

By: Brown of Kaufman

H.B. No. 691

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
16 of 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, 2007.