

BILL ANALYSIS

Senate Research Center
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S.B. 432
By: Harris
Jurisprudence
3/1/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

As proposed, S.B. 432 deletes "designated managing conservator or guardian" and replaces it with "court-ordered right to consent to marriage" in Section 2.102 (Parental Consent for Underage Applicant), Family Code. Also, S.B. 432 simplifies the language of this statute by no longer referring to "licensed and informal" marriage as it regards to the annulment of a marriage of a person 16 years of age or older but less than 18, who married without parental consent or a court order. The bill repeals the provision of the Family Code that refers to obtaining an annulment of a court-ordered marriage. In addition, S.B. 432 clarifies that a court-ordered marriage of a person younger than 16 years of age is not void.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to any state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 2.102(b), (g), and (h), Family Code, as follows:

(b) Requires parental consent to a marriage to be in a written declaration by the parent contingent on there being no person who has the court-ordered right to consent to marriage for the applicant, rather than a judicially designated managing conservator or guardian. Deletes existing text relating to the authority of a judicially designated managing conservator or guardian to consent to a marriage. Makes conforming changes.

(g) Makes a conforming change.

(h) Makes conforming changes.

SECTION 2. Amends Sections 2.103(b), (c), and (d), Family Code, as follows:

(b) Requires a petition for a court order granting an underage applicant permission to marry to be filed in the county where a parent resides if a court has not awarded another person the right to consent to marriage for the minor, rather than if a managing conservator or a guardian has not been appointed. Requires the petition, provided the court has awarded another person the right to consent to marriage for the minor, to be filed where that person resides. Provides that if no parent or person who has the court-ordered right to consent to marriage for the minor resides in this state, the petition must be filed in the county where the minor lives. Makes a conforming change.

(c) Requires the petition to include a statement of whether a court has awarded to a person other than a parent of the minor the right to consent to marriage, rather than whether a managing conservator or a guardian of the person has been appointed, for the minor.

(d) Requires the process be served as in other civil cases on each living parent of the minor or on a person who has the court-ordered right to consent to marriage for the minor, as applicable, rather than on the managing conservator or guardian of the person.

SECTION 3. Amends Section 6.102(a), Family Code, as follows:

(a) Authorizes the court to grant an annulment of a marriage, rather than a licensed or informal marriage, of a person 16 years of age or older but under 18 years of age that occurred without parental consent or without a court order as provided by Subchapters B and E, Chapter 2.

SECTION 4. Amends Section 6.103, Family Code, as follows:

Sec. 6.103. UNDERAGE ANNULMENT BARRED BY ADULTHOOD. Prohibits a suit to annul a marriage to be filed under Section 6.102, rather than Section 6.101 or 6.102, by a parent, managing conservator, or guardian of a person after the 18th birthday.

SECTION 5. Amends Section 6.104(a), Family Code, to make a conforming change.

SECTION 6. Amends Section 6.205, Family Code, as follows:

Sec. 6.205. MARRIAGE TO MINOR. Provides that unless a court order has been obtained under Section 2.103, a marriage is void if either party of the marriage is younger than 16 years of age.

SECTION 7. Amends Section 6.703, Family Code, as follows:

Sec. 6.703. JURY. Provides that in a suit for dissolution of a marriage, either party may demand a jury trial unless the action is a suit to annul an underage marriage under Section 6.102, rather than 6.101 or 6.102.

SECTION 8. Repealer: Section 6.101 (Annulment of Marriage of Person Under Age 16), Family Code.

SECTION 9. (a) Makes application of the changes to Section 2.102, Family Code, made by this Act prospective.

(b) Makes application of the changes to Section 2.103, Family Code, made by this Act prospective.

(c) Provides that the change in law made by this Act to Section 6.205, Family Code, applies to a marriage entered into before, on, or after the effective date of this Act.

SECTION 10. Effective date: September 1, 2007.