

## **BILL ANALYSIS**

C.S.H.B. 1120

By: Nixon

Juvenile Justice & Family Issues  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas law has not allowed for criminal prosecution for perjury while applying for a marriage license. Also, certain actions which would be considered inappropriate reasons for obtaining a marriage license are not accounted for under current laws.

C.S.H.B.1120 ensures the sanctity and integrity of the institution of marriage in this state by making it illegal to falsely represent one's self or intentions when applying for a marriage license. Additionally, this bill requires that the applicant to indicate whether or not he or she has been previously married, and provides for the maintenance of an up-to-date, accurate, and easily accessible statewide index with information pertaining to marriages, divorces, and annulments of marriage.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Health and Human Services Commission, in SECTION 7 (Section 194.003, Health and Safety Code) of this bill.

### **ANALYSIS**

- SECTION 1.** Amends Section 2.004(b) of the Family Code to require that those applying for a marriage license to declare that they are not presently married under the laws of this state or any other jurisdiction, that they do not desire to marry for the sole purpose of obtaining immigration benefits and that they have not received and will not accept consideration or payment of any kind for marrying the other applicant. Provides spaces on the license application that require the applicant to indicate whether the applicant has ever been a party to a divorce or an annulment.
- SECTION 2.** Amends Section 2.007, of the Family Code requiring an absentee application for marriage license, to declare that they are not presently married under the laws of this state or any other jurisdiction, and that they do not desire to marry for the sole purpose of obtaining immigration benefits and that they have not received and will not accept consideration or payment for marrying the other applicant. Provides spaces on the license application that require the applicant to indicate whether the applicant has ever been a party to a divorce or an annulment.
- SECTION 3.** Amends Section 2.009(b) of the Family Code by adding the statement "under the laws of this state or any other jurisdiction."
- SECTION 4.** Amends Subchapter A, Chapter 2, of the Family Code by adding Section 2.0125 to provide that an applicant who provides false information in an application for license under Section 2.004 (b) (5) or in an affidavit under Section 2.007 (3) (A), (9) or (10), is subject to prosecution for aggravated perjury under Section 37.03 of the Penal Code.
- SECTION 5.** Amends Section 194.001(a), of the Health and Safety Code to include the filing of an affidavit of an absent applicant for license.

- SECTION 6.** Amends Chapter 194, of the Health and Safety Code by adding Section 194.0012 to provide that an administrative penalty would be imposed on a county clerk for failing to comply with reporting requirements already imposed by current statute.
- SECTION 7.** Amends Section 194.003 of the Health and Safety Code that would require the Bureau of Vital Statistics to maintain an up-to-date, accurate, and easily accessible statewide index with information pertaining to marriages, divorces, and annulments of marriage. Additionally, the executive commissioner of the Health and Human Services Commission shall adopt rules for the administration of this index.
- SECTION 8.** Amends Section 118.018, of the Local Government Code by adding Subsection (d) to allow a county clerk to collect from a marriage license applicant a fee not to exceed \$5, to be sent to the bureau of vital statistics of the Department of State Health Services for updating, developing, and maintaining the state index of marriage license applications, declarations of informal marriages, divorces, and annulments.
- SECTION 9.** Amends Section 118.019, Local Government Code by allowing a county clerk to collect from a declaration of informal marriage a fee not to exceed \$5, to be sent to the bureau of vital statistics of the Department of State Health Services for updating, developing, and maintaining the state index of marriage license applications, declarations of informal marriages, divorces, and annulments.
- SECTION 10.** Amends Section 118.022(a), Local Government Code, to provide that the fee collected for the state index is exempt from deposit to the comptroller for the child abuse and neglect prevention trust fund account.
- SECTION 11.** Prospective Clause
- SECTION 12.** The executive commissioner of the Health and Human Services Commission shall adopt rules for the administration of Section 194.003, Health and Safety Code.
- SECTION 13.** Prospective Clause
- SECTION 14.** This Act takes effect September 1, 2005.

#### **EFFECTIVE DATE**

September 1, 2005

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

C.S.H.B.1120 modifies the original H.B.1120 by amending Section 2.004(b)(5)(B), to read that an applicant for a marriage license must state that they do not desire to marry to circumvent immigration laws or to obtain immigration benefits. The substitute also modifies the original by amending Section 2.007(9) to read that an affidavit of an absent applicant must include a statement confirming that the applicant does not desire to marry to circumvent immigration laws or to obtain immigration benefits. Additionally, C.S.H.B.1120 provides spaces on the license application that require the applicant to indicate whether the applicant has ever been a party to a divorce or an annulment. The substitute also includes a provision for prosecution of perjury on an applicant for providing false information, and an administrative penalty for a county clerk who fails to comply with reporting requirements. Finally, C.S.H.B.1120 provides for the maintenance of an up-to-date, accurate, and easily accessible statewide index with information pertaining to marriages, divorces, and annulments of marriage.

