

By: McClendon

H.B. No. 2027

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 this state or a political subdivision of this state, and for purposes of the federal government or any official of this state, a political subdivision of this state, or 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. APPLICATION FOR DELAYED BIRTH CERTIFICATE FOR
14 AN INDIVIDUAL BORN IN TEXAS. (a) A court may not issue a
15 declaration of origin for an individual who declares on the
16 petition for declaration of origin that the individual was born in
17 this state unless:

18 (1) the individual has applied to a local registrar of
19 births and deaths for the issuance of a delayed birth certificate
20 under Subchapter B, Chapter 192, Health and Safety Code; and

21 (2) the state registrar of vital statistics refuses to
22 issue the certificate.

23 (b) An individual may establish a refusal of the state
24 registrar of vital statistics to issue a delayed birth certificate
25 for the individual by submitting to the court the state registrar's
26 statement of the reasons for the refusal required under Section
27 192.026(b)(1), Health and Safety Code.

1 Sec. 140.006. PROOF. (a) A court shall issue a declaration
2 of origin for an individual if the court finds that the individual
3 has shown by a preponderance of the evidence the individual's place
4 and date of birth.

5 (b) An individual may satisfy the showing required under
6 Subsection (a) through:

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

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

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

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

14 or

15 (2) a marriage certificate.

16 Sec. 140.007. ISSUANCE. (a) A declaration of origin for an
17 individual issued by a court must establish the individual's place
18 and date of birth, including, if applicable:

19 (1) the city or county, or both the city and county, of
20 birth;

21 (2) the state of birth;

22 (3) zip code information; and

23 (4) location of birth in a territory of the United
24 States, a Native American reservation, or a federal military base
25 or installation.

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

DECLARATION OF ORIGIN

State of Texas Court _____

County of _____ No. _____

Name of Petitioner:

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

FINDINGS:

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

1. The Petitioner's place of birth is:

2. The Petitioner's date of birth is:

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

Judge _____

Date _____

Sec. 140.008. RECORDING. On presentation of a declaration of origin issued by a court under this chapter by an individual to a state agency or to an agency of a political subdivision of this state, the agency shall accept the declaration as proof of the place and date of birth of the individual and enter that information into

1 the permanent records of the agency.

2 SECTION 2. Section 192.026(b), Health and Safety Code, is
3 amended to read as follows:

4 (b) On the state registrar's refusal to register a
5 certificate under Subsection (a), the state registrar shall:

6 (1) furnish the applicant a statement of the reasons
7 for the refusal; ~~and~~

8 (2) advise the applicant of the right to appeal to the
9 county court for probate matters of the county in which the birth
10 occurred, as provided by Section 192.027; and

11 (3) advise the applicant:

12 (A) of the nature of a declaration of origin
13 under Chapter 140, Civil Practice and Remedies Code; and

14 (B) that the applicant may request a court to
15 issue a declaration of origin as provided by that chapter.

16 SECTION 3. Section 192.026(b), Health and Safety Code, as
17 amended by this Act, applies to a refusal by the state registrar of
18 vital statistics to register a delayed birth certificate that
19 occurs on or after the effective date of this Act, without regard to
20 whether the application for the certificate commenced before, on,
21 or after that date.

22 SECTION 4. This Act takes effect September 1, 2011.