

By: Howard of Fort Bend

H.B. No. 1377

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 and the other  
23 applicant is not presently married under the laws of this state or  
24 any other jurisdiction.";

1                   (B) "I do not desire to marry the other applicant  
2 to circumvent immigration laws or for the sole purpose of obtaining  
3 immigration benefits."; and

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

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;

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

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

21                   (F) a son or daughter of a parent's brother or  
22 sister, of the whole or half blood or by adoption.";

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

27                   (8) a printed oath reading: "I SOLEMNLY SWEAR (OR

1 AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS  
2 CORRECT.";

3 (9) spaces immediately below the printed oath for the  
4 applicants' signatures;

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

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

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

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

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

15 (13) spaces for each applicant to indicate whether the  
16 applicant has ever been a party to a divorce or an annulment of a  
17 marriage.

18 SECTION 2. Section 2.007, Family Code, is amended to read as  
19 follows:

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

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

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

- 1           (3) a declaration that the absent applicant is:
- 2                 (A) not presently married under the laws of this  
3 state or any other jurisdiction; or
- 4                 (B) married to the other applicant and they wish  
5 to marry again;
- 6           (4) a declaration that the other applicant is not  
7 presently married and is not related to the absent applicant as:
- 8                 (A) an ancestor or descendant, by blood or  
9 adoption;
- 10                (B) a brother or sister, of the whole or half  
11 blood or by adoption;
- 12                (C) a parent's brother or sister, of the whole or  
13 half blood or by adoption;
- 14                (D) a son or daughter of a brother or sister, of  
15 the whole or half blood or by adoption;
- 16                (E) a current or former stepchild or stepparent;  
17 or
- 18                (F) a son or daughter of a parent's brother or  
19 sister, of the whole or half blood or by adoption;
- 20           (5) a declaration that the absent applicant desires to  
21 marry and the name, age, and address of the person to whom the  
22 absent applicant desires to be married;
- 23           (6) the approximate date on which the marriage is to  
24 occur;
- 25           (7) the reason the absent applicant is unable to  
26 appear personally before the county clerk for the issuance of the  
27 license; [~~and~~]

1           (8) if the absent applicant will be unable to attend  
2 the ceremony, the appointment of any adult, other than the other  
3 applicant, to act as proxy for the purpose of participating in the  
4 ceremony;

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

8           (10) a declaration that the applicant has not received  
9 and will not accept consideration or payment of any kind for  
10 marrying the absent applicant to circumvent immigration laws or for  
11 the sole purpose of obtaining immigration benefits; and

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

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

16           (b) If an applicant checks "false" in response to the  
17 statement "I am not presently married and the other applicant is not  
18 presently married under the laws of this state or any other  
19 jurisdiction," the county clerk shall inquire as to whether the  
20 applicant is presently married to the other applicant. If the  
21 applicant states that the applicant is currently married to the  
22 other applicant, the county clerk shall record that statement on  
23 the license before the administration of the oath. The county clerk  
24 may not refuse to issue a license on the ground that the applicants  
25 are already married to each other.

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

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

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

8       (a) The county clerk shall file with the bureau of vital  
9 statistics a copy of each completed marriage license application,  
10 including any affidavit of an absent applicant for the license. The  
11 clerk shall file the copy not later than the 90th day after the date  
12 of the application. The clerk may not collect a fee for filing the  
13 copy.

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

16       (c) The bureau of vital statistics shall make available on  
17 its Internet website the indexes required by this section. To the  
18 extent practicable using the fees imposed by Sections 118.018(d)  
19 and 118.019(b), Local Government Code, the bureau shall enhance the  
20 search capabilities of its database of information regarding  
21 marriages, divorces, or annulments of marriages and ensure that the  
22 indexes required by this section are up-to-date, accurate, and  
23 easily accessible to interested members of the public.

24       (d) The executive commissioner of the Health and Human  
25 Services Commission shall adopt rules for the administration of  
26 this section.

27       SECTION 7. Section 118.018, Local Government Code, is

1 amended by adding Subsection (d) to read as follows:

2 (d) In addition to other fees collected under this section,  
3 a county clerk shall collect from a marriage license applicant a fee  
4 not to exceed \$5 to be sent to the bureau of vital statistics of the  
5 Department of State Health Services for updating, developing, and  
6 maintaining the state index of marriage license applications and  
7 declarations of informal marriage and the state index of reports of  
8 divorces or annulments of marriage under Section 194.003, Health  
9 and Safety Code.

10 SECTION 8. Section 118.019, Local Government Code, is  
11 amended to read as follows:

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

17 (b) In addition to the fee described by Subsection (a), a  
18 county clerk shall collect from the parties to a declaration of  
19 informal marriage a fee not to exceed \$5 to be sent to the bureau of  
20 vital statistics of the Department of State Health Services for  
21 updating, developing, and maintaining the state index of marriage  
22 license applications and declarations of informal marriage and the  
23 state index of reports of divorces or annulments of marriage under  
24 Section 194.003, Health and Safety Code.

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

27 (a) The county clerk shall deposit, as provided by

1 Subchapter B, Chapter 133, \$12.50 of each fee collected for  
2 issuance of a marriage license or declaration of informal marriage,  
3 other than a fee imposed under Section 118.018(d) or 118.019(b), to  
4 be sent to the comptroller and deposited as provided by Subsection  
5 (b).

6 SECTION 10. Sections 2.004 and 2.007, Family Code, and  
7 Section 194.001(a), Health and Safety Code, as amended by this Act,  
8 and Section 2.0125, Family Code, as added by this Act, apply only to  
9 an application for a marriage license filed, or a declaration of an  
10 informal marriage executed, as applicable, on or after the  
11 effective date of this Act. An application filed or declaration  
12 executed before the effective date of this Act is governed by the  
13 law in effect on the date the application was filed or the  
14 declaration was executed, and the former law is continued in effect  
15 for that purpose.

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

20 SECTION 12. The changes in law made by this Act to Sections  
21 118.018, 118.019, and 118.022, Local Government Code, apply only to  
22 a fee imposed for a marriage license application filed, or a  
23 declaration of an informal marriage executed, as applicable, on or  
24 after the effective date of this Act. A fee imposed for an  
25 application filed or declaration executed before the effective date  
26 of this Act is governed by the law in effect on the date the  
27 application was filed or the declaration was executed, and the



1 former law is continued in effect for that purpose.

2 SECTION 13. This Act takes effect September 1, 2007.