

By: Ashby, Toth, et al.

H.B. No. 869

Substitute the following for H.B. No. 869:

By: King of Hemphill

C.S.H.B. No. 869

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the issuance of a marriage license for an absent
3 applicant, the participation of a proxy in certain marriage
4 ceremonies, and the maintenance and submission of records relating
5 to a marriage license issued for an absent applicant.

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

7 SECTION 1. Section 2.006(c), Family Code, is amended to
8 read as follows:

9 (c) Notwithstanding Subsection (a), the clerk may not issue
10 a marriage license for which both applicants are absent unless the
11 person applying on behalf of each absent applicant provides to the
12 clerk an affidavit of the applicant declaring that the applicant
13 is[+

14 [~~(1) on active duty as~~] a member of the armed forces of
15 the United States stationed in another country in support of combat
16 or another military operation [~~or the state military forces, or~~

17 [~~(2) confined in a correctional facility, as defined~~
18 ~~by Section 1.07, Penal Code]~~.

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

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

23 (1) the absent applicant's full name, including the
24 maiden surname of a female applicant, address, date of birth, place

1 of birth, including city, county, and state, citizenship, and
2 social security number, if any;

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

5 (3) a declaration that the absent applicant is:

6 (A) not presently married; or

7 (B) married to the other applicant and they wish
8 to marry again;

9 (4) a declaration that the other applicant is not
10 presently married and is not related to the absent applicant 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 (5) a declaration that the absent applicant desires to
24 marry and the name, age, and address of the person to whom the
25 absent applicant desires to be married;

26 (6) the approximate date on which the marriage is to
27 occur;

1 (7) the reason the absent applicant is unable to
2 appear personally before the county clerk for the issuance of the
3 license; and

4 (8) [~~if the absent applicant will be unable to attend~~
5 ~~the ceremony,~~] the appointment of any adult, other than the other
6 applicant, to act as proxy for the purpose of participating in the
7 ceremony, if the absent applicant is:

8 (A) a member of the armed forces of the United
9 States stationed in another country in support of combat or another
10 military operation; and

11 (B) unable to attend the ceremony.

12 SECTION 3. Subchapter A, Chapter 2, Family Code, is amended
13 by adding Section 2.0071 to read as follows:

14 Sec. 2.0071. MAINTENANCE OF RECORDS BY CLERK RELATING TO
15 LICENSE FOR ABSENT APPLICANT. A county clerk who issues a marriage
16 license for an absent applicant shall maintain the affidavit of the
17 absent applicant and the application for the marriage license in
18 the same manner that the clerk maintains an application for a
19 marriage license submitted by two applicants in person.

20 SECTION 4. Section 2.203(b), Family Code, is amended to
21 read as follows:

22 (b) A person [~~unable to appear for the ceremony~~] may assent
23 to marriage by the appearance of a proxy appointed in the affidavit
24 authorized by Subchapter A if the person is:

25 (1) a member of the armed forces of the United States
26 stationed in another country in support of combat or another
27 military operation; and

1 (2) unable to attend the ceremony.

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

4 (a) The county clerk shall file with the bureau of vital
5 statistics a copy of each completed marriage license application
6 and a copy of any affidavit of an absent applicant submitted with an
7 application. The clerk shall file the copies [~~copy~~] not later than
8 the 90th day after the date of the application. The clerk may not
9 collect a fee for filing the copies [~~copy~~].

10 SECTION 6. Sections 2.006 and 2.007, Family Code, as
11 amended by this Act, apply to an application for a marriage license
12 filed on or after the effective date of this Act. An application
13 filed before that date is governed by the law in effect on the date
14 the application was filed, and the former law is continued in effect
15 for that purpose.

16 SECTION 7. This Act takes effect September 1, 2013.