

By: McClendon

H.B. No. 3274

A BILL TO BE ENTITLED

AN ACT

relating to a declaration of origin.

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

SECTION 1. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 140 to read as follows:

CHAPTER 140. DECLARATION OF ORIGIN

Sec. 140.001. DECLARATION OF ORIGIN ESTABLISHING PLACE AND DATE OF BIRTH. (a) An individual may establish the individual's place and date of birth by obtaining a declaration of origin from a court as provided by this chapter.

(b) An order by a court under this chapter establishing an individual's place and date of birth establishes the individual's identity for purposes of the state or a political subdivision of the state, and for purposes of the federal government, or any official of this state, a political subdivision of this state, or of the federal government, in the same manner as a driver's license or a personal identification card issued by the Department of Public Safety.

Sec. 140.002. COURTS WITH JURISDICTION TO ISSUE DECLARATION. The following courts have jurisdiction to issue a declaration of origin:

- (1) a statutory probate court;
- (2) a statutory county court with probate jurisdiction;

1           (3) a constitutional county court with probate  
2 jurisdiction; and

3           (4) a district court.

4           Sec. 140.003. PETITION. (a) An individual may request a  
5 court to issue a declaration of origin by filing a petition with the  
6 court.

7           (b) The petition must be in substantially the following  
8 form:

9                   PETITION FOR DECLARATION OF ORIGIN

10           State of Texas   Court\_\_\_\_\_

11           County of \_\_\_\_\_   No.\_\_\_\_\_

12           Name of Petitioner:

13           \_\_\_\_\_

14           Petitioner makes the following declaration:

15           1. I was born on the following date:\_\_\_\_\_.

16           2. I was born in the following place:\_\_\_\_\_.

17           3. I am unable to obtain a driver's license or personal  
18 identification card from the Department of Public Safety.

19           4. I further declare:

20           \_\_\_\_\_

21           \_\_\_\_\_

22           (insert additional declarations, if any)

23           The Petitioner requests that the court issue a declaration of  
24 origin establishing the date and place of birth specified above.

25           I verify that the statements made in this affidavit are true  
26 and correct.

1 \_\_\_\_\_

2 (Your Signature)

3 \_\_\_\_\_

4 (Your Printed Name)

5 \_\_\_\_\_

6 (Your Address)

7 \_\_\_\_\_

8 (Your City, State, Zip)

9 \_\_\_\_\_

10 (Your Phone Number)

11 Before me, the undersigned authority, on this day personally  
12 appeared \_\_\_\_\_, who after being duly sworn, on  
13 oath states the foregoing statements are within his or her personal  
14 knowledge and true and correct.

15 SUBSCRIBED AND SWORN to this \_\_\_\_\_ day of \_\_\_\_\_,  
16 20\_\_\_\_.

17 \_\_\_\_\_

18 Notary Public, State of Texas

19 Sec. 140.004. FEE. (a) The fee to file a petition for a  
20 declaration of origin is \$25.

21 (b) A court shall waive the fee for an individual on the  
22 filing by the individual of an affidavit of inability to pay the  
23 fee. If the individual does not have the capacity to complete and  
24 submit the affidavit in the individual's own behalf, a person  
25 related to the individual by consanguinity within the third degree  
26 as determined under Subchapter B, Chapter 573, Government Code, or  
27 a person authorized by the individual to act on behalf of the

1 individual, may complete and submit the petition.

2 (c) The affidavit of inability to pay the fee must be in  
3 substantially the following form:

4 AFFIDAVIT OF INABILITY TO PAY FEE

5 State of Texas Court\_\_\_\_\_

6 County of \_\_\_\_\_ No.\_\_\_\_\_

7 Name of Petitioner:

8 \_\_\_\_\_

9 Pursuant to Rule 145 of the Texas Rules of Civil Procedure,  
10 Petitioner files this affidavit of inability to pay the filing fee  
11 for a petition for a Declaration of Origin and requests this court  
12 consider the petition without payment of any fee.

13 Petitioner declares:

14 1.

15 My approximate monthly income consists of the following:

	<u>AMOUNT</u>	<u>SOURCE OR DESCRIPTION</u>
16 a) <u>Public Benefits</u>	_____	_____
17 b) <u>Net Employment</u>	_____	_____
18 c) <u>Other Income</u>	_____	_____
19 d) <u>Child Support</u>	_____	_____
20 e) <u>Spouse Income</u>	_____	_____
21 (if available)	_____	_____

22 My approximate monthly expenses consist of the following:

	<u>AMOUNT</u>
23 a. <u>Housing</u>	_____
24 b. <u>Transportation</u>	_____
25 c. <u>Food</u>	_____

- 1      d. Clothing \_\_\_\_\_
- 2      e. Utilities \_\_\_\_\_
- 3      f. Child Care \_\_\_\_\_
- 4      g. Medical Expenses \_\_\_\_\_
- 5      h. Other \_\_\_\_\_

6    2.  
 7      I have the following dependents living with me:

8      \_\_\_\_\_.

9    3.  
 10      I have no substantial property other than my clothes,

11 personal effects, and household furnishings. I have \_\_\_\_\_  
 12 vehicle(s):  
 13 \_\_\_\_\_.

14 (list make, model, year)

15      The balance of any checking account I have is \$\_\_\_\_\_. The  
 16 balance of any savings account or other account I have is \$\_\_\_\_\_.  
 17 I have \$\_\_\_\_\_ in cash in my possession.

18    4.  
 19      I am unable to pay the fee. Nevertheless, I wish to file my  
 20 petition for a Declaration of Origin. I verify that the statements  
 21 made in this affidavit are true and correct.

22      \_\_\_\_\_

23 (Your Signature)

24      \_\_\_\_\_

25 (Your Printed Name)

26      \_\_\_\_\_

27 (Your Address)

1 \_\_\_\_\_

2 (Your City, State, Zip)

3 \_\_\_\_\_

4 (Your Phone Number)

5 Before me, the undersigned authority, on this day personally  
6 appeared \_\_\_\_\_, who after being duly sworn, on  
7 oath states the foregoing statements are within his or her personal  
8 knowledge and true and correct.

9 SUBSCRIBED AND SWORN to this \_\_\_\_\_ day of \_\_\_\_\_,  
10 20\_\_\_\_.

11 \_\_\_\_\_

12 Notary Public, State of Texas

13 Sec. 140.005. PROOF. (a) A court shall issue a declaration  
14 of origin for an individual if the court finds that the individual  
15 has shown by a preponderance of the evidence the individual's place  
16 and date of birth.

17 (b) An individual may satisfy the showing required under  
18 Subsection (a) through:

19 (1) the sworn testimony of a witness; or

20 (2) affidavits from two or more credible witnesses who  
21 have knowledge of relevant and material facts concerning the place  
22 and date of birth of the individual.

23 (c) An individual may also submit any other relevant and  
24 credible evidence to the court, including:

25 (1) a family Bible or other central text of a religion;

26 or

27 (2) a marriage certificate.

1       Sec. 140.006. ISSUANCE. (a) A declaration of origin for an  
2 individual issued by a court must establish the individual's place  
3 and date of birth, including, if applicable:

4               (1) the city or county, or both the city and county, of  
5 birth;

6               (2) the state of birth;

7               (3) zip code information; and

8               (4) location of birth in a territory of the United  
9 States, a Native American reservation, or a federal military base  
10 or installation.

11       (b) The declaration of origin issued by a court must be in  
12 substantially the following form:

13                               DECLARATION OF ORIGIN

14       State of Texas   Court\_\_\_\_\_

15       County of \_\_\_\_\_   No.\_\_\_\_\_

16       Name of Petitioner:  
17       \_\_\_\_\_

18       This Declaration of Origin for Petitioner establishes the  
19 identity of the Petitioner in Texas for all purposes, in the same  
20 manner as a driver's license or personal identification card issued  
21 by the Department of Transportation.

22       FINDINGS:

23       The court makes the following findings regarding the place  
24 and date of birth of the Petitioner:

25       1. The Petitioner's place of birth is:  
26       \_\_\_\_\_

1        2. The Petitioner's date of birth is:

2        \_\_\_\_\_

3        3. The court makes additional findings relating to  
4 Petitioner as follows:

5        \_\_\_\_\_

6        \_\_\_\_\_

7        Judge \_\_\_\_\_

8        Date \_\_\_\_\_

9        Sec. 140.007. RECORDING. On presentation of a Declaration  
10 of Origin issued by a court under this chapter by an individual to a  
11 state agency or to an agency of a political subdivision of this  
12 state, the agency shall accept the declaration as proof of the place  
13 and date of birth of the individual and enter that information into  
14 the permanent records of the agency.

15        SECTION 2. This Act takes effect September 1, 2009.