divorce proneness scores. Similar surveys of representative samples of adults in other states found that large majorities of those who participated in formal marriage preparation said it positively affected their relationship (CA [75 percent]; FL [77 percent]; NY [80 percent], TX [83 percent]).²⁰

A recent study of Oklahoma adults also found that those who participated in premarital education had higher marital satisfaction and commitment than those who did not participate.²¹ Similarly, those who participated in premarital education also reported less marital conflict. Marital conflict decreased as time in premarital education (up to 10 hours) increased; marital satisfaction increased as time in premarital education (up to 20 hours) increased. Researchers found no adverse effects of participation in premarital education. Finally, premarital education was associated with a 31 percent decline in the odds of divorce. For individuals who were not involved in premarital education, the probability of divorce within the first five years of marriage was significantly higher than for those who had been involved in premarital education, although this finding applied primarily to individuals with higher levels of education.

In summary, there is mounting evidence that participation in premarital education makes a positive difference in marital quality. Although more research is needed, there also is some evidence that participation in premarital education reduces the risk of divorce. Larger and more sophisticated research projects are underway to assess the effectiveness of marital preparation programs on more diverse socioeconomic and ethnic populations. In the meantime, there is reason for optimism about the ability of premarital education to help promote healthy marriages and reduce divorce.

Governmental Efforts and Assisting Couples Within Marriage

Some important legislative changes regarding the provision of support to couples within marriage have also occurred in several states. One trend is a movement in some areas to provide more benefits to married couples and strengthen commitment within marriages. It is also important to consider whether sufficient resources exist within a state to provide educational resources and programs if they are encouraged by legislation.

Promotion of Marital Responsibility and Commitment

A recognition of the importance of marriage has led some jurisdictions to work to strengthen existing marriages. In Utah, former governor Michael Leavitt established a Governor's Commission on Marriage in 1998, charged with finding ways that the State could advance marriage strengthening policies. Activities have included statewide conferences each year, recognition for long-married couples, training in effective educational curricula, development of a state website and video for newly married couples, a statewide study on attitudes toward marriage and divorce, and many other efforts. Some other states have held marriage conferences to discuss how to strengthen marriage.²² Recently, Louisiana Governor Mike Foster issued an executive order calling for a review of state laws, rules, and programs with an aim to ensure neutrality in regards to marriage, "so that marriage is not discouraged, discriminated against and/or undermined" (Louisiana Executive Order, 2001). The Attorney General of South Carolina established a commission on marriage and family to review state laws to find which might subvert marriage (Marriage, Family Commission, 2001). The proposed federal budget of President George Bush includes provisions in the TANF reauthorization bill that would direct millions of dollars in state and federal funds toward initiatives to

strengthen marriage each year, and recently received congressional passage. Some specific policies related to rights and responsibilities within marriage being pursued at different levels of government include financial benefits and education on marital skills.

Marriage is an economic partnership affected by governmental policies that impact financial matters.²³ One effort to enhance the benefits provided to marriage was the removal of the "marriage penalty" in federal tax law. In May 2001, the U.S. Congress approved a bill that included a provision to raise the standard deduction for married couples filing jointly to twice what a taxpayer filing singly could claim.²⁴ At the state level, some states have also taken policy steps to provide financial benefits to married couples.

Additional efforts to strengthen existing marriages focus on the education of married couples. For instance, as part of its Marriage Initiative, Oklahoma sponsored statewide training in the Prevention and Relationship Enhancement Program (PREP) and encouraged classes be offered throughout the state.²⁵ Also, Oklahoma and other states have instituted yearly marriage conferences.²⁶ In Arizona, a Community-Based Marriage and Communication Skills Commission was established to publicize marriage education courses available in each county (Arizona Legis. 393, 2000). Such efforts to further educational opportunities to learn marital skills demonstrate how governmental efforts can catalyze specific social goals.

Availability of Educational Resources and Programs

An important issue to consider is the capacity that exists within the state to deliver effective education to support marriage and parenting. I will speak briefly about capacity within the NDSU Extension Service and some findings from a recent statewide survey I conducted on parent education in North Dakota.

The NDSU Extension Service is a *statewide educational system linked to higher education*, not simply an agricultural research organization. Parent and family education is an important emphasis in the national Cooperative Extension System across the United States. The *Smith-Lever Act of 1914* authorized the organization of the Cooperative Extension System and mandated it to "aid in diffusing among the people of the United States useful and practical information on subjects relating to agriculture and *home economics*, and to encourage application of the same" (emphasis added). Of significance is the mandate to provide education to all citizens and to include a specific focus on education for healthy home and family living.

The NDSU Extension Service, with its experience in community-based parent education, access to research-based knowledge at land grant universities, and its local delivery network of specialists and county extension professionals is in an ideal position to create and implement a *common, core approach to parent education*. In addition, with its mandate to reach out to all families with children of all ages, it can play a key role in facilitating networking and collaboration among organizations and agencies that serve families. We offer parent education classes in counties across the state. To further

facilitate effective parent education, we currently have established four regional Parent Resource Centers that operate in Dickinson, Mandan, Fargo, and Grand Forks, each serving a large multi-county area.

In North Dakota, the 1994 ND Legislative Council Statewide Needs Assessment, Family Survey, found that *63 percent of parents indicated they would find parenting training on discipline and communication to be helpful as a parent in dealing with their children*. The state needs assessment also found that *60 percent of North Dakota parents had significant interest in parenting classes* (ND Department of Human Services, 1995). A report prepared for the ND Legislative Council's Budget Committee on Youth Services by the Child Welfare League of America focused on North Dakota children at risk of abuse or neglect. It stated, "The three most prevalent factors—inability to cope with parenting, family interaction problems, and single parenthood—*point less to the need for sophisticated psychotherapeutic interventions than to family and parent support programs which can prevent these issues from developing into safety issues for children*" (CWLA, 1994, p. 43). This report recommended that in order to "encourage families to seek help early on, *community-based Family Resource Centers should be established,*" and should be "*housed in existing agencies*" and "*serve as a clearinghouse for local resources and to link parents with resources they need*" (CWLA, 1994, p. 43).

The NDSU Extension Service, as articulated by state law in Chapter 50-06-06.10 of the state century code, is to design "a program to educate and support individuals at all points in the family life cycle" and it "must provide support for families and youth with research-based information relating to personal, family, and community concerns." We endeavor to meet needs for parent and family education through our ongoing educational efforts. I would suggest that there is significant capacity within our system to continue providing parent education for specified needs, and also to deliver education for strengthening couple and marital relationships. Some findings that relate to effectiveness of our efforts in this area include:

- Among community organizations, the NDSU Extension Service and its Parent Resource Centers were ranked first as the main contact for parenting information by respondents to the statewide survey. One of two responses (44.1%) identified the NDSU Extension Service as the main contact for parenting information, being far more likely (at least three to six times more) to list them ahead of other possible sources such as county social services (13.2%), local schools (7.4%), or public health departments (3.3%).
- Among community service providers, the NDSU Extension Service was identified as the community partner most looked to for parent education and resources (63.1% of respondents).
- In regions with a Parent Resource Center linked to the NDSU Extension Service, the NDSU Extension Service and its local PRC were consistently ranked first and second as community partners in providing parent education and resources (Southwest ND, Southeast ND, Northeast ND, etc.).

- The NDSU Extension Service and its Parent Resource Centers were identified as the community partner that respondents have most commonly received resources and training from related to parent information and education.
- Survey respondents ranked the NDSU Extension Service as the organization that is most useful in addressing parenting and family issues, significantly ahead of other community organizations. Also, its Parent Resource Centers were also ranked among the most useful in this area.²⁷

In addition to the resources of the NDSU Extension Service, there is significant capacity that exists within the network of faith-based organizations, social service providers, and community educators across the state of North Dakota. It would be important in crafting legislation to gather input from a variety of these groups and to ensure that a broad definition of qualified service providers for marriage and relationship education is adopted.

Governmental Efforts and Divorce-Related Education

Recently, some states began to express concerns with their high divorce rates and their ramifications for social policy. In 1999, former governor Frank Keating of Oklahoma announced an initiative to reduce that state's divorce rate by 1/3 by 2010. Governor Mike Huckabee of Arkansas also declared a state of "marital emergency" and set a goal to reduce the divorce rate by half by the end of the decade.²⁸

A movement to legislatively respond to the perceived ease with which divorce is possible began with the introduction of a bill reinstating fault grounds in divorce law in Michigan. Although it was not enacted, it was important because it signaled the status quo of no-fault divorce legislation was being reconsidered by some policy makers after two decades.²⁹ The covenant marriage laws in Louisiana, Arizona and Arkansas reflect the most serious legislative response to concerns about ease of divorce. These laws have two major ramifications for current divorce law. First, they require married couples to participate in marital counseling before seeking a divorce. Second, they require some showing of fault on the part of one of the parties as a grounds for divorce. These developments are not without controversy and run the risk of placing individuals in conflictual circumstances if the relationship has seemingly become irreparable. Elements to consider regarding potential changes in laws that affect the availability and process of divorce may include the normative message of the change and the actual effect of the change on citizens affected by the law.³⁰ Little legislative change has been enacted in the area of divorce reform, but the amount of activity around this topic is substantial, and so the future of government efforts in this area is open to question.

In recent legislative sessions in various states, other types of bills have been introduced to deal with the issues related to divorce. These included prohibitions on no-fault divorce actions when the divorce was contested by one of the parties or included children, a requirement of marriage counseling or marriage education before a divorce is

granted, and allowance for a court to refer a divorcing couple for counseling or mediation. Though a lot of legislative activity has occurred in this area, the failure to enact passage of these statutes in nearly every instance suggests the difficulty of rolling back no-fault divorce legislation. Barriers to enactment of such statutes may include public ambivalence, interest group opposition, and blockage by influential legislators. Despite these challenges, it seems likely that governmental discussion of policies on the dissolution of marital relationships will remain a priority interest in the foreseeable future, as advocates of making unilateral divorce more difficult vie with those who believe the current divorce laws are adequate.³¹

In the state of North Dakota, while there is no legislative mandate for divorce-related education as in other states, there are clear efforts to provide such education. Divorce-related education that is mandated often requires education in circumstances where a child is involved, custody is contested, or other issues arise. Typically, a minimum number of hours of divorce-related education is required that addresses issues such as effects of divorce on children, co-parenting, and legal issues in the divorce process. The NDSU Extension Service developed an educational program entitled "Children of Divorce," a four-hour educational program, over a decade ago and it is offered regularly at locations across the state. Typically, individuals who are separated or divorced are referred to this program by attorneys, local judges, social workers, teachers, or others who feel it is important for them to be exposed to education about the effects of divorce on children. I have personally taught this course several times a year for the past seven years, and am happy to provide further information if needed.

Conclusion

The increased attention to fostering healthy marriage relationships at multiple levels of government highlights the importance of developing an informed awareness of current policymaking trends in this area. Legislative and judicial enactments do not occur in a social vacuum and may shape citizens' attitudes and behavior in both direct and indirect ways. Brotherson and Teichert pointed out, "Since law [and related policies] ha[ve] an important bearing upon how society understands marriage, the social message sent by a particular statute or judicial decision is important."³² In addition, the practical consequences of any governmental effort to influence family life deserve careful consideration, as the prospects of government encroachment or regulation of family relationships in ways that may be intrusive are a substantive concern for advocates of family privacy and autonomy.³³ Yet when consideration is given to whether a sufficient body of knowledge on marital dynamics and preservation exists to warrant governmental action, informed scholars suggest that enough knowledge is available to provide a reasonable hope for positive policymaking efforts.³⁴

With a multiplicity of research projects, educational programs, and community-oriented coalitions having seed funding from various governmental sources, the next decade likely will yield much new information about the state of marriage in America and the impact of investments in marriage strengthening activities. For example, Oklahoma conducted the first in-depth, comprehensive randomized survey of a state's

population to determine the reported attitudes and behaviors regarding marriage and divorce—a survey made possible by governmental appropriation of targeted funds to strengthen marriage.³⁵ Several states have now followed suit (Utah, Florida, etc.). These findings allow customization of policy strategies to state needs and assessment of impacts of their efforts over time, while providing a model to other states. Such varied governmental efforts highlight the distinctive U.S. model of multiple state policy laboratories, in which demonstration projects and policy efforts often are tested in one region or state and then adopted or modified over time by others.

Perhaps the most fruitful area for innovation in policies to strengthen marriage will be in marriage education—policies that set up strategies to counsel and educate both unmarried and married couples about the factors leading to more successful marriage and the benefits of marriage for couples and their children. This is because such efforts in marriage strengthening are likely the least controversial and also the most modest in scope. Efforts that reflect the “incremental change” approach in policy development seem most likely to garner public support and reshape policy activities in the future.³⁶ I will close with a few observations on public policy efforts related to strengthening marriage.

First, sustained efforts to examine the role of government in strengthening marriage relationships suggest that policy makers ought to consider how existing policies and programs impact formation and maintenance of successful relationships. Governmental efforts to strengthen marriage remain limited. Growing recognition of the need for such programs and their potential value counsels policy makers to attend to the possibilities for further efforts. However, policy makers and practitioners also should examine existing practices and programs to determine how they impact marital health and formation. For example, legislative bodies might examine whether their marriage license policies enhance opportunities for marital preparation or whether their tax policies discourage marital formation among low-income couples. Policies that discourage successful relationship formation and maintenance should be modified or abandoned; approaches that encourage stability and success ought to be highlighted and enhanced.

Second, as those crafting governmental priorities consider policies designed to strengthen family relationships, they can benefit from using a theory-based approach such as the family life course perspective. This approach encourages policy makers to concentrate on a range of policies that may affect marital formation, maintenance, and dissolution. Given the rise in marital dissolution, much of the policy making has focused on preventing dissolution when severe relationship stress is evident. However, envisioning approaches that pertain to couple formation and maintenance at different points in the family career makes possible a broader and more comprehensive range of options for affecting the maintenance of relationships to prevent dissolution. The importance of a multi-pronged approach to encouraging successful marital relationships must be considered, so different programs and policies are developed and adapted for different target groups as needed.

Third, practitioners and policy makers need to cultivate awareness of community resources and programs to assist in strengthening specific couples or families. The pace of development of policies and programs designed to strengthen marriage is not widely recognized by practitioners and individual families. Practitioners should be aware of the various types of resources available to more effectively help those who seek their assistance. Additionally, policy makers need to update themselves on current trends to fashion approaches that take advantage of best practices. When troubles arise couples can be made aware of options to help them resolve these issues short of dissolution. Some sources of information on funding opportunities, program efforts, and other topics related to strengthening marriage include:

- The Center for Law and Social Policy, in particular its "Couples and Marriage Policy" section, has a wealth of information and analysis at: <http://www.clasp.org/>
- The Coalition for Marriage, Family and Couples Education (CMFCE) has a great deal of information at its Smart Marriages web site at: <http://www.smartmarriages.com/>
- Administration for Children and Families, U.S. Department of Health and Human Services, shares information on its "Healthy Marriage Initiative" at: <http://www.acf.hhs.gov/key.html>
- Information on the Oklahoma Marriage Initiative and the Utah Governor's Commission on Marriage can be found, respectively, at: <http://www.okmarriage.org/> and <http://www.utahmarriage.org/>

These and other resources can give interested persons insight into the developing innovations related to governmental efforts to strengthen marriage.

Fourth, there is an ongoing need for research to assess the impact of current program or policy efforts to strengthen developing or existing marriage relationships. Such program evaluations may suggest improvements, although too many programs still rely on anecdotal evidence.³⁷ Therefore, solid scientific research aimed at measuring outcomes, both in terms of individual families and social change, is necessary to allow policies to be adapted to increase their effectiveness. Funding for such studies is now becoming more available at the federal level through several governmental agencies (e.g., Administration on Children and Families).

Finally, practitioners and policy makers can examine policy proposals to ensure that they place the state in a preventive role regarding marital challenges and not merely in a corrective role upon marital dissolution. For example, Brotherson and Teichert (2001) pointed out that particular laws and policies pertaining to marriage can foster the development of knowledge and set guidelines for behavior so individuals are persuaded toward relationships of respect and lasting commitment.³⁸ This exemplifies a preventive approach to the problems that can descend upon married couples. Individuals who work with couples and families can work so specific steps undertaken by governmental bodies aim at preparation for marital responsibilities and the prevention, management, or amelioration of marital challenges.

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Tuesday, January 09, 2007 5:04 PM
Dever, Dick D.
RE: From Sean Brotherson - marriage bill

Representative Dever:

I apologize that I am unable to attend the Judiciary Committee hearing in Bismarck on the status of SB 2041 relative to premarital and marital preparation, education or counseling. Perhaps you might share these few comments with the committee, and I would certainly be available for ongoing consultation to any legislators who would like information relative to the topic of this bill.

I would note that nearly all bills which seek to implement measures designed to strengthen preparation for marital relationships allow for or encourage both education and counseling. Counseling is typically considered to be individual or couple meetings on a regular basis with a qualified individual such as a social worker, clergy, psychologist, counselor, etc. However, research shows that educational classes provided in small group settings, for example, are just as effective in assisting couples transition well into marriage and reduce conflict, increase commitment, etc. So, I would simply suggest that those considering this bill take note of this situation and ensure that education is amply provided for and encouraged in the bill.

Regarding capacity to deliver such education to those who marry outside of a religious setting, you may refer to a portion of my testimony given previously to the interim committee. I believe that sufficient capacity exists and could be further developed to offer such premarital education to couples in North Dakota. The NDSU Extension Service is a statewide educational system with offices in each county and staffed by local educators, county agents, many of whom are trained in delivering youth and family education. While our educators do not provide counseling services as social workers do, they do provide a great deal of research-based community education on topics ranging from parenting to nutrition to family stress. This statewide system already functions in delivering preventive education to North Dakota citizens, and would make it possible to provide such educational opportunities for citizens who may choose to marry outside of religious contexts (where counseling or education is often provided).

I am happy to provide any who are interested with further information if it might be helpful. Again, I apologize for my inability to attend on Wednesday morning, but share my contact information and encourage any interested legislators to contact me if they wish to have further information.

Sincerely,

Sean Brotherson, PhD
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North Dakota
**FAMILY
ALLIANCE**

DEDICATED TO STRENGTHENING FAMILIES

Att. #3

1-10-07

A Trusted Voice

Tom D Freier
EXECUTIVE DIRECTOR

Senate Judiciary Committee
SB 2041
Wednesday, January 10, 2007

Mr. Chairman and members of the Judiciary Committee, thank you for hearing my testimony today.

My name is Tom Freier, and I represent the North Dakota Family Alliance.

I am here today in support of SB 2041. SB2041 is consistent with the mission of the Family Alliance to strengthen and protect families.

The purpose of SB 2041 is rather simple—to create an incentive for pre-married couples to go through a pre-marital counseling session. It is not mandated, nor is it mandated who should provide the counseling. Rather it provides options to clearly encourage the pre-marital counseling as option, and creates an incentive to do so.

Research, as well anecdotal evidence, shows that children and adults do best in strong, intact marriages and families. Testimony during the interim study, as well as last session, laid a strong foundation for the benefits.

Dr. Brotherson, with North Dakota State University cites “recognition that healthy families and strong marriages provide a seedbed for a good and virtuous society”. He states that healthy marriages “are a source of economic, educational, and social advantage for most children” He also shares “married people, on average, are happier, healthier, wealthier, and enjoy longer lives.”

So why the government should become involved? Besides being a logical pre-requisite for entering into a lifelong relationship, there are solid business management considerations. Failed marriages that result in broken families and needy children present a great financial cost to the state. Even more importantly, divorce inserts government control into people’s personal lives in the form of child support issues, visitation rights, and the overall divorce settlement.

Given that SB 2041 is not a mandate, but an incentives option, it would seem like the right message to send to our citizens. We believe in the institution of marriage, and recognize the beneficial effect it has on our society. To further enhance the institution of marriage, couples are encouraged to avail themselves to these counseling sessions to help them prepare for a successful marriage.

SB 2041 proposes to reward those who will make that investment. Please give SB 2041 a Do Pass

SB 2041 Hearing, January 10, 2007

Larry J. Giese
3910 Lewis Road NW
Mandan, ND 58554 District #31

I speak in favor of this bill. I certainly feel that the appropriation of \$110,000 to Human Services to cover the partial cost of a marriage license for those who process into premarital counseling under the guidelines of this bill is incentive to follow through.

I have some questions for clarification.

1. What does a timeline for obtaining the voucher look like? A month, six-months? How will it be communicated to the public that these vouchers exist? Does a couple contact Human Services to get a voucher, then receive counseling, have it signed, then go to the county court house to get their marriage license? From my experience as a Pastor of an ELCA congregation, it would be helpful for pastors, counselors, etc. to know about the vouchers, so that as couples plan dates for weddings these details could be shared with them. Scheduling premarital counseling can take from two to four months. Are residents out of state eligible for a voucher who are marrying within the state? For some they will simply forgo the procedure.

I would realistically see six months lead time, if not a year, to notify potential couples of this voucher. I am already booking dates for weddings in 2008. One needs to consider jobs, travel time, and appointments with clergy, counselors, etc., who are already busy. I also think to make this consumer friendly--keep the timeline and paperwork to receive the voucher simple (available from a websight or available at the court house, or pastors having them in their file cabinet.) If this is complicated, couples will not bother!

2. page 3, line 18 of SB 2041 reads, c. A trained or certified counselor. Who is included in the term "counselor," and, are they licensed? Is this an assumption of the words, "trained or certified?" Would this term include "marriage and family therapists?" I think "counselor" needs some definition of whom

✱ 4.b
this refers. A suggestion to add these words so the line reads, "c. A trained or certified counselor or therapist," or "licensed counselor or therapist."

3. I am part of a group that does a weekend retreat at Camp of the Cross outside of Garrison, ND. Since I am involved I don't believe that weekend retreat is jeopardized by this bill because I could sign off on this. It works well for us to include in the weekend, trained couples who have been married 40 years, 25 years, and recently married, clergy, financial experts, etc. presenting at this retreat. Could vouchers be available that when a couple completes the weekend retreat that they also receive the voucher to get a discounted marriage license?

Thank you for your considerations of these points.

Larry J. Giese
Pastor of Intergenerational Ministries
First Lutheran Church
Mandan, ND

Larry J. Giese

EXCERPT FROM 2006 FINAL REPORT OF LEGISLATIVE COUNCIL'S INTERIM JUDICIARY COMMITTEE

MARRIAGE LAWS STUDY

Section 2 of Senate Bill No. 2361 directed a study of the state's marriage laws and methods for strengthening the institution of marriage in the state, including premarital requirements, such as marital education and counseling, waiting periods, and marital blood tests; the availability of marriage counseling and parenting education in the state; and the implementation of predivorce requirements, such as divorce-effects education. The bill, as introduced, would have provided for a reduced marriage license fee for a couple that completed 12 hours of premarital education. As passed, the bill provided for an increase in the amount of the marriage license fee and did not include a premarital education requirement. Section 2 of the bill, which provided for this study, was added by the conference committee on Senate Bill No. 2361.

Background

In the English common-law tradition, from which American legal doctrines and concepts have developed, a marriage was a contract based upon a voluntary private agreement by a man and a woman to become husband and wife. Marriage was viewed as the basis of the family unit and vital to the preservation of morals and civilization. Traditionally, the husband had a duty to provide a safe house, pay for necessities such as food and clothing, and live in the house. The wife's obligations were maintaining a home, living in the home, having sexual relations with her husband, and rearing the couple's children. Today, the underlying concept that marriage is a legal contract still remains, but due to changes in society the legal obligations are not the same.

Marriage is chiefly regulated by the states. The United States Supreme Court has held that states are permitted to reasonably regulate the institution of marriage by prescribing who is allowed to marry and how the marriage can be dissolved. Entering into a marriage changes the legal status of both parties and gives both husband and wife new rights and obligations. One power that the states do not have, however, is that of prohibiting marriage in the absence of a valid reason. For example, prohibiting interracial marriage is not allowed for lack of a valid reason and because the prohibition was deemed to be unconstitutional.

North Dakota Domestic Relations Law and Caseloads

North Dakota Century Code Title 14 contains the majority of the statutes dealing with domestic relations or family law in the state. Title 14 includes those chapters that deal with marriage, divorce, annulment, separation, custody and visitation, child support, adoption, alternative dispute resolution, and domestic violence. Another area of the code that includes statutes related to the family law process is Chapter 27-20, which contains the Uniform Juvenile Court Act.

In 2005, 9,510 of the 32,431 or 29.3 percent of the civil case filings in district court involved domestic relations cases. The domestic relations case filings decreased 7.2 percent over 2004. In addition, 2,448 juvenile cases were filed, representing a 1.73 percent decrease over the 2004 filings. Within the domestic relations category, child and spousal support proceedings made up 47.2 percent of the cases; divorce, 23.2 percent; paternity, 7.4 percent; protection and restraining orders, 17.7 percent; custody filings, 1.2 percent; and adoption, 3.2 percent. Protection and restraining order filings increased 9.2 percent to 1,680. Divorce filings decreased 6.25 percent in 2005 with 2,202 filings compared to 2,349 in 2004. The number of divorce filings was 2,774 in 1999, 3,044 in 1998, and 2,911 in 1997.

Paternity case filings were up 6.9 percent with 705 cases filed in 2005, while support proceedings decreased 5.5 percent with 4,487 cases filed, compared to 4,750 cases in 2004.

North Dakota Marriage Laws

The state's laws concerning the marriage contract are contained in NDCC Chapter 14-03. Section 14-03-01 defines marriage as "a personal relation arising out of a civil contract between one man and one woman to which the consent of the parties is essential. . . . A spouse refers only to a person of the opposite sex who is a husband or a wife." Following are some of the requirements for a valid marriage in North Dakota:

- Identification requirement. North Dakota Century Code Section 14-03-17 requires each applicant to provide a birth certificate or other satisfactory evidence of age.
- Residency requirement. Individuals are not required to be residents of the state in order to be married in the state.
- Previous marriage. North Dakota Century Code Section 14-03-17 provides that if a divorce has been granted to either or both of the parties, a certified copy of each decree must be filed with the marriage license application.
- Under 18 years of age. Under NDCC Section 14-03-02, if an individual is between 16 and 18 years of age, a marriage license cannot be issued without the written consent of the parents or guardian. A marriage license may not be issued to any person below age 16.
- Marriage license fees. North Dakota Century Code Section 14-03-22 provides for a marriage license fee of up to \$30 and a supplemental fee of \$35, which is to be deposited in the domestic violence prevention fund to provide aid to victims of domestic violence.
- Waiting period. North Dakota law does not require a waiting period between the issuance of a license and the marriage.
- Blood tests. No blood tests are required in this state. North Dakota Century Code Section 14-03-12, which was repealed in 1983, provided that a serological test for syphilis was required before individuals could apply for a marriage license.
- Common-law marriage. A common-law marriage is not recognized as valid in this state *Schumacher v. Great Northern Railway*, 23 N.D. 231, 136 N.W. 85 (1912).
- Void marriages. North Dakota Century Code Section 14-03-03 provides that certain marriages are incestuous and void. These include marriages between parents and children, brothers and sisters, uncles and nieces, aunts and nephews, and between first cousins.
- Same sex marriage. North Dakota Century Code Sections 14-03-01 and 14-03-08 as well as a constitutional amendment passed in November 2004 provide that same sex marriages are prohibited in the state.
- Officiants. North Dakota Century Code Section 14-03-09 provides that a marriage may be solemnized by a judge of a court of record; a municipal judge; a recorder or another official designated by the board of county commissioners; an ordained minister of the gospel; a priest; clergy licensed by recognized denominations; and by any individual authorized by the rituals and practices of any religious persuasion. Under Section 14-03-21, the officiant must return the original copy of the marriage certificate and license to the official who issued the license within five days after the solemnization of the marriage. A duplicate copy must also be given to the individuals married.
- License valid. According to NDCC Section 14-03-10, a marriage license is valid for 60 days. The license may only be used within the state.

Testimony and Committee Considerations

The committee received testimony and information from the North Dakota Association of Counties, the Department of Human Services, representatives of religious organizations, representatives of domestic violence prevention organizations, and a family science expert regarding the issues raised in this study. The committee's deliberations centered on four issues—the importance of marriage to society, government efforts to encourage healthy marriages, and marriage license fees.

Importance of Marriage to Society

The committee received testimony that the state has a legitimate and compelling interest in encouraging, preserving, and strengthening healthy marriages. According to the testimony,

increased government attention to the marriage and family structure has produced social data that convincingly demonstrates the advantages of marriage for children, adults, and society. It was noted that even after controlling other social and economic factors, children raised outside intact marriages are at higher risk of experiencing a variety of negative economic, social, psychological, educational, and physical outcomes; men and women in marriages are significantly better off than their unmarried counterparts; married people tend to be healthier; and married people save more money for retirement. The testimony also noted the benefits of marriage to society. According to the testimony, marriage creates social bonds that would not happen in single or childless persons, marriage changes a person's lifestyle, married persons are more likely to vote, and there is a lower crime rate in communities with higher percentages of married people.

The committee also received testimony that government policies should treat the married couple as a distinct social, legal, and financial unit. It was suggested that government should ensure that public school curricula treat marriage as a civic institution; treats marriage as the ideal family form, especially for childbearing; do not equate marriage with all other types of relationships; educate about the proven personal, familial, and community benefits of marriage; and equip graduates with the skills needed to avoid bad relationships and build healthy ones. According to the testimony, government can ensure that all state policies and practices respect rather than burden or discourage marriage; give preference in state-funded job creation and location incentive programs to those proposals that provide not only good wages and benefits, but also traditional hours and predictable work schedules; and continue and increase funding for centers that provide positive help for women facing unexpected pregnancies. The testimony indicated that government should explore divorce education or mediation pilot projects designed to reduce unnecessary divorce; fund voluntary marriage preparation and education services for cohabiting and unmarried new parents; and fund voluntary marriage education and other intervention services to reduce conflict, violence, and unnecessary divorce in high-risk couples. Other suggested ideas included establishing a marriage commission charged with evaluating how state agencies treat marriage and developing specific initiatives and policies; holding conferences with faith-based and community organizations on marriage-strengthening policies; investing in initiatives to promote fatherhood; incorporating marriage incentives in the temporary assistance for needy families (TANF) program; and discounting marriage license fees for low-income couples who receive premarital counseling, using TANF funds to offset the cost.

Government Efforts to Encourage Healthy Marriages

The committee received testimony regarding premarital counseling requirements and incentives and other governmental efforts to encourage healthy marriages. According to the testimony, the available research evidence persuasively demonstrates the advantages of marriage for children, adults, and society. According to the testimony, a few of the key findings are that marriage, especially if it is low-conflict and long-lasting, is a source of economic, educational, and social advantage for most children; children from intact families are far less likely to be poor or to experience persistent economic insecurity; children from intact married parent families are most likely to stay in school; warm, responsive, firm, and fair parenting helps to promote healthy emotional development and to foster emotional resilience in children; and married people, on average, are happier, healthier, and wealthier and enjoy longer lives.

The committee received testimony that divorce is a significant problem in our society. According to the testimony, divorce intrusively inserts government control into people's personal lives in the form of divorce settlements, child support enforcement, visitation rights, and many other family decisionmaking issues. The testimony indicated that American citizens are generally supportive of efforts to strengthen marriage and to reduce the number of divorces. According to the testimony, the direct and indirect state, federal, and personal costs of divorce can range from \$35,000 to \$50,000 per divorce per year.

The committee received testimony that some of the governmental efforts to assist preparation for healthy marriage relationships include incentives to participate in education or counseling before marriage, modification of tax or economic assistance policies to benefit couples, and the delivery of educational programs on relationships to adolescents and youth. The testimony indicated that an emerging pattern in governmental attempts to influence family relationships

before marriage involves providing incentives to couples or creating requirements to encourage them to pursue premarital education or counseling. By 2002 five states had implemented policies to reduce marriage license fees or decrease waiting periods to couples who participate in premarital education or counseling. Since 1996 at least six states have introduced legislation to require premarital counseling as a prerequisite to receiving a marriage license; however, none of those bills has passed. According to the testimony, the mandatory requirement approach is often seen as too heavy-handed and intrusive. The testimony indicated that a more successful policymaking approach has occurred among states that invested in providing resources or educational opportunities to marrying couples. According to the testimony, there is an increasing body of recent research that provides evidence that premarital education programs achieve the goal of helping couples form and sustain healthy marriages. The testimony indicated that some important legislative changes regarding the provision of support to couples within marriage also have occurred in several states. One trend is to provide more benefits to married couples. According to the testimony, Oklahoma used \$10 million in excess TANF funds to implement programs that provide marriage incentives. The federal TANF legislation encourages states to use TANF funds to encourage and strengthen marriage.

Marriage License Fees

The committee, in its discussion of the marriage laws of the state and methods for strengthening marriage, received testimony regarding the fees charged for a marriage license in North Dakota and other states. The committee discussed 2005 Senate Bill No. 2361, which increased the fee for a marriage license from \$6 to \$30 and increased the supplemental fee deposited in the domestic violence prevention fund from \$29 to \$35. The committee received testimony from a representative of the counties that all counties in the state are charging \$65 for a marriage license. According to the testimony, the County Recorder's Association passed a resolution urging county recorders to ask their county commissioners to raise the marriage license fee to \$30. It was noted that the reason for the request for uniformity in the amount of the marriage license fee among the counties was due, in part, to a computer issue. The computer program used by the State Department of Health for the issuance of marriage licenses only allows for a single amount for a marriage license. According to the testimony, the uniform fee eliminates the need for a major computer programming change to allow for different fees for different counties. It was also noted that a single fee prevents couples from shopping around from county to county for a lower fee. The 2005 increase in the state's marriage license fee was the first increase in 36 years. The marriage license fee is deposited in the county general fund. According to the testimony, the \$24 increase in the marriage license fee is used to fund the operation of the county office that issues the licenses.

The committee received information regarding marriage license fees of other states. The fees range from a low of \$21 in Mississippi to a high of up to \$100 in Wisconsin and Minnesota. The information indicated that several states, including Minnesota, Tennessee, and Florida, offered a reduced marriage license fee for those couples who had completed premarital counseling. In Minnesota the fee is reduced from \$100 to \$30 if the couple completes 12 hours of premarital counseling. The committee noted that North Dakota's fee is among the highest for mandated marriage license fees.

To address the issues raised in the testimony regarding marriage license fees and the benefits of premarital counseling, the committee considered a bill draft that provided for a \$25 reduction in the marriage license fee for low-income persons who complete four hours of premarital counseling. The bill draft provided that the premarital counseling should include a discussion of the rights, expectations, needs, obligations, and other commitments incident to the marriage contract, including discussion about children, finances, relationships with new family members and friends, time management, goalsetting, and communication and conflict resolution skills. The bill draft also provided premarital counseling may be provided by a member of the clergy; the staff of a church, including a church volunteer sponsoring couple, or other religious organization with training in premarital counseling or a trained or certified counselor. The bill draft provided for a voucher system that would be administered by the Department of Human Services. The bill draft contained an appropriation of \$35,000 from TANF funds for the program.

Testimony regarding the bill draft indicated that TANF regulations permit the use of TANF funds for programs that encourage the maintenance of two-parent families. It was noted that it is not required that eligibility for these programs be based upon income. According to the testimony, for such a program to be utilized, it is important to limit the number of agencies a couple must go to in order to receive the discount. The testimony indicated that program would require staff time to establish and implement.

Committee members expressed concern about whether the program in the bill draft should apply only to low-income persons and whether \$25 is enough incentive.

Testimony from a representative of county marriage license officials indicated that the 53 officials in the state who issue marriage licenses are strong supporters of measures that encourage a knowledgeable approach to the decision of marriage. It was noted that the bill draft adds only a small administrative responsibility of receiving and submitting the vouchers to the Department of Human Services. According to the testimony, the bill draft would be easy to implement because it does not require marriage license officials to determine if individual couples are eligible for the discounted fee. It was noted that the most significant impact of the bill draft would be the necessary changes to the marriage license software. According to the testimony, the change would require a programming change to accept the variation in the fee and for additional reporting if the Legislative Assembly decided to evaluate the use of the discount. It was estimated that the programming changes to implement the program proposed in the bill draft would cost \$3,000 to \$5,000.

Testimony in opposition to the bill draft indicated that the process in the bill draft seemed cumbersome for the amount of the fee reduction. It was also noted that the bill draft sends a mixed message in that it encourages people to get married but imposes a waiting period. A concern was expressed about the appropriateness of using TANF funds for marriage promotion. According to the testimony, there has not been a reduction in domestic violence in those states that have lowered marriage license fees for couples who complete premarital counseling. The testimony also indicated it is not the goal of the abused adult services programs to save a couple's relationship but rather to provide safety and to give choices to abused adults. It was noted that about 75 percent of people in relationships in which there is domestic violence will leave that relationship.

One committee member expressed concerns that if the purpose of the bill draft was to encourage premarital counseling by reducing the marriage license fee, then this bill draft is essentially the same as the bills considered in the last session. According to the committee member, premarital counseling is available to those couples who want it and the state should not be involved in that process.

Another committee member expressed concern that because marriage is a contract based upon a private agreement between two people, the state should limit its interference with the marriage contract. It was noted that if the state gets involved in mandating or providing incentives for premarital counseling, it is important to realize that not everyone is a Christian, that there are cultural differences, that not everyone speaks the same language, and that not every culture has the same customs.

It was the consensus that the bill draft should be amended to provide that eligibility for a voucher should not be income-based but should be available to any couple willing to participate in premarital counseling.

Recommendation

The committee recommends Senate Bill No. 2041 to provide for a \$25 reduction in the marriage license fee for persons who complete four hours premarital counseling. The bill provides for a voucher system that would be administered by the Department of Human Services. The bill, which does not limit eligibility for the voucher to low-income persons, contains an appropriation of \$110,000 from TANF funds for the program.

Testimony on SB 2041
Senator Dick Dever

Madam Chair, members of the committee, for the record I am Dick Dever, Senator from District 32, here in Bismarck

It may come as no surprise to many that I have a special interest in this bill. You may recall SB 2361 in the last session that did essentially the same thing as this bill.

The bill passed the Senate and then was amended in the House to increase the fees and remove the counseling. In conference committee, a study was initiated that resulted in this bill from the Interim Judiciary Committee.

I was a little frustrated in that people who objected to the counseling did not indicate what the reasons were for their objections. I would like to mention several items that I sensed were objections.

First, it is a violation of the Separation of Church and State. Members of the committee, the Doctrine of the Separation of Church and State is first, and foremost, an acknowledgement that both exist and that each plays a primary role in society.

The second was that it is an intrusion on the family. There are actually three institutions that play a primary role in society – the Church, the State, and the Family.

Each of those institutions is like a pillar on which society rests. As long as all three are healthy and in balance, society is healthy. None should interfere with the others, but each should support the others.

It is good for families to attend Church together. It is also good for families to discuss civic affairs at the dinner table. Many of us here know that experience.

The state does take an interest in the family when it licenses marriage, and when it presides at the breakup of those marriages.

This bill does not require anything. It simply encourages pre-marital counseling. If you were considering entering into a business partnership, I am sure you would think it a good idea to discuss the circumstances first.

The third objection I have heard was: 32% of couples do not get married by clergy and do not have access to counseling. I have had conversations with representatives of the NDSU extension service. They do provide parenting classes and indicated that they would be willing and able to provide pre-marital counseling as well.

The fourth objection was that women should not be forced to stay in an abusive relationship. I agree, but this bill is not about divorces it is about marriage. People who communicate with words are less likely to communicate with their fists.

The fifth objection was that counseling does not work. Information was provided both to the interim committee and the session committee that this initiative has made a difference in several states.

The final objection was that this is feel good legislation. You doggone right it is! The people who will feel good about it are those couples and those children who grow up and live in a healthy family relationship.

It is those children who are of real concern to me. The Senate has passed you a bill that moves reporting of youth risk behavior surveys to the Department of Public Instruction instead of the Department of Health. Comments on that bill were that it already resides with DPI. I would encourage you to go to that website and review those surveys.

We should be concerned about our young people. This bill sends a message to families that we recognize their importance in improving those situations. I encourage support of SB 2041.

2005 NORTH DAKOTA RESIDENT TEEN AND OUT OF WEDLOCK BIRTH AND PREGNANCY DATA

TEEN	NUMBER	RATIO	RATE
BIRTHS	668	79.70	25.83
PREGNANCIES	829	88.69	32.06

OUT OF WEDLOCK	NUMBER	RATIO
BIRTHS	2698	321.92
PREGNANCIES	3419	365.7

NORTH DAKOTA TOTAL	NUMBER	RATE
BIRTHS	8381	13.05
PREGNANCIES	9347	14.77

*RATES ARE CALCULATED BASED ON TEEN FEMALE POPULATION

*RATIOS ARE CALCULATED BASED ON NUMBER OF LIVE BIRTHS

SOURCE: VITAL RECORDS, NORTH DAKOTA DEPARTMENT OF HEALTH

Dever, Dick D.

From: sean.brotherson@ndsu.edu
nt: Tuesday, January 09, 2007 5:04 PM
Subject: Dever, Dick D.
RE: From Sean Brotherson - marriage bill

Representative Dever:

I apologize that I am unable to attend the Judiciary Committee hearing in Bismarck on the status of SB 2041 relative to premarital and marital preparation, education or counseling. Perhaps you might share these few comments with the committee, and I would certainly be available for ongoing consultation to any legislators who would like information relative to the topic of this bill.

I would note that nearly all bills which seek to implement measures designed to strengthen preparation for marital relationships allow for or encourage both education and counseling. Counseling is typically considered to be individual or couple meetings on a regular basis with a qualified individual such as a social worker, clergy, psychologist, counselor, etc. However, research shows that educational classes provided in small group settings, for example, are just as effective in assisting couples transition well into marriage and reduce conflict, increase commitment, etc. So, I would simply suggest that those considering this bill take note of this situation and ensure that education is amply provided for and encouraged in the bill.

Regarding capacity to deliver such education to those who marry outside of a religious setting, you may refer to a portion of my testimony given previously to the interim committee. I believe that sufficient capacity exists and could be further developed to offer such premarital education to couples in North Dakota. The NDSU Extension Service is a statewide educational system with offices in each county and staffed by local educators, or county agents, many of whom are trained in delivering youth and family education. While our educators do not provide counseling services as social workers do, they do provide a great deal of research-based community education on topics ranging from parenting to nutrition to family stress. This statewide system already functions in delivering preventive education to North Dakota citizens, and would make it possible to provide such educational opportunities for citizens who may choose to marry outside of religious contexts (where counseling or education is often provided).

I am happy to provide any who are interested with further information if it might be helpful. Again, I apologize for my inability to attend on Wednesday morning, but share my contact information and encourage any interested legislators to contact me if they wish to have further information.

Sincerely,

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Extension Family Science Specialist
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Fargo, ND 58105
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PH: 701.231.6143

Dever, Dick D.

From: sean.brotherson@ndsu.edu
Sent: Monday, February 26, 2007 8:52 AM
o: Dever, Dick D.
Subject: Re:

Dear Senator Dever:

Due to the late notification of this hearing and the weather conditions, I will be unable to make it out to Bismarck for the hearing this morning. I would, however, like to briefly offer comments that you might share if they reach you in time.

Marriage is among the most significant social institutions in human society. The promotion of healthy family relationships that provide a context for the development of children who become productive citizens is a legitimate interest of state government. Social research on marriage has shown that individuals who participate in premarital counseling or education have a lesser likelihood of marital conflict or divorce than individuals who do not.

I commend those who have submitted S.B. 2041 as a measure to facilitate premarital preparation for marriage in the state of North Dakota. I would recommend attention to at least two items in the bill. First, in my opinion the bill would be more helpful if its language authorized either premarital counseling OR education (or a combination of both), not simply counseling. Educational programs preparing individuals for marriage are often another important approach in addition to counseling.

Second, in my opinion the bill would also be more helpful if its language authorized a wider range of professionals or trained citizens to deliver the counseling or educational that is recommended. Any licensed or qualified mental health professional (counselor, psychologist, social worker, family therapist, etc.) should be able to qualify under the law.

Additionally, members of the clergy or trained religious laypersons should qualify (as I believe is indicated). Finally, trained or qualified educators in areas such as family science, sociology, psychology, family and consumer sciences, etc., should qualify. For example, I have a Ph.D.

in the field of human development and family science and regularly develop and train others in educational programs for healthy marital relationships, but it is unclear whether I would qualify to offer such in the state to a couple premaritally under the existing legislation. I encourage the committee to include these options in the existing bill.

The cost to the state of North Dakota in marital difficulties or failed marriages is high, both in human trauma and financial burden. This measure is a significant step toward fashioning governmental policies that will allow interested citizens to voluntarily increase their likelihood of success as they enter into marriage. Thank you for your attention to this issue.

Sincerely,

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PH: 701-231-6143

> Dr. Brotherson:

> SB 2041 regarding Pre-marital counseling is being heard in the House
> Human Services Committee next Monday at 9:30 A.M.

>
> I know this is awful short notice. If you are not able to make it, I
> would be happy to offer any written testimony you like to put together.
> You could e-mail it to me.

Dick Dever
Senator



North Dakota FAMILY ALLIANCE

DEDICATED TO STRENGTHENING FAMILIES

A Trusted Voice

Tom D Freier
EXECUTIVE DIRECTOR

*Some
given to
Senate
appropriately*

House Human Service Committee
SB 2041
Monday, February 26, 2007

Madame Chairman and members of the House Human Service Committee, thank you for hearing my testimony today.

My name is Tom Freier, and I represent the North Dakota Family Alliance.

I am here today in support of SB 2041. SB2041 is consistent with the mission of the Family Alliance to strengthen and protect families.

The purpose of SB 2041 is rather simple—to create an incentive for pre-married couples to go through a pre-marital counseling session. It is not mandated, nor is it mandated who should provide the counseling. Rather it provides options to clearly encourage the pre-marital counseling as an option, and creates an incentive to do so.

Research, as well anecdotal evidence, shows that children and adults do best in strong, intact marriages and families. Testimony during the interim study, as well as last session, laid a strong foundation for the benefits.

Dr. Brotherson, with North Dakota State University cites “recognition that healthy families and strong marriages provide a seedbed for a good and virtuous society”. He states that healthy marriages “are a source of economic, educational, and social advantage for most children” He also shares “married people, on average, are happier, healthier, wealthier, and enjoy longer lives.”

So why should the government become involved? Besides being a logical pre-requisite for entering into a lifelong relationship, there are solid business management considerations. Failed marriages that result in broken families and needy children present a great financial cost to the state. Even more importantly, divorce inserts government control into people’s personal lives in the form of child support issues, visitation rights, and the overall divorce settlement.

Given that SB 2041 is not a mandate, but an incentives option, we believe it is the right message to send to our citizens. We believe in the institution of marriage, and recognize the beneficial effect it has on our society. To further enhance the institution of marriage, couples are encouraged to avail themselves to these counseling sessions to help them prepare for a successful marriage.

SB 2041 proposes to reward those who will make that investment. Please give SB 2041 a Do Pass



*Representing the Diocese of
Fargo and the Diocese
of Bismarck*

Christopher T. Dodson
Executive Director and
General Counsel

To: House Human Services Committee
From: Christopher T. Dodson, Executive Director
Subject: Senate Bill 2041 (Marriage License Fee and Premarital Counseling)
Date: February 26, 2007

The North Dakota Catholic Conference supports Senate Bill 2041 as one way the state can encourage the development of healthy marriages.

Senate Bill 2041 comes out the interim Judiciary Committee's study of the state's marriage laws and methods for strengthening the institution of marriage. As an example of information the committee received, I have provided an outline of the presentation I gave to the committee last March. That presentation, along with others given to the committee, discusses the wealth of social data that demonstrates the advantages of marriage for children, adults, and society.

Since marriage is a social good, the state has a legitimate interest in encouraging the formation of healthy marriages. Senate Bill 2041 does this in two ways.

First, discounting the marriage license fee for couples who have received premarital counseling provides to those considering marriage an incentive to receive premarital counseling before making this important commitment.

Second, and perhaps even more importantly, Senate Bill 2041 sends a message that couples should not take marriage lightly and without serious preparation. Civil marriage is, after all, a state institution with social consequences. Encouraging premarital counseling is one way the state can invest in the development of healthy marriages.

We urge a **Do Pass** recommendation on Senate Bill 2041.

1 How Can the State Strengthen the Institution of Marriage?

Interim Judiciary Committee, March 20, 2006

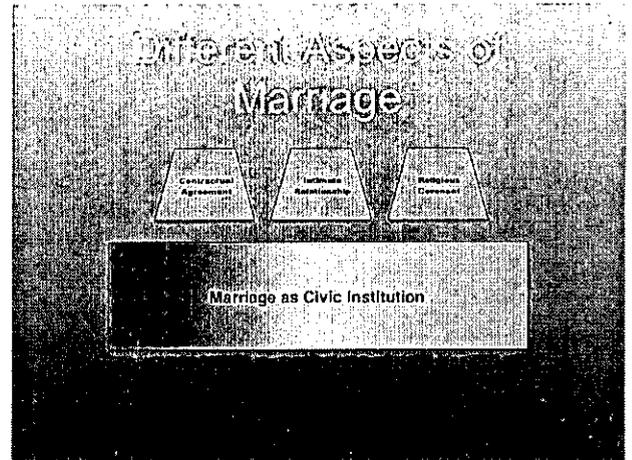
2 Different Aspects of Marriage

Before we can study how to strengthen marriage we need to look at marriage is and how the state has a legitimate interest in strengthening marriage. If we fail to identify the basis for the state's interest, any efforts could be misplaced and pointless.

There are different aspects of marriage in our society.

1. Marriage as a religious covenant
2. Marriage as an intimate relationship
3. Marriage as a contractual agreement

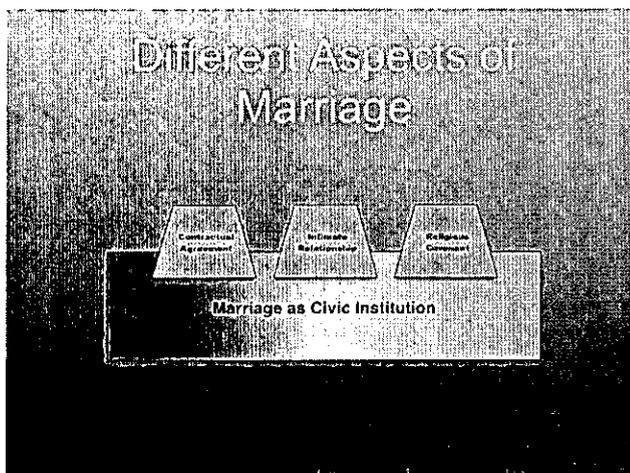
But marriage is first, and fundamentally, a social – or civic institution.



3 Different Aspects of Marriage

In fact, history and anthropology tells us that it is this aspect of marriage that is universal.

Moreover, marriage as a civic institution provides a grounding and commonality among the other aspects. Without the norms provided by marriage as a civic institution, the other aspects of marriage are subject to manipulation or diminution to the point where they are not recognizable as marriage.



4 Different Aspects of Marriage

This truth about marriage – that it is rooted in and sustained by its nature as a civic institution was beautifully expressed in a letter that the German Lutheran theologian Dietrich Bonhoeffer wrote to a young couple about to be married.

Your love is your own private possession, but marriage is more than something personal — it is a status, an office. Just as it is the crown, and not merely the will to rule, that makes the king, so it is marriage, and not merely your love for each other, that joins you together in the sight of God and man. . . . It is not your love that sustains the marriage, but from now on, the marriage that sustains your love.

Dietrich Bonhoeffer, from his Nazi Prison Cell, 1943

5 Marriage as a Civil Institution Exists in the Context of Community

What is the nature of this civil institution?

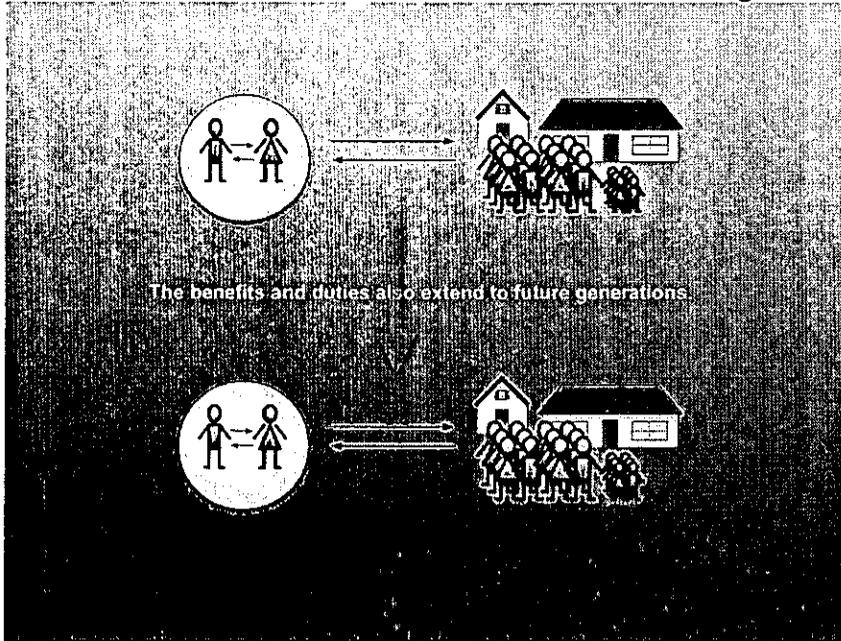
Public commitment made between two persons such that benefits and duties flow from the couple to the community and from the community to the couple.

In this way, both the married couple and the larger community become vested in each other.



6 Marriage as an institution exists in the context of the community

The benefits and duties also extend to future generations.



7 Because the institution is rooted in the community and serves as the basis of the family, it is an essential component of the common good.

The state, therefore, has a legitimate and compelling interest in encouraging, preserving, and strengthening healthy marriages.

8 Marriage as a Civil Institution Provides the Basis for State Involvement

This is important to understand. The state has an interest in strengthening and regulating marriage as a civic institution because of its essential role in society (a legitimate subject for state involvement.) Its interest in regulating the other aspects of marriage are limited to how they overlap or relate to marriage as a civic institution.

Example: The state can regulate when a member of the clergy can solemnize a marriage for state purposes, but it cannot define marriage for religious purposes.

Example: It can prohibit people in an intimate relationship from holding themselves out as married for state purposes, but cannot regulate all forms of intimate relationships.

9 Marriage as a civil institution and the interest of the state is recognized in the directive received by this committee.

SB 2361 § 2: Study the state's marriage laws and methods for strengthening the **institution of marriage** in the state, including premarital requirements, such as marital education and counseling, waiting periods, and marital blood tests; the availability of marriage counseling and parenting education in the state; and the implementation of predivorce requirements, such as divorce-effects education.

10 Why Should Government Care?

The resolution presupposes that the state should want to strengthen marriage, but we need to ask why. Otherwise, efforts could be misguided.

The best answer to why is that social data demonstrates the advantages of marriage for children, adults, and society.

Increased attention to marriage and family structures has produced a wealth of social data that convincingly demonstrates the advantages of marriage for children, adults, and society.

11 Conclusions from Social Research: Beginning Observations

- Weeding out Selection Effects

One of the difficulties with such research is determining whether the benefits of marriage are because of the type of people who get married or are due to marriage itself. The conclusions we are providing and which I will cite have weeded out such "pre-selection" effects, where possible.

- Individual Circumstances Vary

and "likelihood" does not always mean "all" or "most."

Unfortunately, whenever someone talks about the how the social research shows the importance of intact families in society there is inevitably someone who knows of an exception and either (1) dismisses the general conclusions because of the exception or (2) takes offense because the person thinks that the conclusions belittle the accomplishments of the exception.

Neither response necessarily follows from merely pointing out the scientific data. (The fact that some people who wear seatbelts die in traffic accidents and some people who do not, live, does not mean that the state should not encourage the use of seatbelts when the evidence indicates that, more often than not, seatbelts save lives.)

12 Conclusions from Social Research: Resources

Institute for American Values (www.americanvalues.org)

Provided: Why Marriage Matters, Second Edition: Twenty-six Conclusions from the Social Sciences

Provided: Can Government Strengthen Marriage? Evidence from the Social Sciences

Center for Law and Social Policy (www.clasp.org)

Couples and Marriage Series

Beyond Marriage Licenses: Efforts to Strengthen Marriage and Two Parent Families - A State-by-State Snapshot

National Marriage Project at Rutgers (marriage.rutgers.edu)

The State of Our Unions Series

Information Briefs and Testimonies

State of Florida's Commission on Marriage and Family (www.floridafamilies.org)

13 Why Should Government Care? Marriage Benefits Children

Even after controlling for other social and economic factors, children raised outside of intact marriages are at higher risk of experiencing a variety of negative economic, social, psychological, educational, and physical outcomes.

Children raised outside of intact marriages are at higher risk of:

- poverty
- welfare dependency
- failure in school
- substance abuse
- delinquent and criminal behavior (boys)
- mental illness and emotional distress -- including over the course of their adult lives
 - particularly true if parents divorced
- domestic violence and child abuse
- unwed pregnancy
- STDs
- Poor family relationships
- divorce as adults
- poor physical health
- not receiving a higher education
- lower earnings and unemployment
- infant mortality
- suicide
- premature sexual activity (girls)

(new evidence shows higher risk of premature sexual development for girls)

Some comments on a few of these:

Child Abuse

The rate of child abuse in single-parent families is nearly twice the rate of child abuse in two-parent households. (Source: America's Children: Key National Indicators of Well-Being. Federal Interagency Forum on Child and Family)

Crime

Even after controlling for family background variables such as mother's education level, race, family income, and number of siblings, as well as neighborhood variables such as unemployment rates and median income, boys who grew up outside of intact marriages were, on average, more than twice as likely as other boys to end up in jail.

Source: Harper, Cynthia C., and Sara S. McLanahan. "Father Absence and Youth Incarceration." Paper presented at the annual meeting of the American Sociological Association, San Francisco, CA, August 1998.

Drug and Alcohol Use

Even after controlling for the effects of gender, age, race-ethnicity, family income, and residential mobility, teens in single-parent and stepparent families were 2 times more likely to use illegal drugs compared to teens in intact, two-parent married families.

*Source: Hoffmann, John P., and Robert A. Johnson. "A National Portrait of Family Structure and Adolescent Drug Use." *Journal of Marriage and the Family* 60(August 1998): 633-645.*

Education

Even after controlling for differences in income, children who were born out of wedlock and either remained in a single-parent family or whose mother subsequently married had significantly poorer math and reading scores and lower levels of academic performance than children from continuously married households.

*Source: Cooksey, Elizabeth C. "Consequences of Young Mothers' Marital Histories for Children's Cognitive Development." *Journal of Marriage and the Family* 59(May 1997): 245-261.*

Poverty

Single-parent families are five times as likely to be poor as married-couple families. In 1999, 6.3 percent of married-couple families with children were living in poverty, compared to 31.8 percent of single-parent families with children. Source: U.S. Census Bureau. Current Population Survey.

14 Why Should Government Care? Marriage Benefits Adults

Adults who are married enjoy happier, healthier, and less violent relationships, compared with adults who are cohabitating or dating.

- key: strong normative commitment to marriage
- Divorce and unmarried childbearing increases likelihood of poverty for mothers -- even after controlling for race and family background.
- Married couples build more wealth than unmarried couples or singles with the same income.
- Married men earn more than single men with similar education and job histories.
- Married people, especially married men, have longer life expectancies than do otherwise similar singles.
- Married adults have lower rates of injury, illness, and disability.
- They have better health habits and receive more regular health care.
- They are less likely to attempt or to commit suicide. (particularly as compared to divorced men and women.)
- They are also more likely to enjoy close and supportive relationships with their close relatives and to have a wider social support network.
- Married mothers have lower rates of depression than single or cohabitating mothers.
- Married women are less likely to be victims of violent crime and domestic violence.
- Men with criminal history are more likely to reduce their rate offense rate if they marry.

15 Why Should Government Care? Marriage Benefits Society

- Marriage performs social tasks and produces social goods that are irreplaceable or not easily replicated.
 - Marriage is irreplaceable as a child-rearing institution.
- Many of these stem from the social bonds with the community that marriage produces.
 - The social bonds created through marriage yield benefits not just for family members but for others as well. Marriage embeds people within larger social networks.
 - This, in turn, strengthens "mediating institutions" which are

important to a healthy society.

- Married parents, for example, are more likely to vote and to be involved in community, religious, and civic activities.
- Married parents are better able to connect with other parents, including those who are working single parents, and to recruit help, friendship and emotional support in the community.
- Even controlling for the "selective effect," marriage has a transformative effect on attitudes and behavior. Being married changes people's lifestyles, habits, associations, and obligations in ways that are personally and socially beneficial.
- Marriage gets men involved with others.
- In communities where marriage is common, crime is much less common.

16 What Can Government Do?

Some Guiding Principles:

- Policy-makers should reject the false notion that promotion of marriage means disparaging or not helping those who are unmarried.
- Goal is healthy marriage, not marriage for its own sake.

Note: most of the scientific research on the advantages of marriage do not apply to "high conflict" marriages.

They usually do apply, however, to "low-conflict" marriages – which describes most marriages that end in divorce.

- Marriage programs should not substitute for other effective programs to address economic dependency, out-of-wedlock pregnancies, and other problems related to non-marriage.

17 What Can Government Do?

- Policies should treat the married couple as a distinct social, legal, and financial unit.
- Treating married couples as if they were unmarried individuals or treating unmarried individuals as if their marriage weakens marriage as a social institution.

- Prevent efforts to eliminate words such as “spouse,” “married,” “wife,” and “husband” from state forms and documents.

18 What Can Government Do?

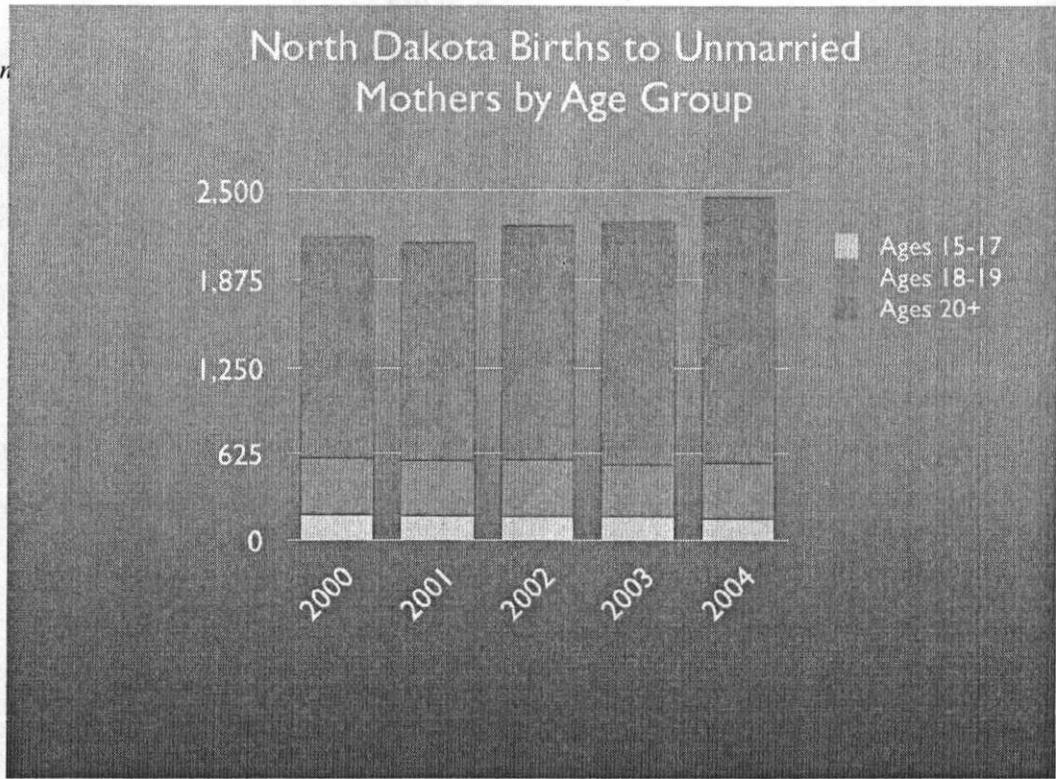
Ensure that public school curricula:

- Treats marriage as civic institution
- Treats marriage as the ideal family form, especially for childbearing
- Does not equate marriage with all other types of relationships
- Educates about the proven personal, familial, and community benefits of marriage
- Equips graduates with the skills needed to avoid bad relationships and build healthy ones

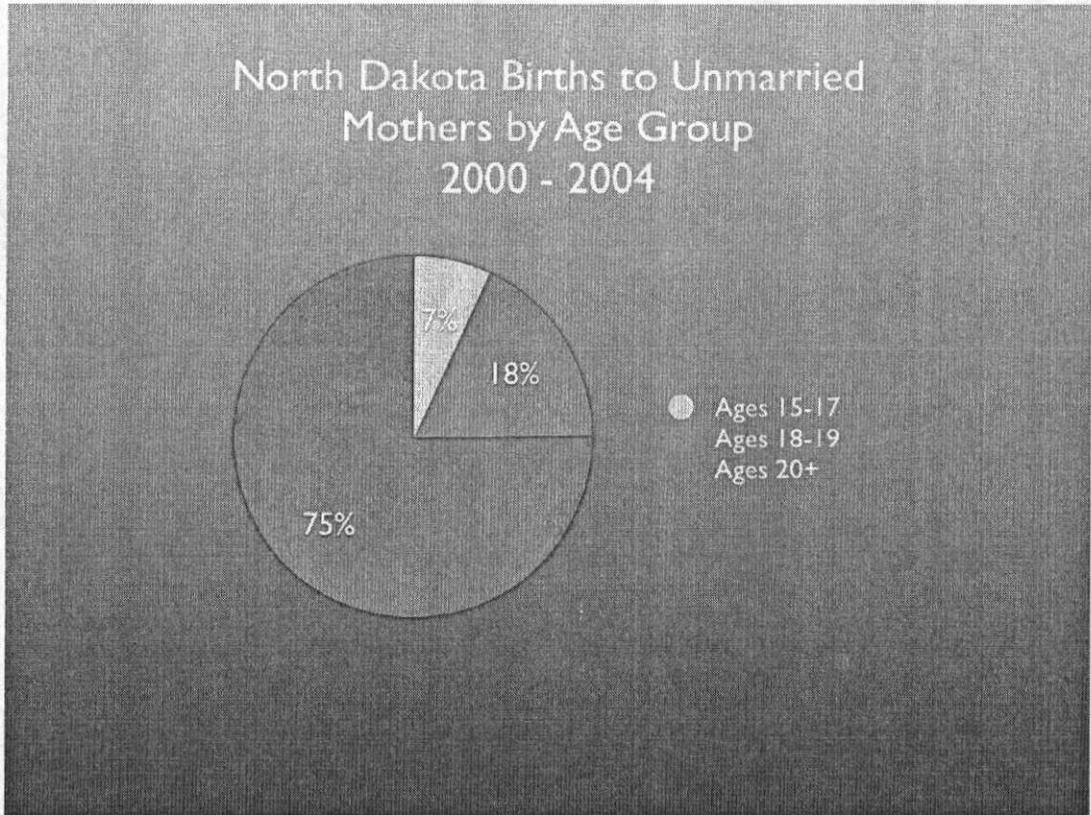
19 What Can Government Do? Put Marriage in Teen Pregnancy Prevention Programs

- Public school programs should emphasize marriage -- not just maturity -- in abstinence and pregnancy prevention programs.
- Examine teen pregnancy prevention programs funded or endorsed by the state to determine whether they are built around marriage. Add a marriage component to those that are not.

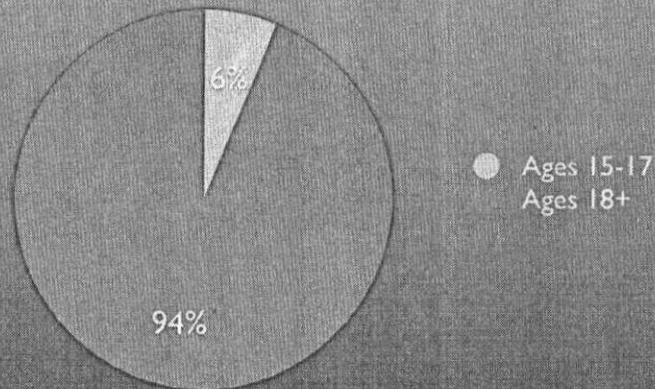
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21



North Dakota Abortions by Age Group 2004



Note: Includes nonresidents, married and unmarried.
83% of abortions were on unmarried women.

23 What Can Government Do? Marriage and Pregnancy

What is Going On? Why Should We Care?

- Have we treated the problem of unwed pregnancy as a teen pregnancy problem?
 - Message is: "Wait until you are older."
 - Message should be: "Wait until you are older and in a healthy marriage."
- Research shows that adult unwed mothers and their children are no better off than teen unwed mothers and their children -- even in the long run.

Recommended Report: *The Age of Unwed Mothers: Is Teen Pregnancy the Problem?* Institute for American Values

24 What Can Government Do?

Put Marriage in Teen Pregnancy Prevention Programs

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25 What Can Government Do?

- Ensure that all state policies and practices respect, rather than burden or discourage marriage.
- Give preference in state-funded job creation and location incentive programs to those proposals that provide not only good wages and benefits, but also traditional hours and predictable work schedules.
 - Research has found that married couples with children who work night and rotating shifts are a higher risk of separation and divorce. (CLASP, Couples and Marriage Policy Brief, Aug. 2002, p.5.)
- Continue and increase funding for centers that provide positive help for women facing unexpected pregnancies.
 - Setting aside the moral and ethical issues, abortion is not a good public policy response to unintended pregnancies or the social and personal factors that lead to them. When we address those factors in a caring, life-affirming way, we increase the likelihood that those women will find themselves in a stable, healthy, relationship. Merely making the pregnancy “go away” does not address the underlying circumstances that led to that crisis pregnancy.

26 What Can Government Do?

- Explore divorce education or mediation pilot project designed to reduce unnecessary divorce.
- Fund voluntary marriage preparation and education services for cohabitating and other unmarried new parents.
- Fund voluntary marriage education and other intervention services to reduce conflict, violence, and unnecessary divorce in high-risk couples.

27 What Can Government Do?

Other Ideas

- Establish a marriage commission charged with evaluating how state agencies treat marriage developing specific initiatives and policies
 - At a minimum, this committee should gather information on the efforts in other states, such as Florida's Commission on Marriage and Family.

- Hold Conference with faith-based and community organizations on marriage strengthening policies
- Invest in initiatives to promote fatherhood
 - *Father Times* Newsletter from NDSU Extension Service
 - Research shows that most women giving birth out-of-wedlock still have a relationship with the biological father and that both want to continue that relationship.
 - Preliminary survey data from the Fragile Families and Child Wellbeing Study, a longitudinal study of 2,670 unmarried couples with children, suggests that most unwed fathers are highly involved shortly after the child's birth:
 - 50% of unmarried parents were living together at the time of the child's birth, and another 33% were romantically involved but living apart.
 - 80% of the fathers were involved in helping the baby's mother during the pregnancy, either financially or in other ways (such as transportation).
 - 73% of mothers reported that the chances that they will marry the baby's father are "fifty-fifty" or greater; 88% of fathers reported that the odds of marrying the mother of their child are "fifty-fifty" or greater.
 - 64% of the mothers and 75% of the fathers agreed with the statement, "it is better for children if their parents are married."
 - 90% of unmarried mothers rated "husband having a steady job" and "emotional maturity" as very important qualities for a successful marriage.
 - 37% of the mothers and 34% of the fathers lack a high school degree, and less than a third had any education beyond high school.
 - 30% of the fathers were unemployed in the week before their child was born.
- Incorporate marriage incentives in TANF
- Discount marriage license fee couples who receive premarital counseling, using TANF funds to off-set the cost to the counties