

By: Beckley

H.B. No. 1037

A BILL TO BE ENTITLED

AN ACT

relating to certain statutory changes to reflect and address same-sex marriages and parenting relationships and to the removal of provisions regarding the criminality or unacceptability of homosexual conduct.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. FAMILY CODE PROVISIONS

SECTION 1.01. Subchapter A, Chapter 1, Family Code, is amended by adding Section 1.0015 to read as follows:

Sec. 1.0015. CONSTRUCTION OF GENDER-SPECIFIC TERMINOLOGY. When necessary to implement the rights and duties of spouses or parents in a marriage between persons of the same sex under the laws of this state, gender-specific terminology must be construed in a neutral manner to refer to a person of either gender.

SECTION 1.02. Section 2.001(a), Family Code, is amended to read as follows:

(a) Two individuals [~~A man and a woman~~] desiring to enter into a ceremonial marriage must obtain a marriage license from the county clerk of any county of this state.

SECTION 1.03. Section 2.004(b), Family Code, is amended to read as follows:

(b) The application form must contain:

(1) a heading entitled "Application for Marriage License, _____ County, Texas";

1 (2) spaces for each applicant's full name, including
2 the [~~woman's maiden~~] surname of an applicant intending to change
3 the applicant's surname as a result of the marriage, address,
4 social security number, if any, date of birth, and place of birth,
5 including city, county, and state;

6 (3) a space for indicating the document tendered by
7 each applicant as proof of identity and age;

8 (4) spaces for indicating whether each applicant has
9 been divorced within the last 30 days;

10 (5) printed boxes for each applicant to check "true"
11 or "false" in response to the following statement: "I am not
12 presently married and the other applicant is not presently
13 married.";

14 (6) printed boxes for each applicant to check "true"
15 or "false" in response to the following statement: "The other
16 applicant is not related to me as:

17 (A) an ancestor or descendant, by blood or
18 adoption;

19 (B) a brother or sister, of the whole or half
20 blood or by adoption;

21 (C) a parent's brother or sister, of the whole or
22 half blood or by adoption;

23 (D) a son or daughter of a brother or sister, of
24 the whole or half blood or by adoption;

25 (E) a current or former stepchild or stepparent;

26 or

27 (F) a son or daughter of a parent's brother or

1 sister, of the whole or half blood or by adoption.";

2 (7) printed boxes for each applicant to check "true"
3 or "false" in response to the following statement: "I am not
4 presently delinquent in the payment of court-ordered child
5 support.";

6 (8) a printed oath reading: "I SOLEMNLY SWEAR (OR
7 AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS
8 CORRECT.";

9 (9) spaces immediately below the printed oath for the
10 applicants' signatures;

11 (10) a certificate of the county clerk that:

12 (A) each applicant made the oath and the date and
13 place that it was made; or

14 (B) an applicant did not appear personally but
15 the prerequisites for the license have been fulfilled as provided
16 by this chapter;

17 (11) spaces for indicating the date of the marriage
18 and the county in which the marriage is performed;

19 (12) a space for the address to which the applicants
20 desire the completed license to be mailed; and

21 (13) a printed box for each applicant to check
22 indicating that the applicant wishes to make a voluntary
23 contribution of \$5 to promote healthy early childhood by supporting
24 the Texas Home Visiting Program administered by the Office of Early
25 Childhood Coordination of the Health and Human Services Commission.

26 SECTION 1.04. Section [2.401\(a\)](#), Family Code, is amended to
27 read as follows:

1 (a) In a judicial, administrative, or other proceeding, the
2 marriage of two individuals [~~a man and woman~~] may be proved by
3 evidence that:

4 (1) a declaration of their marriage has been signed as
5 provided by this subchapter; or

6 (2) the individuals [~~man and woman~~] agreed to be
7 married and after the agreement they lived together in this state as
8 spouses [~~husband and wife~~] and there represented to others that
9 they were married.

10 SECTION 1.05. Section 2.402(b), Family Code, is amended to
11 read as follows:

12 (b) The declaration form must contain:

13 (1) a heading entitled "Declaration and Registration
14 of Informal Marriage, _____ County, Texas";

15 (2) spaces for each party's full name, including the
16 [~~woman's maiden~~] surname of a party intending to change the party's
17 surname as a result of the marriage, address, date of birth, place
18 of birth, including city, county, and state, and social security
19 number, if any;

20 (3) a space for indicating the type of document
21 tendered by each party as proof of age and identity;

22 (4) printed boxes for each party to check "true" or
23 "false" in response to the following statement: "The other party
24 is not related to me as:

25 (A) an ancestor or descendant, by blood or
26 adoption;

27 (B) a brother or sister, of the whole or half

1 blood or by adoption;

2 (C) a parent's brother or sister, of the whole or
3 half blood or by adoption;

4 (D) a son or daughter of a brother or sister, of
5 the whole or half blood or by adoption;

6 (E) a current or former stepchild or stepparent;
7 or

8 (F) a son or daughter of a parent's brother or
9 sister, of the whole or half blood or by adoption.";

10 (5) a printed declaration and oath reading: "I
11 SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO
12 EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT (DATE) WE
13 AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS
14 SPOUSES [~~HUSBAND AND WIFE~~] AND IN THIS STATE WE REPRESENTED TO
15 OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE
16 OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS
17 DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN IS
18 CORRECT.";

19 (6) spaces immediately below the printed declaration
20 and oath for the parties' signatures; and

21 (7) a certificate of the county clerk that the parties
22 made the declaration and oath and the place and date it was made.

23 SECTION 1.06. Section 3.401, Family Code, is amended by
24 adding Subdivision (1) and amending Subdivisions (4) and (5) to
25 read as follows:

26 (1) "Civil union" means any relationship status other
27 than marriage that:

1 (A) is intended as an alternative to marriage or
2 applies primarily to cohabitating persons; and

3 (B) grants to the parties of the relationship
4 legal protections, benefits, or responsibilities granted to the
5 spouses of a marriage.

6 (4) "Marital estate" means one of three estates:

7 (A) the community property owned by the spouses
8 together and referred to as the community marital estate; or

9 (B) the separate property owned individually by
10 each spouse [~~the husband~~] and referred to as a separate marital
11 estate[~~, or~~

12 [~~(C) the separate property owned individually by~~
13 ~~the wife, also referred to as a separate marital estate]~~.

14 (5) "Spouse" means one of the two individuals who are
15 the parties to:

16 (A) a marriage; or

17 (B) [a husband, who is a man, or a wife, who is a
18 woman. A member of] a civil union [~~or similar relationship~~] entered
19 into in another state [~~between persons of the same sex is not a~~
20 ~~spouse~~].

21 SECTION 1.07. Section 6.104(b), Family Code, is amended to
22 read as follows:

23 (b) In exercising its discretion, the court shall consider
24 the pertinent facts concerning the welfare of the parties to the
25 marriage, including whether a spouse [~~the female~~] is pregnant.

26 SECTION 1.08. Section 6.202(b), Family Code, is amended to
27 read as follows:

1 (b) The later marriage that is void under this section
2 becomes valid when the prior marriage is dissolved if, after the
3 date of the dissolution, the parties have lived together as spouses
4 [~~husband and wife~~] and represented themselves to others as being
5 married.

6 SECTION 1.09. Section 6.203, Family Code, is amended to
7 read as follows:

8 Sec. 6.203. CERTAIN VOID MARRIAGES VALIDATED. Except for a
9 marriage that would have been void under Section 6.201, a marriage
10 that was entered into before January 1, 1970, in violation of the
11 prohibitions of Article 496, Penal Code of Texas, 1925, is
12 validated from the date the marriage commenced if the parties
13 continued until January 1, 1970, to live together as spouses
14 [~~husband and wife~~] and to represent themselves to others as being
15 married.

16 SECTION 1.10. Section 6.704, Family Code, is amended to
17 read as follows:

18 Sec. 6.704. TESTIMONY OF SPOUSE [~~HUSBAND OR WIFE~~]. (a) In
19 a suit for dissolution of a marriage, each spouse is a [~~the husband~~
20 ~~and wife are~~] competent witness [~~witnesses~~] for and against the
21 [~~each~~] other spouse. A spouse may not be compelled to testify as to
22 a matter that will incriminate the spouse.

23 (b) If a spouse [~~the husband or wife~~] testifies, the court
24 or jury trying the case shall determine the credibility of the
25 witness and the weight to be given the witness's testimony.

26 SECTION 1.11. Chapter 51, Family Code, is amended by adding
27 Section 51.015 to read as follows:

1 Sec. 51.015. CONSTRUCTION OF GENDER-SPECIFIC TERMINOLOGY.

2 When necessary to implement the rights and duties of spouses or
3 parents in a marriage between persons of the same sex under the laws
4 of this state, gender-specific terminology must be construed in a
5 neutral manner to refer to a person of either gender.

6 SECTION 1.12. Chapter 101, Family Code, is amended by
7 adding Section 101.0012 to read as follows:

8 Sec. 101.0012. CONSTRUCTION OF GENDER-SPECIFIC
9 TERMINOLOGY. When necessary to implement the rights and duties of
10 spouses or parents in a marriage between persons of the same sex
11 under the laws of this state, gender-specific terminology must be
12 construed in a neutral manner to refer to a person of either gender.

13 SECTION 1.13. Section 101.024(a), Family Code, is amended
14 to read as follows:

15 (a) "Parent" means the mother, a man presumed to be the
16 father, an individual [~~a man~~] legally determined to be a parent [~~the~~
17 ~~father~~], an individual [~~a man~~] who has been adjudicated to be a
18 parent [~~the father~~] by a court of competent jurisdiction, a man who
19 has acknowledged his parentage [~~paternity~~] under applicable law, or
20 an adoptive mother or father. Except as provided by Subsection (b),
21 the term does not include a parent as to whom the parent-child
22 relationship has been terminated.

23 SECTION 1.14. Section 108.009(b), Family Code, is amended
24 to read as follows:

25 (b) The new certificate may not show that a parent-child
26 [~~the father and child~~] relationship was established after the
27 child's birth but may show the child's actual place and date of

1 birth.

2 SECTION 1.15. Section 152.310(d), Family Code, is amended
3 to read as follows:

4 (d) A privilege against disclosure of communications
5 between spouses and a defense of immunity based on the relationship
6 of spouses [~~husband and wife~~] or parent and child may not be invoked
7 in a proceeding under this subchapter.

8 SECTION 1.16. Section 153.312(b), Family Code, is amended
9 to read as follows:

10 (b) The following provisions govern possession of the child
11 for vacations and certain specific holidays and supersede
12 conflicting weekend or Thursday periods of possession. The
13 possessory conservator and the managing conservator shall have
14 rights of possession of the child as follows:

15 (1) the possessory conservator shall have possession
16 in even-numbered years, beginning at 6 p.m. on the day the child is
17 dismissed from school for the school's spring vacation and ending
18 at 6 p.m. on the day before school resumes after that vacation, and
19 the managing conservator shall have possession for the same period
20 in odd-numbered years;

21 (2) if a possessory conservator:

22 (A) gives the managing conservator written
23 notice by April 1 of each year specifying an extended period or
24 periods of summer possession, the possessory conservator shall have
25 possession of the child for 30 days beginning not earlier than the
26 day after the child's school is dismissed for the summer vacation
27 and ending not later than seven days before school resumes at the

1 end of the summer vacation, to be exercised in not more than two
2 separate periods of at least seven consecutive days each, with each
3 period of possession beginning and ending at 6 p.m. on each
4 applicable day; or

5 (B) does not give the managing conservator
6 written notice by April 1 of each year specifying an extended period
7 or periods of summer possession, the possessory conservator shall
8 have possession of the child for 30 consecutive days beginning at 6
9 p.m. on July 1 and ending at 6 p.m. on July 31;

10 (3) if the managing conservator gives the possessory
11 conservator written notice by April 15 of each year, the managing
12 conservator shall have possession of the child on any one weekend
13 beginning Friday at 6 p.m. and ending at 6 p.m. on the following
14 Sunday during one period of possession by the possessory
15 conservator under Subdivision (2), provided that the managing
16 conservator picks up the child from the possessory conservator and
17 returns the child to that same place; and

18 (4) if the managing conservator gives the possessory
19 conservator written notice by April 15 of each year or gives the
20 possessory conservator 14 days' written notice on or after April 16
21 of each year, the managing conservator may designate one weekend
22 beginning not earlier than the day after the child's school is
23 dismissed for the summer vacation and ending not later than seven
24 days before school resumes at the end of the summer vacation, during
25 which an otherwise scheduled weekend period of possession by the
26 possessory conservator will not take place, provided that the
27 weekend designated does not interfere with the possessory

1 conservator's period or periods of extended summer possession or
2 with Father's Day if the possessory conservator is a the father of
3 the child who is entitled to possession of the child for Father's
4 Day weekend that year.

5 SECTION 1.17. Sections 153.313 and 153.314, Family Code,
6 are amended to read as follows:

7 Sec. 153.313. PARENTS WHO RESIDE OVER 100 MILES APART. If
8 the possessory conservator resides more than 100 miles from the
9 residence of the child, the possessory conservator shall have the
10 right to possession of the child as follows:

11 (1) either regular weekend possession beginning on the
12 first, third, and fifth Friday as provided under the terms
13 applicable to parents who reside 100 miles or less apart or not more
14 than one weekend per month of the possessory conservator's choice
15 beginning at 6 p.m. on the day school recesses for the weekend and
16 ending at 6 p.m. on the day before school resumes after the weekend,
17 provided that the possessory conservator gives the managing
18 conservator 14 days' written or telephonic notice preceding a
19 designated weekend, and provided that the possessory conservator
20 elects an option for this alternative period of possession by
21 written notice given to the managing conservator within 90 days
22 after the parties begin to reside more than 100 miles apart, as
23 applicable;

24 (2) each year beginning at 6 p.m. on the day the child
25 is dismissed from school for the school's spring vacation and
26 ending at 6 p.m. on the day before school resumes after that
27 vacation;

1 (3) if the possessory conservator:
2 (A) gives the managing conservator written
3 notice by April 1 of each year specifying an extended period or
4 periods of summer possession, the possessory conservator shall have
5 possession of the child for 42 days beginning not earlier than the
6 day after the child's school is dismissed for the summer vacation
7 and ending not later than seven days before school resumes at the
8 end of the summer vacation, to be exercised in not more than two
9 separate periods of at least seven consecutive days each, with each
10 period of possession beginning and ending at 6 p.m. on each
11 applicable day; or

12 (B) does not give the managing conservator
13 written notice by April 1 of each year specifying an extended period
14 or periods of summer possession, the possessory conservator shall
15 have possession of the child for 42 consecutive days beginning at 6
16 p.m. on June 15 and ending at 6 p.m. on July 27;

17 (4) if the managing conservator gives the possessory
18 conservator written notice by April 15 of each year the managing
19 conservator shall have possession of the child on one weekend
20 beginning Friday at 6 p.m. and ending at 6 p.m. on the following
21 Sunday during one period of possession by the possessory
22 conservator under Subdivision (3), provided that if a period of
23 possession by the possessory conservator exceeds 30 days, the
24 managing conservator may have possession of the child under the
25 terms of this subdivision on two nonconsecutive weekends during
26 that time period, and further provided that the managing
27 conservator picks up the child from the possessory conservator and

1 returns the child to that same place; and

2 (5) if the managing conservator gives the possessory
3 conservator written notice by April 15 of each year, the managing
4 conservator may designate 21 days beginning not earlier than the
5 day after the child's school is dismissed for the summer vacation
6 and ending not later than seven days before school resumes at the
7 end of the summer vacation, to be exercised in not more than two
8 separate periods of at least seven consecutive days each, with each
9 period of possession beginning and ending at 6 p.m. on each
10 applicable day, during which the possessory conservator may not
11 have possession of the child, provided that the period or periods so
12 designated do not interfere with the possessory conservator's
13 period or periods of extended summer possession or with Father's
14 Day if the possessory conservator is a [the] father of the child who
15 is entitled to possession of the child for Father's Day weekend that
16 year.

17 Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE
18 PARENTS RESIDE APART. The following provisions govern possession
19 of the child for certain specific holidays and supersede
20 conflicting weekend or Thursday periods of possession without
21 regard to the distance the parents reside apart. The possessory
22 conservator and the managing conservator shall have rights of
23 possession of the child as follows:

24 (1) the possessory conservator shall have possession
25 of the child in even-numbered years beginning at 6 p.m. on the day
26 the child is dismissed from school for the Christmas school
27 vacation and ending at noon on December 28, and the managing

1 conservator shall have possession for the same period in
2 odd-numbered years;

3 (2) the possessory conservator shall have possession
4 of the child in odd-numbered years beginning at noon on December 28
5 and ending at 6 p.m. on the day before school resumes after that
6 vacation, and the managing conservator shall have possession for
7 the same period in even-numbered years;

8 (3) the possessory conservator shall have possession
9 of the child in odd-numbered years, beginning at 6 p.m. on the day
10 the child is dismissed from school before Thanksgiving and ending
11 at 6 p.m. on the following Sunday, and the managing conservator
12 shall have possession for the same period in even-numbered years;

13 (4) the parent not otherwise entitled under this
14 standard possession order to present possession of a child on the
15 child's birthday shall have possession of the child beginning at 6
16 p.m. and ending at 8 p.m. on that day, provided that the parent
17 picks up the child from the residence of the conservator entitled to
18 possession and returns the child to that same place;

19 (5) if a conservator, the father shall have possession
20 of the child beginning at 6 p.m. on the Friday preceding Father's
21 Day and ending on Father's Day at 6 p.m., provided that, if he is not
22 otherwise entitled under this standard possession order to present
23 possession of the child, he picks up the child from the residence of
24 the conservator entitled to possession and returns the child to
25 that same place, except that if the child has two fathers appointed
26 as conservators, the managing conservator shall have possession of
27 the child for the period described by this subdivision in

1 even-numbered years and the possessory conservator shall have
2 possession of the child for that period in odd-numbered years; and

3 (6) if a conservator, the mother shall have possession
4 of the child beginning at 6 p.m. on the Friday preceding Mother's
5 Day and ending on Mother's Day at 6 p.m., provided that, if she is
6 not otherwise entitled under this standard possession order to
7 present possession of the child, she picks up the child from the
8 residence of the conservator entitled to possession and returns the
9 child to that same place, except that if the child has two mothers
10 appointed as conservators, the managing conservator shall have
11 possession of the child for the period described by this
12 subdivision in even-numbered years and the possessory conservator
13 shall have possession of the child for that period in odd-numbered
14 years.

15 SECTION 1.18. The following provisions of the Family Code
16 are repealed:

17 (1) Section 2.001(b); and

18 (2) Section 6.204.

19 SECTION 1.19. The change in law made by this article to
20 Section 108.009(b), Family Code, applies only to a new birth
21 certificate for a child born on or after the effective date of this
22 Act. A new birth certificate for a child born before that date is
23 governed by the law in effect on the date the child was born, and the
24 former law is continued in effect for that purpose.

25 SECTION 1.20. The changes in law made by this article to
26 Sections 153.312(b), 153.313, and 153.314, Family Code, apply only
27 to a court order providing for possession of or access to a child

1 rendered on or after the effective date of this Act. A court order
2 rendered before the effective date of this Act is governed by the
3 law in effect on the date the order was rendered, and the former law
4 is continued in effect for that purpose.

5 ARTICLE 2. HEALTH AND SAFETY CODE PROVISIONS

6 SECTION 2.01. Section 85.007(b), Health and Safety Code, is
7 amended to read as follows:

8 (b) The materials in the education programs intended for
9 persons younger than 18 years of age must[+]

10 [~~(1)~~] emphasize sexual abstinence before marriage and
11 fidelity in marriage as the expected standard in terms of public
12 health and the most effective ways to prevent HIV infection,
13 sexually transmitted diseases, and unwanted pregnancies[~~, and~~

14 [~~(2) state that homosexual conduct is not an~~
15 ~~acceptable lifestyle and is a criminal offense under Section 21.06,~~
16 ~~Penal Code].~~

17 SECTION 2.02. Section 163.001(a), Health and Safety Code,
18 is amended to read as follows:

19 (a) The department shall develop a model public health
20 education program suitable for school-age children and shall make
21 the program available to any person on request. The program should
22 emphasize:

23 (1) that abstinence from sexual intercourse is the
24 most effective protection against unwanted teenage pregnancy,
25 sexually transmitted diseases, and acquired immune deficiency
26 syndrome (AIDS) when transmitted sexually;

27 (2) that abstinence from sexual intercourse outside of

1 ~~[lawful]~~ marriage is the expected societal standard for school-age
2 unmarried persons; and

3 (3) the physical, emotional, and psychological
4 dangers of substance abuse, including the risk of acquired immune
5 deficiency syndrome (AIDS) through the sharing of needles during
6 intravenous drug usage.

7 SECTION 2.03. Section 163.002, Health and Safety Code, is
8 amended to read as follows:

9 Sec. 163.002. INSTRUCTIONAL ELEMENTS. Course materials and
10 instruction relating to sexual education or sexually transmitted
11 diseases should include:

12 (1) an emphasis on sexual abstinence as the only
13 completely reliable method of avoiding unwanted teenage pregnancy
14 and sexually transmitted diseases;

15 (2) an emphasis on the importance of self-control,
16 responsibility, and ethical conduct in making decisions relating to
17 sexual behavior;

18 (3) statistics, based on the latest medical
19 information, that indicate the efficacy of the various forms of
20 contraception;

21 (4) information concerning the laws relating to the
22 financial responsibilities associated with pregnancy, childbirth,
23 and child rearing;

24 (5) information concerning the laws prohibiting
25 sexual abuse and the legal and counseling options available to
26 victims of sexual abuse;

27 (6) information on how to cope with and rebuff

1 unwanted physical and verbal sexual advances, as well as the
2 importance of avoiding the sexual exploitation of other persons;
3 and

4 (7) psychologically sound methods of resisting
5 unwanted peer pressure [~~and~~

6 [~~(8) emphasis, provided in a factual manner and from a
7 public health perspective, that homosexuality is not a lifestyle
8 acceptable to the general public and that homosexual conduct is a
9 criminal offense under Section 21.06, Penal Code~~].

10 SECTION 2.04. Section 191.0046(b), Health and Safety Code,
11 is amended to read as follows:

12 (b) The state registrar shall issue without fee a certified
13 copy of a record not otherwise prohibited by law to a veteran or to
14 the veteran's widow or widower, orphan, or other dependent if the
15 copy is for use in settling a claim against the government.

16 SECTION 2.05. Section 193.006(a), Health and Safety Code,
17 is amended to read as follows:

18 (a) This section applies to the death certificate of a
19 person who:

20 (1) served in a war, campaign, or expedition of the
21 United States, the Confederate States of America, or the Republic
22 of Texas;

23 (2) was the spouse, widower, [~~wife~~] or widow of a
24 person who served in a war, campaign, or expedition of the United
25 States, the Confederate States of America, or the Republic of
26 Texas; or

27 (3) at the time of death was in the service of the

1 United States.

2 SECTION 2.06. Section 574.045(d), Health and Safety Code,
3 is amended to read as follows:

4 (d) A female patient must be accompanied by a female
5 attendant unless the patient is accompanied by her father, male
6 spouse [~~husband~~], or adult brother or son.

7 ARTICLE 3. PENAL CODE REPEALER

8 SECTION 3.01. Section 21.06, Penal Code, is repealed.

9 ARTICLE 4. EFFECTIVE DATE

10 SECTION 4.01. This Act takes effect September 1, 2021.