

BILL ANALYSIS

H.B. 858
By: Kolkhorst
State Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Under current law, two individuals can receive a marriage license issued by a county clerk, even if neither individual appears in person. Because no one is required to be present when applying or receiving a marriage license, many county clerks are becoming concerned about the potential for fraud. Recently, the Texas Rangers assisted in the apprehension of a "marriage license ring" which used the current lack of oversight to obtain fraudulent marriage licenses. Additionally, it should be noted that Office of the Attorney General's Opinion No. GA-0024 confirms that a clerk may issue a marriage license to two absent applicants.

H.B. 858 replaces current language which allows two absent applicants be issued a marriage license. The purpose of HB 858 is to require that at least one of the two persons requesting the marriage be present to apply for the license, unless it can be proven that both applicants are on active duty in the military or confined in a correctional facility.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Amends Section 2.006 of the Family Code to say the county clerk cannot issue a marriage license if both applicants are absent unless the person applying on behalf of each absent applicant can provide an affidavit proving that the applicant is on active duty in the military or confined in a correctional facility. This Act only applies to marriage licenses submitted on or after effective date; it is not retroactive.

EFFECTIVE DATE

September 1, 2005