

By: Burnam

H.B. No. 20

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to authorizing a marriage between two persons of the same  
3 sex in this state and repealing the statutory prohibition against  
4 the recognition of a civil union or similar relationship entered  
5 into in another state between two persons of the same sex.

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

7 SECTION 1. Section 1.001, Family Code, is amended by adding  
8 Subsection (d) to read as follows:

9 (d) Any reference in this code or in a law outside this code  
10 to a "husband" or "wife" or to "man and wife" means "spouse" or  
11 "spouses," as applicable. For purposes of this subsection,  
12 "spouse" has the meaning assigned by Section 3.401(5).

13 SECTION 2. Section 2.001(a), Family Code, is amended to  
14 read as follows:

15 (a) A man and a woman, a man and a man, or a woman and a woman  
16 desiring to enter into a ceremonial marriage must obtain a marriage  
17 license from the county clerk of any county of this state.

18 SECTION 3. Section 2.401(a), Family Code, is amended to  
19 read as follows:

20 (a) In a judicial, administrative, or other proceeding, the  
21 marriage of a man and woman, a man and a man, or a woman and a woman  
22 may be proved by evidence that:

23 (1) a declaration of their marriage has been signed as  
24 provided by this subchapter; or

1           (2) the man and woman, man and man, or woman and woman  
2 agreed to be married and after the agreement they lived together in  
3 this state as spouses [~~husband and wife~~] and there represented to  
4 others that they were married.

5           SECTION 4. Section 2.402(b), Family Code, is amended to  
6 read as follows:

7           (b) The declaration form must contain:

8                 (1) a heading entitled "Declaration and Registration  
9 of Informal Marriage, \_\_\_\_\_ County, Texas";

10                (2) spaces for each party's full name, including the  
11 [~~woman's~~] maiden surname for a woman, address, date of birth, place  
12 of birth, including city, county, and state, and social security  
13 number, if any;

14                (3) a space for indicating the type of document  
15 tendered by each party as proof of age and identity;

16                (4) printed boxes for each party to check "true" or  
17 "false" in response to the following statement: "The other party  
18 is not related to me as:

19                         (A) an ancestor or descendant, by blood or  
20 adoption;

21                         (B) a brother or sister, of the whole or half  
22 blood or by adoption;

23                         (C) a parent's brother or sister, of the whole or  
24 half blood or by adoption;

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

27                         (E) a current or former stepchild or stepparent;

1 or

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

4 (5) a printed declaration and oath reading: "I  
5 SOLEMNLY SWEAR (OR AFFIRM) THAT WE, THE UNDERSIGNED, ARE MARRIED TO  
6 EACH OTHER BY VIRTUE OF THE FOLLOWING FACTS: ON OR ABOUT (DATE) WE  
7 AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS  
8 SPOUSES [~~HUSBAND AND WIFE~~] AND IN THIS STATE WE REPRESENTED TO  
9 OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE  
10 OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS  
11 DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN IS  
12 CORRECT.";

13 (6) spaces immediately below the printed declaration  
14 and oath for the parties' signatures; and

15 (7) a certificate of the county clerk that the parties  
16 made the declaration and oath and the place and date it was made.

17 SECTION 5. Section 3.401(5), Family Code, is amended to  
18 read as follows:

19 (5) "Spouse" means a party to a marriage [~~husband, who~~  
20 ~~is a man, or a wife, who is a woman~~]. The term includes a [A] member  
21 of a civil union or similar relationship entered into in another  
22 state between persons of the same sex [~~is not a spouse~~].

23 SECTION 6. Section 6.202(b), Family Code, is amended to  
24 read as follows:

25 (b) The later marriage that is void under this section  
26 becomes valid when the prior marriage is dissolved if, after the  
27 date of the dissolution, the parties have lived together as spouses

1 ~~[husband and wife]~~ and represented themselves to others as being  
2 married.

3 SECTION 7. Section 6.704, Family Code, is amended to read as  
4 follows:

5 Sec. 6.704. TESTIMONY OF SPOUSE ~~[HUSBAND OR WIFE]~~. (a) In  
6 a suit for dissolution of a marriage, each spouse is a ~~[the husband~~  
7 ~~and wife are]~~ competent witness ~~[witnesses]~~ for and against the  
8 ~~[each]~~ other spouse. A spouse may not be compelled to testify as to  
9 a matter that will incriminate the spouse.

10 (b) If a spouse ~~[the husband or wife]~~ testifies, the court  
11 or jury trying the case shall determine the credibility of the  
12 witness and the weight to be given the witness's testimony.

13 SECTION 8. The following laws are repealed:

- 14 (1) Section 2.001(b), Family Code;  
15 (2) Section 6.204, Family Code; and  
16 (3) Sections 810.001(g), (h), and (i), Government  
17 Code.

18 SECTION 9. This Act takes effect January 1, 2014, but only  
19 if the constitutional amendment proposed by the 83rd Legislature,  
20 Regular Session, 2013, repealing the constitutional provision  
21 providing that marriage in this state consists only of the union of  
22 one man and one woman and prohibiting this state or a political  
23 subdivision of this state from creating or recognizing any legal  
24 status identical or similar to marriage is approved by the voters.  
25 If that amendment is not approved by the voters, this Act has no  
26 effect.