

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 47
By: Nelson, Williams
Jurisprudence
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, county clerks are required to submit marriage license data to the Bureau of Vital Statistics (bureau). However, the information does not have to be updated in real time and the current online database is only updated through 2004. This leaves county clerks without a mechanism to ensure that a marriage license is a valid document. As a result, individuals are obtaining multiple marriage licenses in the State of Texas and using those licenses for certain fraudulent purposes.

C.S.S.B. 47 requires the bureau to create a real-time online database of marriage licenses so that county clerks will have the ability to share information among counties to prevent marriage fraud by ensuring that individuals are not receiving multiple licenses. This bill also requires county clerks to verify that an individual does not already have a marriage license before issuing said license.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 5 (Section 194.003, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 2, Family Code, by adding Section 2.0075, effective January 1, 2009, as follows:

Sec. 2.0075. STATE INDEX VERIFICATION REQUIRED. (a) Requires the county clerk to verify that neither applicant for a marriage license is listed on the online state index (index) maintained by the Bureau of Vital Statistics (bureau) under Section 194.003 (State Index), Health and Safety Code, as being presently married.

(b) Authorizes an applicant to provide to the clerk a certified copy of a decree of divorce or annulment as proof that a marriage of the applicant that is listed on the index has been dissolved.

SECTION 2. Amends Sections 2.009(a) and (b), Family Code, effective January 1, 2009, as follows:

(a) Includes a listing of an applicant as being presently married to a person other than the other applicant and has not provided to the clerk certain proof of dissolution of that marriage, to the list of conditions which prohibit the county clerk for issuing a marriage license to either applicant. Makes conforming changes.

(b) Makes a conforming change.

SECTION 3. Amends Subchapter E, Chapter 2, Family Code, by adding Section 2.4035, effective January 1, 2009, as follows:

Sec. 2.4035. STATE INDEX VERIFICATION REQUIRED. Requires the county clerk to verify, using the index, that neither party to the declaration of informal marriage is listed as being presently married.

(b) Authorizes a party to provide to the clerk a certified copy of a decree of divorce or annulment as proof that a marriage of the party that is listed on the index has been dissolved.

SECTION 4. Amends Section 2.404(b), Family Code, effective January 1, 2009, to make a conforming change.

SECTION 5. Amends Section 194.003, Health and Safety Code, by adding Subsections (c) and (d), as follows:

(c) Requires the bureau to make available on its Internet website the indexes of all currently recorded instances of marriage licenses, declarations of informal marriages, divorces, and annulments. Requires the bureau, to the extent practicable using certain fees to enhance the search capabilities of its database of certain information and to ensure that the indexes are accurate, up-to-date, and easily accessible.

(d) Requires the executive commissioner of the Health and Human Services Commission (HHSC) to adopt certain rules for the administration of this section.

SECTION 6. Amends Section 118.018, Local Government Code, by adding Subsection (d) to require a county clerk, in addition to other fees collected under this section, to collect from a marriage license applicant a fee not to exceed \$5 to be sent to the bureau for updating, developing, and maintaining the state index of marriage license applications and declarations of informal marriage and the state index of reports of divorces or annulments of marriage under Section 194.003, Health and Safety Code.

SECTION 7. Amends Section 118.019, Local Government Code, as follows:

Sec. 118.019. DECLARATION OF INFORMAL MARRIAGE. (a) Creates this subsection from existing text. Provides for Section 2.404 (Recording of Declaration of Informal Marriage), Family Code, rather than Section 1.92, Family Code, to specify regulations regarding the execution of a declaration of informal marriage.

(b) Requires a county clerk, in addition to the fee described by Subsection (a), to collect from parties to a declaration of informal marriage a fee not to exceed \$5 to be sent to the bureau for updating, developing, and maintaining the state index of marriage license applications and declarations of informal marriage and the state index of reports of divorces or annulments of marriage under Section 194.003, Health and Safety Code.

SECTION 8. Amends Section 118.022(a), Local Government Code, to exempt certain fees from those required to be sent to the comptroller of public accounts and deposited in the child abuse and neglect prevention trust fund.

SECTION 9. Makes application of Sections 2.009(a) and (b), and Section 2.404(b), Family Code, as amended by this Act, prospective to January 1, 2009.

SECTION 10. Requires that the executive commissioner of HHSC (executive commissioner) adopt rules for the administration of Section 194.003, as required by this Act, as soon as practicable after the effective date of this Act. Requires the executive commissioner to ensure that the enhancements to the online marriage index are completed and available for access by county clerks not later than January 1, 2009.

SECTION 11. Makes application of certain fees, as added by this Act, prospective.

SECTION 12. Effective date: September 1, 2007.