

By: Hernandez

H.B. No. 1685

A BILL TO BE ENTITLED

AN ACT

relating to certain statutory changes to reflect and address same-sex marriages.

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

SECTION 1. 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 2. 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";

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

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

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

(5) printed boxes for each applicant to check "true"

1 or "false" in response to the following statement: "I am not  
2 presently married and the other applicant is not presently  
3 married.";

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

7 (A) an ancestor or descendant, by blood or  
8 adoption;

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

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

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

15 (E) a current or former stepchild or stepparent;  
16 or

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

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

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

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

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

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

4 (B) an applicant did not appear personally but  
5 the prerequisites for the license have been fulfilled as provided  
6 by this chapter;

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

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

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

16 SECTION 3. Section 2.401(a), Family Code, is amended to  
17 read as follows:

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

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

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

27 SECTION 4. Section 2.402(b), Family Code, is amended to

1 read as follows:

2 (b) The declaration form must contain:

3 (1) a heading entitled "Declaration and Registration  
4 of Informal Marriage, \_\_\_\_\_ County, Texas";

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

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

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

15 (A) an ancestor or descendant, by blood or  
16 adoption;

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

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

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

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

24 or

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

27 (5) a printed declaration and oath reading: "I

1 SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO  
2 EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT (DATE) WE  
3 AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS  
4 SPOUSES [~~HUSBAND AND WIFE~~] AND IN THIS STATE WE REPRESENTED TO  
5 OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE  
6 OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS  
7 DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN IS  
8 CORRECT.";

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

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

13 SECTION 5. Sections 3.401(4) and (5), Family Code, are  
14 amended to read as follows:

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

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

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

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

23 (5) "Spouse" means one of the two individuals who are  
24 the parties to a marriage [~~a husband, who is a man, or a wife, who is~~  
25 ~~a woman. A member of a civil union or similar relationship entered~~  
26 ~~into in another state between persons of the same sex is not a~~  
27 ~~spouse].~~

1 SECTION 6. Section 6.104(b), Family Code, is amended to  
2 read as follows:

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

6 SECTION 7. Section 6.202(b), Family Code, is amended to  
7 read as follows:

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

13 SECTION 8. Section 6.203, Family Code, is amended to read as  
14 follows:

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

23 SECTION 9. Section 6.704, Family Code, is amended to read as  
24 follows:

25 Sec. 6.704. TESTIMONY OF SPOUSE [~~HUSBAND OR WIFE~~]. (a) In  
26 a suit for dissolution of a marriage, each spouse is a [~~the husband~~  
27 ~~and wife are~~] competent witness [~~witnesses~~] for and against the

1 ~~each~~ other spouse. A spouse may not be compelled to testify as to  
2 a matter that will incriminate the spouse.

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

6 SECTION 10. This Act takes effect September 1, 2023.