

By: Hilderbran

H.B. No. 3006

A BILL TO BE ENTITLED

1 AN ACT

2 relating to certain requirements and limitations relating to a  
3 person's age, school attendance, marital status, residency, and  
4 relations by consanguinity and affinity; providing criminal  
5 penalties.

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

7 ARTICLE 1. CHANGES TO CODE OF CRIMINAL PROCEDURE AND PENAL CODE

8 SECTION 1.01. Article 38.10, Code of Criminal Procedure, is  
9 amended to read as follows:

10 Art. 38.10. EXCEPTIONS TO THE SPOUSAL ADVERSE TESTIMONY  
11 PRIVILEGE. The privilege of a person's spouse not to be called as a  
12 witness for the state does not apply in any proceeding in which the  
13 person is charged with:

14 (1) a crime committed against the person's spouse, a  
15 minor child, or a member of the household of either spouse; or

16 (2) an offense under Section 25.01, Penal Code  
17 (Bigamy).

18 SECTION 1.02. Sections 22.011(e) and (f), Penal Code, are  
19 amended to read as follows:

20 (e) It is an affirmative defense to prosecution under  
21 Subsection (a)(2) that:

22 (1) the actor was not more than three years older than  
23 the victim and at the time of the offense:

24 (A) was not required under Chapter 62, Code of

1 Criminal Procedure, [~~as added by Chapter 668, Acts of the 75th~~  
2 ~~Legislature, Regular Session, 1997,~~] to register for life as a sex  
3 offender; or

4 (B) was not a person who under Chapter 62, Code of  
5 Criminal Procedure, had a reportable conviction or adjudication for  
6 an offense under this section; and

7 (2) the victim:

8 (A) was a child of 14 years of age or older; and

9 (B) was not a person whom the actor was  
10 prohibited from marrying or purporting to marry or with whom the  
11 actor was prohibited from living under the appearance of being  
12 married under Section 25.01.

13 (f) An offense under this section is a felony of the second  
14 degree, except that an offense under this section is a felony of the  
15 first degree if the victim was a person whom the actor was  
16 prohibited from marrying or purporting to marry or with whom the  
17 actor was prohibited from living under the appearance of being  
18 married under Section 25.01.

19 SECTION 1.03. Sections 25.01(c), (d), and (e), Penal Code,  
20 are amended to read as follows:

21 (c) It is a defense to prosecution under Subsection (a)(1)  
22 that the actor reasonably believed at the time of the commission of  
23 the offense that the actor and the person whom the actor married or  
24 purported to marry or with whom the actor lived under the appearance  
25 of being married were legally eligible to be married because the  
26 actor's prior [~~his~~] marriage was void or had been dissolved by  
27 death, divorce, or annulment. For purposes of this subsection, an

1 actor's belief is reasonable if the belief is substantiated by a  
2 certified copy of a death certificate or other signed document  
3 issued by a court.

4 ~~(d) [For the purposes of this section, the lawful wife or~~  
5 ~~husband of the actor may testify both for or against the actor~~  
6 ~~concerning proof of the original marriage.~~

7 ~~[(e)]~~ An offense under this section is a felony of the third  
8 degree, except that if at the time of the commission of the offense,  
9 the person whom the actor marries or purports to marry or with whom  
10 the actor lives under the appearance of being married is:

11 (1) 16 years of age, the offense is a felony of the  
12 second degree; or

13 (2) younger than 16 years of age, the offense is a  
14 felony of the first degree ~~[Class A misdemeanor].~~

15 SECTION 1.04. Sections 25.02(a) and (c), Penal Code, are  
16 amended to read as follows:

17 (a) A person ~~[An individual]~~ commits an offense if the  
18 person ~~[he]~~ engages in sexual intercourse or deviate sexual  
19 intercourse with another ~~[a]~~ person the actor ~~[he]~~ knows to be,  
20 without regard to legitimacy:

21 (1) the actor's ~~[his]~~ ancestor or descendant by blood  
22 or adoption;

23 (2) the actor's current or former ~~[his]~~ stepchild or  
24 stepparent ~~[, while the marriage creating that relationship~~  
25 ~~exists];~~

26 (3) the actor's ~~[his]~~ parent's brother or sister of the  
27 whole or half blood;

1           (4) the actor's [~~his~~] brother or sister of the whole or  
2 half blood or by adoption; [~~or~~]

3           (5) the children of the actor's [~~his~~] brother or sister  
4 of the whole or half blood or by adoption; or

5           (6) a person whom the actor is prohibited from  
6 marrying or purporting to marry or with whom the actor is prohibited  
7 from living under the appearance of being married under Section  
8 25.01.

9           (c) An offense under this section is a felony of the third  
10 degree, unless the offense is committed under Subsection (a)(6), in  
11 which event the offense is a felony of the second degree.

12           SECTION 1.05. Under the terms of Section 22.109(b),  
13 Government Code, Rule 504(b)(1), Texas Rules of Evidence, is  
14 disapproved to the extent that the rule conflicts with Article  
15 38.10, Code of Criminal Procedure, as amended by this article.

16           SECTION 1.06. The changes in law made by this article in  
17 amending Article 38.10, Code of Criminal Procedure, and Sections  
18 22.011, 25.01, and 25.02, Penal Code, apply only to an offense  
19 committed on or after the effective date of this Act. An offense  
20 committed before the effective date of this Act is covered by the  
21 law in effect at the time the offense was committed, and the former  
22 law is continued in effect for that purpose. For purposes of this  
23 section, an offense was committed before the effective date of this  
24 Act if any element of the offense was committed before that date.

25           ARTICLE 2. CHANGES TO EDUCATION CODE

26           SECTION 2.01. Sections 25.091(a) and (b), Education Code,  
27 are amended to read as follows:

1           (a) A peace officer serving as an attendance officer has the  
2 following powers and duties concerning enforcement of compulsory  
3 school attendance requirements:

4           (1) to investigate each case of a violation of  
5 compulsory school attendance requirements referred to the peace  
6 officer;

7           (2) to enforce compulsory school attendance  
8 requirements by:

9           (A) referring a student to a juvenile court or  
10 filing a complaint against a student in a county, justice, or  
11 municipal court if the student has unexcused absences for the  
12 amount of time specified under Section 25.094 or under Section  
13 51.03(b)(2), Family Code; and

14           (B) filing a complaint in a county, justice, or  
15 municipal court against a parent who violates Section 25.093;

16           (3) to serve court-ordered legal process;

17           (4) to review school attendance records for compliance  
18 by each student investigated by the officer;

19           (5) to maintain an investigative record on each  
20 compulsory school attendance requirement violation and related  
21 court action and, at the request of a court, the board of trustees  
22 of a school district, or the commissioner, to provide a record to  
23 the individual or entity requesting the record;

24           (6) to make a home visit or otherwise contact the  
25 parent of a student who is in violation of compulsory school  
26 attendance requirements, except that a peace officer may not enter  
27 a residence without the permission of the [~~parent of a~~] student

1 required under this subchapter to attend school, the parent of the  
2 student, or [~~of~~] the tenant or owner of the residence except to  
3 lawfully execute a search warrant or serve court-ordered legal  
4 process on the parent; and

5 (7) to take a student into custody with the permission  
6 of the student's parent or in obedience to a court-ordered legal  
7 process.

8 (b) An attendance officer employed by a school district who  
9 is not commissioned as a peace officer has the following powers and  
10 duties with respect to enforcement of compulsory school attendance  
11 requirements:

12 (1) to investigate each case of a violation of the  
13 compulsory school attendance requirements referred to the  
14 attendance officer;

15 (2) to enforce compulsory school attendance  
16 requirements by:

17 (A) referring a student to a juvenile court or  
18 filing a complaint against a student in a county, justice, or  
19 municipal court if the student has unexcused absences for the  
20 amount of time specified under Section 25.094 or under Section  
21 51.03(b)(2), Family Code; and

22 (B) filing a complaint in a county, justice, or  
23 municipal court against a parent who violates Section 25.093;

24 (3) to monitor school attendance compliance by each  
25 student investigated by the officer;

26 (4) to maintain an investigative record on each  
27 compulsory school attendance requirement violation and related

1 court action and, at the request of a court, the board of trustees  
2 of a school district, or the commissioner, to provide a record to  
3 the individual or entity requesting the record;

4 (5) to make a home visit or otherwise contact the  
5 parent of a student who is in violation of compulsory school  
6 attendance requirements, except that the attendance officer may not  
7 enter a residence without permission of the student, the parent, or  
8 ~~of~~ the owner or tenant of the residence, unless the attendance  
9 officer is accompanied by a peace officer who has legally obtained a  
10 search warrant;

11 (6) at the request of a parent, to escort a student  
12 from any location to a school campus to ensure the student's  
13 compliance with compulsory school attendance requirements; and

14 (7) if the attendance officer has or is informed of a  
15 court-ordered legal process directing that a student be taken into  
16 custody and the school district employing the officer does not  
17 employ its own police department, to contact the sheriff,  
18 constable, or any peace officer to request that the student be taken  
19 into custody and processed according to the legal process.

20 SECTION 2.02. Section 25.093, Education Code, is amended by  
21 amending Subsections (a), (c), and (g) and adding Subsection (c-1)  
22 to read as follows:

23 (a) If a warning is issued as required by Section 25.095 (b)  
24 ~~(a)~~, the parent with criminal negligence fails to require the  
25 child to attend school as required by law, and the child has  
26 absences for the amount of time specified under Section 25.094, the  
27 parent commits an offense.

1           (c) Except as provided by Subsection (c-1), an [An] offense  
2 under Subsection (a) is a Class A [~~C~~] misdemeanor. Each day the  
3 child remains out of school may constitute a separate offense. Two  
4 or more offenses under Subsection (a) may be consolidated and  
5 prosecuted in a single action. If the court orders deferred  
6 disposition under Article 45.051, Code of Criminal Procedure, the  
7 court may require the defendant to provide personal services to a  
8 charitable or educational institution as a condition of the  
9 deferral.

10           (c-1) If a parent has previously been convicted of an  
11 offense under Subsection (a), a subsequent offense under that  
12 subsection is a felony of the third degree.

13           (g) If a parent refuses to obey a court order entered under  
14 this section, the court may punish the parent for contempt of court  
15 under Section 21.002, Government Code. Notwithstanding Section  
16 21.002(b) or (c), Government Code, the punishment for contempt of  
17 court for a parent who refuses to obey a court order entered under  
18 this section is a fine of not more than \$1,000, confinement in the  
19 county jail for not more than six months, or both such a fine and  
20 confinement in jail.

21           SECTION 2.03. Section 25.094(e), Education Code, is amended  
22 to read as follows:

23           (e) An offense under this section is a Class B [~~C~~]  
24 misdemeanor.

25           SECTION 2.04. Sections 25.093 and 25.094, Education Code,  
26 as amended by this article, apply only to conduct that occurs on or  
27 after the effective date of this Act. Conduct violating the penal

1 law of this state occurs on or after the effective date of this Act  
2 if any element of the violation occurs on or after that date.  
3 Conduct that occurs before the effective date of this Act is  
4 governed by the law in effect at the time the conduct occurred, and  
5 that law is continued in effect for that purpose.

6 ARTICLE 3. CHANGES TO ELECTION CODE

7 SECTION 3.01. Section 141.001(a), Election Code, is amended  
8 to read as follows:

9 (a) To be eligible to be a candidate for, or elected or  
10 appointed to, a public elective office in this state, a person must:

11 (1) be a United States citizen;

12 (2) be 18 years of age or older on the first day of the  
13 term to be filled at the election or on the date of appointment, as  
14 applicable;

15 (3) have not been determined mentally incompetent by a  
16 final judgment of a court;

17 (4) have not been finally convicted of a felony from  
18 which the person has not been pardoned or otherwise released from  
19 the resulting disabilities;

20 (5) have resided continuously in the state for two  
21 years [~~12 months~~] and in the territory from which the office is  
22 elected for one year [~~six months~~] immediately preceding the  
23 following date:

24 (A) for a candidate whose name is to appear on a  
25 general primary election ballot, the date of the regular filing  
26 deadline for a candidate's application for a place on the ballot;

27 (B) for an independent candidate, the date of the

1 regular filing deadline for a candidate's application for a place  
2 on the ballot;

3 (C) for a write-in candidate, the date of the  
4 election at which the candidate's name is written in;

5 (D) for a party nominee who is nominated by any  
6 method other than by primary election, the date the nomination is  
7 made; and

8 (E) for an appointee to an office, the date the  
9 appointment is made; ~~and~~

10 (6) not have been convicted of an offense under  
11 Section 141.040 in the previous 24 months; and

12 (7) satisfy any other eligibility requirements  
13 prescribed by law for the office.

14 SECTION 3.02. Section 141.002(a), Election Code, is amended  
15 to read as follows:

16 (a) Instead of the one year [~~six-month~~] residence  
17 requirement prescribed by Section 141.001(a)(5), a candidate for or  
18 appointee to a precinct office must be a resident of the precinct on  
19 the date prescribed by Section 141.001(a)(5) and must have resided  
20 continuously in the county in which the precinct is located for one  
21 year [~~six-months~~] immediately preceding that date if an order  
22 creating the precinct or changing the boundary of the precinct:

23 (1) was adopted less than 13 [~~seven~~] months before  
24 that date; or

25 (2) was in litigation at any time during the 13th  
26 [~~seventh~~] month immediately preceding that date.

27 SECTION 3.03. Section 141.003, Election Code, is amended to

1 read as follows:

2 Sec. 141.003. AGE AND RESIDENCE REQUIREMENTS FOR HOME-RULE  
3 CITY OFFICE. (a) Different age and residence requirements from  
4 those prescribed by Section 141.001 may be prescribed by a  
5 home-rule city charter, but a minimum age may not be more than 21  
6 years and a minimum length of residence in the state or city may not  
7 be more than two years [~~12 months~~] immediately preceding election  
8 day.

9 (b) A charter provision is void if it prescribes a minimum  
10 age requirement of more than 21 years or a minimum length of  
11 residence requirement of more than two years [~~12 months~~].

12 SECTION 3.04. Section 141.031, Election Code, is amended to  
13 read as follows:

14 Sec. 141.031. GENERAL REQUIREMENTS FOR APPLICATION. A  
15 candidate's application for a place on the ballot that is required  
16 by this code must:

17 (1) be in writing;

18 (2) be signed and sworn to by the candidate and  
19 indicate the date that the candidate swears to the application;

20 (3) be timely filed with the appropriate authority;  
21 and

22 (4) include:

23 (A) the candidate's name;

24 (B) the candidate's occupation;

25 (C) the office sought, including any place number  
26 or other distinguishing number;

27 (D) an indication of whether the office sought is

1 to be filled for a full or unexpired term if the office sought and  
2 another office to be voted on have the same title but do not have  
3 place numbers or other distinguishing numbers;

4 (E) a statement that the candidate is a United  
5 States citizen;

6 (F) a statement that the candidate has not been  
7 determined mentally incompetent by a final judgment of a court;

8 (G) a statement that the candidate has not been  
9 finally convicted of a felony from which the candidate has not been  
10 pardoned or otherwise released from the resulting disabilities;

11 (H) the candidate's date of birth;

12 (I) the candidate's residence address or, if the  
13 residence has no address, the address at which the candidate  
14 receives mail and a concise description of the location of the  
15 candidate's residence;

16 (J) the candidate's length of continuous  
17 residence in the state and in the territory from which the office  
18 sought is elected as of the date the candidate swears to the  
19 application;

20 (K) the statement: "I, \_\_\_\_\_, of \_\_\_\_\_  
21 County, Texas, being a candidate for the office of \_\_\_\_\_,  
22 swear that I will support and defend the constitution and laws of  
23 the United States and of the State of Texas"; ~~and~~

24 (L) a statement that the candidate is aware of  
25 the nepotism law, Chapter 573, Government Code; and

26 (M) the statement: "I, \_\_\_\_\_, of \_\_\_\_\_  
27 County, Texas, being a candidate for the office of \_\_\_\_\_,

1 swear that I am not currently violating the constitution or laws of  
2 the United States and of the State of Texas.".

3 SECTION 3.05. Subchapter B, Chapter 141, Election Code, is  
4 amended by adding Section 141.040 to read as follows:

5 Sec. 141.040. PROVIDING FALSE INFORMATION ON APPLICATION.

6 (a) A person commits an offense if the person knowingly provides  
7 false information on an application for a place on the ballot.

8 (b) An offense under this section is a Class A misdemeanor.

9 SECTION 3.06. The changes in law made by this article apply  
10 only to the eligibility requirements for a candidate whose term of  
11 office will begin on or after the effective date of this Act. The  
12 eligibility requirements for a candidate whose term of office will  
13 begin before the effective date of this Act are governed by the law  
14 in effect immediately before the effective date of this Act, and the  
15 former law is continued in effect for that purpose.

16 ARTICLE 4. CHANGES TO FAMILY CODE

17 SECTION 4.01. Section 2.004, Family Code, is amended by  
18 amending Subsection (b) and adding Subsections (c) and (d) to read  
19 as follows:

20 (b) The application form must contain:

21 (1) a heading entitled "Application for Marriage  
22 License, \_\_\_\_\_ County, Texas";

23 (2) spaces for each applicant's full name, including  
24 the woman's maiden surname, address, social security number, if  
25 any, date of birth, and place of birth, including city, county, and  
26 state;

27 (3) a space for indicating the document tendered by

1 each applicant as proof of identity and age;

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

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

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

11 (A) an ancestor or descendant, by blood or  
12 adoption;

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

15 (C) a parent's brother or sister, of the whole or  
16 half blood or by adoption; [~~or~~]

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

19 (E) a current or former stepchild or  
20 stepparent.";

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

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

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

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

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

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

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

11           (12) a space for the address to which the applicants  
12 desire the completed license to be mailed.

13           (c) An applicant commits an offense if the applicant  
14 knowingly provides false information under Subsection (b)(1), (2),  
15 (3), or (4). An offense under this subsection is a Class C  
16 misdemeanor.

17           (d) An applicant commits an offense if the applicant  
18 knowingly provides false information under Subsection (b)(5) or  
19 (6). An offense under this subsection is a Class A misdemeanor.

20           SECTION 4.02. Section 2.005, Family Code, is amended by  
21 adding Subsection (c) to read as follows:

22           (c) A person commits an offense if the person knowingly  
23 provides false, fraudulent, or otherwise inaccurate proof of an  
24 applicant's identity or age under this section. An offense under  
25 this subsection is a Class A misdemeanor.

26           SECTION 4.03. Section 2.007, Family Code, is amended to  
27 read as follows:

1           Sec. 2.007. AFFIDAVIT OF ABSENT APPLICANT. The affidavit  
2 of an absent applicant must include:

3           (1) the absent applicant's full name, including the  
4 maiden surname of a female applicant, address, date of birth, place  
5 of birth, including city, county, and state, citizenship, and  
6 social security number, if any;

7           (2) a declaration that the absent applicant has not  
8 been divorced within the last 30 days;

9           (3) a declaration that the absent applicant is:

10           (A) not presently married; or

11           (B) married to the other applicant and they wish  
12 to marry again;

13           (4) a declaration that the other applicant is not  
14 presently married and is not related to the absent applicant 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; [~~or~~]

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

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

24           (5) a declaration that the absent applicant desires to  
25 marry and the name, age, and address of the person to whom the  
26 absent applicant desires to be married;

27           (6) the approximate date on which the marriage is to

1 occur;

2 (7) the reason the absent applicant is unable to  
3 appear personally before the county clerk for the issuance of the  
4 license; and

5 (8) if the absent applicant will be unable to attend  
6 the ceremony, the appointment of any adult, other than the other  
7 applicant, to act as proxy for the purpose of participating in the  
8 ceremony.

9 SECTION 4.04. Sections 2.009(a) and (b), Family Code, are  
10 amended to read as follows:

11 (a) Except as provided by Subsections (b) and (d), the  
12 county clerk may not issue a license if either applicant:

13 (1) fails to provide the information required by this  
14 subchapter;

15 (2) fails to submit proof of age and identity;

16 (3) is under 16 [~~14~~] years of age and has not been  
17 granted a court order as provided by Section 2.103;

18 (4) is 16 [~~14~~] years of age or older but under 18 years  
19 of age and has not presented at least one of the following:

20 (A) parental consent as provided by Section  
21 2.102;

22 (B) documents establishing that a prior marriage  
23 of the applicant has been dissolved; or

24 (C) a court order as provided by Section 2.103;

25 (5) checks "false" in response to a statement in the  
26 application, except as provided by Subsection (b) or (d), or fails  
27 to make a required declaration in an affidavit required of an absent

1 applicant; or

2 (6) indicates that the applicant has been divorced by  
3 a decree of a court of this state within the last 30 days, unless:

4 (A) the applicants were divorced from each other;  
5 or

6 (B) the prohibition against remarriage is waived  
7 as provided by Section 6.802.

8 (b) If an applicant checks "false" in response to the  
9 statement "I am not presently married and the other applicant is not  
10 presently married," the county clerk shall inquire as to whether  
11 the applicant is presently married to the other applicant. If the  
12 applicant states that the applicant is currently married to the  
13 other applicant, the county clerk shall record that statement on  
14 the license before the administration of the oath. The county clerk  
15 may not refuse to issue a license on the ground that the applicants  
16 are already married to each other.

17 SECTION 4.05. Section 2.102, Family Code, is amended by  
18 amending Subsection (a) and adding Subsections (g) and (h) to read  
19 as follows:

20 (a) If an applicant is 16 [~~14~~] years of age or older but  
21 under 18 years of age, the county clerk shall issue the license if  
22 parental consent is given as provided by this section.

23 (g) A person commits an offense if the person knowingly  
24 provides parental consent for an underage applicant under this  
25 section and the person is not a parent or a judicially designated  
26 managing conservator or guardian of the applicant. An offense  
27 under this subsection is a Class A misdemeanor.

1       (h) A parent or judicially designated managing conservator  
2 or guardian of an applicant commits an offense if the parent,  
3 managing conservator, or guardian knowingly provides parental  
4 consent under this section for an applicant who is younger than 16  
5 years of age or who is presently married to a person other than the  
6 person the applicant desires to marry. An offense under this  
7 subsection is a felony of the third degree.

8       SECTION 4.06. Section 2.202, Family Code, is amended by  
9 adding Subsections (c) and (d) to read as follows:

10       (c) Except as provided by Subsection (d), a person commits  
11 an offense if the person knowingly conducts a marriage ceremony  
12 without authorization under this section. An offense under this  
13 subsection is a Class A misdemeanor.

14       (d) A person commits an offense if the person knowingly  
15 conducts a marriage ceremony of a minor whose marriage is  
16 prohibited by law or of a person who by marrying commits an offense  
17 under Section 25.01, Penal Code. An offense under this subsection  
18 is a felony of the third degree.

19       SECTION 4.07. Section 2.302, Family Code, is amended to  
20 read as follows:

21       Sec. 2.302. CEREMONY CONDUCTED BY UNAUTHORIZED PERSON. The  
22 validity of a marriage is not affected by the lack of authority of  
23 the person conducting the marriage ceremony if:

24               (1) there was a reasonable appearance of authority by  
25 that person; ~~and~~

26               (2) at least one party to the marriage participated in  
27 the ceremony in good faith and that party treats the marriage as

1 valid; and

2 (3) neither party to the marriage:

3 (A) is a minor whose marriage is prohibited by  
4 law; or

5 (B) by marrying commits an offense under Section  
6 25.01, Penal Code.

7 SECTION 4.08. Section 2.401, Family Code, is amended by  
8 adding Subsection (d) to read as follows:

9 (d) A person may not be a party to an informal marriage or  
10 execute a declaration of an informal marriage if the person is  
11 presently married to a person who is not the other party to the  
12 informal marriage or declaration of an informal marriage, as  
13 applicable.

14 SECTION 4.09. Section 2.402(b), Family Code, is amended to  
15 read as follows:

16 (b) The declaration form must contain:

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

19 (2) spaces for each party's full name, including the  
20 woman's maiden surname, address, date of birth, place of birth,  
21 including city, county, and state, and social security number, if  
22 any;

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

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

1 (A) an ancestor or descendant, by blood or  
2 adoption;

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

5 (C) a parent's brother or sister, of the whole or  
6 half blood or by adoption; [~~or~~]

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

9 (E) a current or former stepchild or  
10 stepparent.";

11 (5) a printed declaration and oath reading: "I  
12 SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO  
13 EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT (DATE) WE  
14 AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS  
15 HUSBAND AND WIFE AND IN THIS STATE WE REPRESENTED TO OTHERS THAT WE  
16 WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE OTHER PARTY I HAVE  
17 NOT BEEN MARRIED TO ANY OTHER PERSON. THIS DECLARATION IS TRUE AND  
18 THE INFORMATION IN IT WHICH I HAVE GIVEN IS 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 4.10. Section 2.403, Family Code, is amended to  
24 read as follows:

25 Sec. 2.403. PROOF OF IDENTITY AND AGE; OFFENSE. (a) The  
26 county clerk shall require proof of the identity and age of each  
27 party to the declaration of informal marriage to be established by a

1 certified copy of the party's birth certificate or by some  
2 certificate, license, or document issued by this state or another  
3 state, the United States, or a foreign government.

4 (b) A person commits an offense if the person knowingly  
5 provides false, fraudulent, or otherwise inaccurate proof of the  
6 person's identity or age under this section. An offense under this  
7 subsection is a Class A misdemeanor.

8 SECTION 4.11. Section 6.101, Family Code, is amended to  
9 read as follows:

10 Sec. 6.101. ANNULMENT OF MARRIAGE OF PERSON UNDER AGE 16  
11 [~~14~~]. (a) The court may grant an annulment of a licensed marriage  
12 of a person under 16 [~~14~~] years of age unless a court order has been  
13 obtained as provided in Subchapter B, Chapter 2.

14 (b) A petition for annulment under this section may be filed  
15 by a next friend for the benefit of a person under 16 [~~14~~] years of  
16 age or on the petition of the parent or the judicially designated  
17 managing conservator or guardian, whether an individual,  
18 authorized agency, or court, of the person.

19 (c) A suit by a parent, managing conservator, or guardian of  
20 the person may be brought at any time before the person is 16 [~~14~~]  
21 years of age.

22 (d) A suit under this section to annul the marriage of a  
23 person 16 [~~14~~] years of age or older that was entered into before  
24 the person was 16 [~~14~~] years of age is barred unless the suit is  
25 filed within the later of:

26 (1) 90 days after the date the petitioner knew or  
27 should have known of the marriage; or

1           (2) 90 days after the date of the 16th [~~14th~~] birthday  
2 of the underage party.

3           SECTION 4.12. Section 6.102(a), Family Code, is amended to  
4 read as follows:

5           (a) The court may grant an annulment of a licensed or  
6 informal marriage of a person 16 [~~14~~] years of age or older but  
7 under 18 years of age that occurred without parental consent or  
8 without a court order as provided by Subchapters B and E, Chapter 2.

9           SECTION 4.13. Subchapter C, Chapter 6, Family Code, is  
10 amended by adding Sections 6.205 and 6.206 to read as follows:

11           Sec. 6.205. MARRIAGE TO MINOR. A marriage is void if either  
12 party to the marriage is younger than 16 years of age.

13           Sec. 6.206. MARRIAGE TO STEPCHILD OR STEPPARENT. A  
14 marriage is void if a party is a current or former stepchild or  
15 stepparent of the other party.

16           SECTION 4.14. The changes in law made by this article to  
17 Sections 2.004, 2.005, 2.007, 2.009, and 2.102, Family Code, apply  
18 only to an application for a marriage license filed on or after the  
19 effective date of this Act. An application filed before the  
20 effective date of this Act is governed by the law in effect on the  
21 date the application was filed, and the former law is continued in  
22 effect for that purpose.

23           SECTION 4.15. The changes in law made by this article to  
24 Sections 2.202 and 2.302, Family Code, apply only to a marriage  
25 ceremony that is conducted on or after the effective date of this  
26 Act. A marriage ceremony conducted before the effective date of  
27 this Act is governed by the law in effect on the date the ceremony

1 was conducted, and the former law is continued in effect for that  
2 purpose.

3 SECTION 4.16. Section 2.401(d), Family Code, as added by  
4 this article, applies to an informal marriage or a declaration of an  
5 informal marriage regardless of when the informal marriage was  
6 entered into or the declaration was executed.

7 SECTION 4.17. The changes in law made by this article to  
8 Sections 2.402(b) and 2.403, Family Code, apply to a declaration of  
9 an informal marriage executed on or after the effective date of this  
10 Act. A declaration executed before the effective date of this Act  
11 is governed by the law in effect on the date the declaration was  
12 executed, and the former law is continued in effect for that  
13 purpose.

14 SECTION 4.18. The changes in law made by this article by the  
15 amendment of Sections 6.101 and 6.102(a), Family Code, and the  
16 enactment of Sections 6.205 and 6.206, Family Code, apply only to a  
17 marriage entered into on or after the effective date of this Act. A  
18 marriage entered into before the effective date of this Act is  
19 governed by the law in effect on the date the marriage was entered  
20 into, and the former law is continued in effect for that purpose.

21 ARTICLE 5. EFFECTIVE DATE

22 SECTION 5.01. This Act takes effect September 1, 2005.