

By: Brown of Kaufman

H.B. No. 578

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain requirements relating to an application for a  
3 marriage license and an affidavit of an absent applicant for a  
4 marriage license and to the maintenance of marriage and divorce  
5 indexes by the bureau of vital statistics; providing penalties.

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

7 SECTION 1. Section 2.004(b), Family Code, is amended to  
8 read as follows:

9 (b) The application form must contain:

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

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

16 (3) a space for indicating the document tendered by  
17 each applicant as proof of identity and age;

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

20 (5) printed boxes for each applicant to check "true"  
21 or "false" in response to the following statements [~~statement~~]:

22 (A) "I am not presently married under the laws of  
23 this state or any other jurisdiction.";

24 (B) "I do not desire to marry the other applicant

1 to circumvent immigration laws or for the sole purpose of obtaining  
2 immigration benefits."; and

3 (C) "I have not received and will not accept  
4 consideration or payment of any kind for marrying the other  
5 applicant to circumvent immigration laws or for the sole purpose of  
6 obtaining immigration benefits.";

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

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

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

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

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

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

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

25 (9) spaces immediately below the printed oath for the  
26 applicants' signatures;

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

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

3 (B) an applicant did not appear personally but  
4 the prerequisites for the license have been fulfilled as provided  
5 by this chapter;

6 (11) spaces for indicating the date of the marriage  
7 and the county in which the marriage is performed; ~~and~~

8 (12) a space for the address to which the applicants  
9 desire the completed license to be mailed; and

10 (13) spaces for each applicant to indicate whether the  
11 applicant has ever been a party to a divorce or an annulment of a  
12 marriage.

13 SECTION 2. Section 2.007, Family Code, is amended to read as  
14 follows:

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

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

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

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

24 (A) not presently married under the laws of this  
25 state or any other jurisdiction; or

26 (B) married to the other applicant and they wish  
27 to marry again;

1 (4) a declaration that the other applicant is not  
2 related to the absent applicant as:

3 (A) an ancestor or descendant, by blood or  
4 adoption;

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

7 (C) a parent's brother or sister, of the whole or  
8 half blood or by adoption; or

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

11 (5) a declaration that the absent applicant desires to  
12 marry and the name, age, and address of the person to whom the  
13 absent applicant desires to be married;

14 (6) the approximate date on which the marriage is to  
15 occur;

16 (7) the reason the absent applicant is unable to  
17 appear personally before the county clerk for the issuance of the  
18 license; ~~and~~

19 (8) if the absent applicant will be unable to attend  
20 the ceremony, the appointment of any adult, other than the other  
21 applicant, to act as proxy for the purpose of participating in the  
22 ceremony;

23 (9) a declaration that the applicant does not desire  
24 to marry to circumvent immigration laws or for the sole purpose of  
25 obtaining immigration benefits;

26 (10) a declaration that the applicant has not received  
27 and will not accept consideration or payment of any kind for

1 marrying the absent applicant to circumvent immigration laws or for  
2 the sole purpose of obtaining immigration benefits; and

3 (11) a declaration of whether the applicant has ever  
4 been a party to a divorce or an annulment of a marriage.

5 SECTION 3. Section 2.009(b), Family Code, is amended to  
6 read as follows:

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

16 SECTION 4. Subchapter A, Chapter 2, Family Code, is amended  
17 by adding Section 2.0125 to read as follows:

18 Sec. 2.0125. PROSECUTION FOR AGGRAVATED PERJURY. An  
19 applicant who provides false information in an application for a  
20 license under Section 2.004(b)(5) or (13), or in an affidavit under  
21 Section 2.007(3)(A), (9), (10), or (11), is subject to prosecution  
22 for aggravated perjury under Section 37.03, Penal Code.

23 SECTION 5. Section 194.001(a), Health and Safety Code, is  
24 amended to read as follows:

25 (a) The county clerk shall file with the bureau of vital  
26 statistics a copy of each completed marriage license application,  
27 including any affidavit of an absent applicant for the license. The

1 clerk shall file the copy not later than the 90th day after the date  
2 of the application. The clerk may not collect a fee for filing the  
3 copy.

4 SECTION 6. Section 194.003, Health and Safety Code, is  
5 amended by adding Subsections (c) and (d) to read as follows:

6 (c) The bureau of vital statistics shall make available on  
7 its Internet website the indexes required by this section. To the  
8 extent practicable using the fees imposed by Sections 118.018(d)  
9 and 118.019(b), Local Government Code, the bureau shall enhance the  
10 search capabilities of its database of information regarding  
11 marriages, divorces, or annulments of marriages and ensure that the  
12 indexes required by this section are up-to-date, accurate, and  
13 easily accessible to interested members of the public.

14 (d) The executive commissioner of the Health and Human  
15 Services Commission shall adopt rules for the administration of  
16 this section.

17 SECTION 7. Section 118.018, Local Government Code, is  
18 amended by adding Subsection (d) to read as follows:

19 (d) In addition to other fees collected under this section,  
20 a county clerk shall collect from a marriage license applicant a fee  
21 not to exceed \$5 to be sent to the bureau of vital statistics of the  
22 Department of State Health Services for updating, developing, and  
23 maintaining the state index of marriage license applications and  
24 declarations of informal marriage and the state index of reports of  
25 divorces or annulments of marriage under Section 194.003, Health  
26 and Safety Code.

27 SECTION 8. Section 118.019, Local Government Code, is

1 amended to read as follows:

2           Sec. 118.019. DECLARATION OF INFORMAL MARRIAGE. (a) The  
3 fee for "Declaration of Informal Marriage" under Section 118.011 is  
4 for all services rendered in connection with the execution of a  
5 declaration of informal marriage under Section 1.92, Family Code.  
6 The fee shall be collected at the time the service is rendered.

7           (b) In addition to the fee described by Subsection (a), a  
8 county clerk shall collect from the parties to a declaration of  
9 informal marriage a fee not to exceed \$5 to be sent to the bureau of  
10 vital statistics of the Department of State Health Services for  
11 updating, developing, and maintaining the state index of marriage  
12 license applications and declarations of informal marriage and the  
13 state index of reports of divorces or annulments of marriage under  
14 Section 194.003, Health and Safety Code.

15           SECTION 9. Section 118.022(a), Local Government Code, is  
16 amended to read as follows:

17           (a) The county clerk shall deposit, as provided by  
18 Subchapter B, Chapter 133, \$12.50 of each fee collected for  
19 issuance of a marriage license or declaration of informal marriage,  
20 other than a fee imposed under Section 118.018(d) or 118.019(b), to  
21 be sent to the comptroller and deposited as provided by Subsection  
22 (b).

23           SECTION 10. Sections 2.004 and 2.007, Family Code, and  
24 Section 194.001(a), Health and Safety Code, as amended by this Act,  
25 and Section 2.0125, Family Code, as added by this Act, apply only to  
26 an application for a marriage license filed, or a declaration of an  
27 informal marriage executed, as applicable, on or after the

1 effective date of this Act. An application filed or declaration  
2 executed before the effective date of this Act is governed by the  
3 law in effect on the date the application was filed or the  
4 declaration was executed, and the former law is continued in effect  
5 for that purpose.

6 SECTION 11. The executive commissioner of the Health and  
7 Human Services Commission shall adopt rules for the administration  
8 of Section 194.003, Health and Safety Code, as required by this Act,  
9 as soon as practicable after the effective date of this Act.

10 SECTION 12. The changes in law made by this Act to Sections  
11 118.018, 118.019, and 118.022, Local Government Code, apply only to  
12 a fee imposed for a marriage license application filed, or a  
13 declaration of an informal marriage executed, as applicable, on or  
14 after the effective date of this Act. A fee imposed for an  
15 application filed or declaration executed before the effective date  
16 of this Act is governed by the law in effect on the date the  
17 application was filed or the declaration was executed, and the  
18 former law is continued in effect for that purpose.

19 SECTION 13. This Act takes effect September 1, 2005.