

By: Nelson, Williams

S.B. No. 47

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain requirements relating to the issuance of a
3 marriage license or the recording of a declaration of informal
4 marriage and to the maintenance of marriage and divorce indexes by
5 the bureau of vital statistics.

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

7 SECTION 1. Effective January 1, 2009, Subchapter A, Chapter
8 2, Family Code, is amended by adding Section 2.0075 to read as
9 follows:

10 Sec. 2.0075. STATE INDEX VERIFICATION REQUIRED. (a) The
11 clerk shall verify, using the online state index maintained by the
12 bureau of vital statistics under Section 194.003, Health and Safety
13 Code, that neither applicant is listed on the index as being
14 presently married.

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

18 SECTION 2. Effective January 1, 2009, Subsections (a) and
19 (b), Section 2.009, Family Code, are amended to read as follows:

20 (a) Except as provided by Subsections (b) and (d), the
21 county clerk may not issue a license if either applicant:

22 (1) fails to provide the information required by this
23 subchapter;

24 (2) fails to submit proof of age and identity;

1 (3) is under 16 years of age and has not been granted a
2 court order as provided by Section 2.103;

3 (4) is 16 years of age or older but under 18 years of
4 age and has not presented at least one of the following:

5 (A) parental consent as provided by Section
6 2.102;

7 (B) documents establishing that a prior marriage
8 of the applicant has been dissolved; or

9 (C) a court order as provided by Section 2.103;

10 (5) checks "false" in response to a statement in the
11 application, except as provided by Subsection (b) or (d), or fails
12 to make a required declaration in an affidavit required of an absent
13 applicant; ~~[or]~~

14 (6) indicates that the applicant has been divorced by
15 a decree of a court of this state within the last 30 days, unless:

16 (A) the applicants were divorced from each other;
17 or

18 (B) the prohibition against remarriage is waived
19 as provided by Section 6.802; or

20 (7) is listed on the state index under Section
21 194.003, Health and Safety Code, as being presently married to a
22 person other than the other applicant and has not provided to the
23 clerk under Section 2.0075(b) proof that the marriage of the
24 applicant has been dissolved.

25 (b) If an applicant is listed on the online state index
26 under Section 194.003, Health and Safety Code, as being presently
27 married to the other applicant or an applicant checks "false" in

1 response to the statement "I am not presently married and the other
2 applicant is not presently married," the county clerk shall inquire
3 as to whether the applicant is presently married to the other
4 applicant. If the applicant states that the applicant is currently
5 married to the other applicant, the county clerk shall record that
6 statement on the license before the administration of the oath. The
7 county clerk may not refuse to issue a license on the ground that
8 the applicants are already married to each other.

9 SECTION 3. Effective January 1, 2009, Subchapter E, Chapter
10 2, Family Code, is amended by adding Section 2.4035 to read as
11 follows:

12 Sec. 2.4035. STATE INDEX VERIFICATION REQUIRED. (a) The
13 clerk shall verify, using the online state index maintained by the
14 bureau of vital statistics under Section 194.003, Health and Safety
15 Code, that neither party to the declaration of informal marriage is
16 listed on the index as being presently married.

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

20 SECTION 4. Effective January 1, 2009, Subsection (b),
21 Section 2.404, Family Code, is amended to read as follows:

22 (b) The county clerk may not certify or record the
23 declaration if:

24 (1) either party fails to supply any information or
25 provide any document required by this subchapter;

26 (2) either party is under 18 years of age; ~~[or]~~

27 (3) either party checks "false" in response to the

1 statement of relationship to the other party; or

2 (4) either party is listed on the state index as being
3 presently married to a person other than the other party and has not
4 provided to the clerk under Section 2.4035(b) proof that the
5 marriage of the party has been dissolved.

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

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

16 (d) The executive commissioner of the Health and Human
17 Services Commission shall adopt rules for the administration of
18 this section, including rules to ensure that:

19 (1) the index provides county clerks with online
20 access to any identifying information necessary for a county clerk
21 to verify that an applicant for a marriage license is a person
22 listed on the index;

23 (2) any confidential identifying information
24 maintained on the index for use by a county clerk under Subdivision
25 (1) is secure and may not be accessed by members of the public; and

26 (3) a county clerk of a county that lacks online access
27 to the index receives the assistance required for the clerk to

1 satisfy any duty relating to accessing the information on the index
2 that is imposed on the clerk by other law.

3 SECTION 6. Section 118.018, Local Government Code, is
4 amended by adding Subsection (d) to read as follows:

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

13 SECTION 7. Section 118.019, Local Government Code, is
14 amended to read as follows:

15 Sec. 118.019. DECLARATION OF INFORMAL MARRIAGE. (a) The
16 fee for "Declaration of Informal Marriage" under Section 118.011 is
17 for all services rendered in connection with the execution of a
18 declaration of informal marriage under Section 2.404 [~~1.92~~], Family
19 Code. The fee shall be collected at the time the service is
20 rendered.

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

1 Section 194.003, Health and Safety Code.

2 SECTION 8. Subsection (a), Section 118.022, Local
3 Government Code, is amended to read as follows:

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

10 SECTION 9. Subsections (a) and (b), Section 2.009, and
11 Subsection (b), Section 2.404, Family Code, as amended by this Act,
12 apply only to an application for a marriage license filed, or a
13 declaration of an informal marriage executed, as applicable, on or
14 after January 1, 2009. An application filed or declaration
15 executed before that date is governed by the law in effect on the
16 date the application was filed or the declaration was executed, and
17 the former law is continued in effect for that purpose.

18 SECTION 10. The executive commissioner of the Health and
19 Human Services Commission shall:

20 (1) adopt rules for the administration of Section
21 194.003, Health and Safety Code, as required by this Act, as soon as
22 practicable after the effective date of this Act; and

23 (2) ensure that the enhancements to the state index
24 required by this Act are completed and available for access by
25 county clerks not later than January 1, 2009.

26 SECTION 11. The changes in law made by this Act to Sections
27 118.018, 118.019, and 118.022, Local Government Code, apply only to

1 a fee imposed for a marriage license application filed, or a
2 declaration of an informal marriage executed, as applicable, on or
3 after the effective date of this Act. A fee imposed for an
4 application filed or declaration executed before the effective date
5 of this Act is governed by the law in effect on the date the
6 application was filed or the declaration was executed, and the
7 former law is continued in effect for that purpose.

8 SECTION 12. This Act takes effect September 1, 2007.