

By: Hinojosa

S.B. No. 480

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the formation of a civil union between persons of the  
3 same sex; providing penalties.

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

5 SECTION 1. The heading to Title 1, Family Code, is amended  
6 to read as follows:

7 TITLE 1. THE MARRIAGE RELATIONSHIP AND CIVIL UNIONS

8 SECTION 2. Title 1, Family Code, is amended by adding  
9 Subtitle D to read as follows:

10 SUBTITLE D. CIVIL UNIONS

11 CHAPTER 10. GENERAL PROVISIONS

12 Sec. 10.001. DEFINITIONS. In this subtitle:

13 (1) "Certificate of civil union" means a document that  
14 certifies that the persons named on the certificate have  
15 established a civil union in this state in compliance with this  
16 subtitle.

17 (2) "Civil union" means a union established by two  
18 eligible persons under this subtitle granting the parties to the  
19 union the same rights, benefits, protections, and responsibilities  
20 under the law as are granted to spouses in a marriage.

21 (3) "Marriage" means the legally recognized union of  
22 one man and one woman.

23 (4) "Party to a civil union" means a person who has  
24 established a civil union under this subtitle.

1       Sec. 10.002. ELIGIBILITY. To be eligible to enter into a  
2 civil union under this subtitle:

3           (1) the parties to a civil union must:

4                   (A) be at least 18 years of age;

5                   (B) be of the same sex and therefore excluded  
6 from the marriage laws of this state; and

7                   (C) comply with the requirements of Chapter 11;  
8 and

9           (2) a party to a civil union may not be a party to  
10 another civil union or a marriage that has not been dissolved by  
11 legal action or terminated by the death of the other party to the  
12 civil union or marriage.

13       Sec. 10.003. LIMITATIONS. (a) A woman may not enter a  
14 civil union with her mother, grandmother, daughter, granddaughter,  
15 sister, brother's daughter, sister's daughter, father's sister, or  
16 mother's sister.

17           (b) A man may not enter a civil union with his father,  
18 grandfather, son, grandson, brother, brother's son, sister's son,  
19 father's brother, or mother's brother.

20           (c) A civil union between persons prohibited from entering a  
21 civil union under this section is void.

22       Sec. 10.004. RIGHTS, PROTECTIONS, BENEFITS, AND  
23 RESPONSIBILITIES OF PARTIES. (a) Parties to a civil union have  
24 the same rights, protections, benefits, and responsibilities as are  
25 granted by law to the spouses of a marriage, including:

26           (1) the duty to support one another as provided by  
27 Section 2.501;

- 1           (2) property rights and liabilities as provided by
- 2 Subtitle B;
- 3           (3) homestead rights as provided by Chapter 5;
- 4           (4) rights and duties relating to child custody,
- 5 support, and adoption as provided by Subtitle B, Title 5;
- 6           (5) rights and duties relating to intestate
- 7 succession;
- 8           (6) rights and duties under probate law and procedure,
- 9 including nonprobate transfers;
- 10           (7) rights and duties under conflict of interest laws;
- 11           (8) the right to bring or defend a cause of action
- 12 related to or dependent on spousal status;
- 13           (9) group insurance for state employees; and
- 14           (10) workers' compensation benefits.

15           (b) A party to a civil union is included within any  
16 definition of or within the use of the following terms in any law:

- 17           (1) "spouse";
- 18           (2) "husband";
- 19           (3) "wife";
- 20           (4) "family";
- 21           (5) "immediate family";
- 22           (6) "dependent";
- 23           (7) "next of kin"; and
- 24           (8) any other term that denotes the spousal
- 25 relationship.

26           Sec. 10.005. DISSOLUTION OF CIVIL UNION. To the extent  
27 practicable, the provisions of Subtitle C regarding dissolution of

1 a marriage apply to the dissolution of a civil union.

2 CHAPTER 11. CIVIL UNION LICENSE; CERTIFICATION

3 Sec. 11.001. CIVIL UNION LICENSE. Two persons of the same  
4 sex desiring to enter into a civil union must obtain a license from  
5 the county clerk of any county of this state.

6 Sec. 11.002. APPLICATION FOR LICENSE. Each person applying  
7 for a license must:

8 (1) appear before the county clerk;

9 (2) submit the person's proof of identity and age as  
10 provided by this chapter;

11 (3) provide the information applicable to that person  
12 for which spaces are provided in the application for a civil union  
13 license; and

14 (4) take the oath printed on the application and sign  
15 the application before the county clerk.

16 Sec. 11.003. PROOF OF IDENTITY AND AGE. (a) The county  
17 clerk shall require proof of the identity and age of each applicant.

18 (b) The proof must be established by a document that may be  
19 used to establish the identity and age of an applicant for a  
20 marriage license under Section 2.005(b).

21 Sec. 11.004. EXECUTION OF APPLICATION BY CLERK. The county  
22 clerk shall:

23 (1) determine that all necessary information is  
24 recorded on the application and that all necessary documents are  
25 submitted;

26 (2) administer the oath to each applicant;

27 (3) have each applicant sign the application in the

1 clerk's presence; and

2 (4) execute the clerk's certificate on the  
3 application.

4 Sec. 11.005. ISSUANCE OF LICENSE. On proper execution of  
5 the application, the clerk shall:

6 (1) prepare the license;

7 (2) enter on the license the names of the parties and  
8 the date on which the license is issued; and

9 (3) record the time at which the license was issued.

10 Sec. 11.006. RECORDING. The county clerk shall record all  
11 licenses issued by the clerk and all documents submitted with an  
12 application for a license or note a summary of the documents on the  
13 application.

14 Sec. 11.007. VIOLATION BY COUNTY CLERK; PENALTY. A county  
15 clerk who violates or fails to comply with this chapter commits an  
16 offense. An offense under this section is a Class C misdemeanor.

17 Sec. 11.008. EXPIRATION OF LICENSE. If a civil union is not  
18 certified before the 31st day after the date the license is issued,  
19 the civil union license expires.

20 Sec. 11.009. PERSONS AUTHORIZED TO CERTIFY CIVIL UNIONS.  
21 Any person who is authorized to conduct a marriage ceremony under  
22 Section 2.202 is authorized to certify a civil union.

23 Sec. 11.010. CIVIL UNION LICENSE REQUIRED FOR  
24 CERTIFICATION; PENALTY. (a) A person authorized under Section  
25 11.009 to certify a civil union must require the parties to produce  
26 a civil union license before certifying the civil union.

27 (b) A person who fails to comply with this section commits

1 an offense. An offense under this section is a Class C misdemeanor.

2 Sec. 11.011. RETURN OF CERTIFICATE OF CIVIL UNION;  
3 PENALTY. (a) The person who certifies a civil union shall record  
4 on the license the date on which and the county in which the civil  
5 union is certified and the person's name. The document containing  
6 the information required by this subsection is known as a  
7 certificate of civil union.

8 (b) Not later than the 30th day after the date the civil  
9 union is certified, the person who certified the civil union shall  
10 return the certificate of civil union to the county clerk who issued  
11 the civil union license.

12 (c) A person who fails to comply with this section commits  
13 an offense. An offense under this section is a Class C misdemeanor.

14 Sec. 11.012. RECORDING AND DELIVERY OF CERTIFICATE OF CIVIL  
15 UNION. (a) The county clerk shall record a returned civil union  
16 certificate and mail the certificate to the address indicated on  
17 the application.

18 (b) On the application form the county clerk shall record:

19 (1) the date on which the civil union was certified;

20 (2) the county in which the civil union was certified;

21 and

22 (3) the name of the person who certified the civil  
23 union.

24 SECTION 3. Section 3.401(5), Family Code, is amended to  
25 read as follows:

26 (5) "Spouse" means a husband, who is a man, or a wife,  
27 who is a woman. [~~A member of a civil union or similar relationship~~

1 ~~entered into in another state between persons of the same sex is not~~  
2 ~~a spouse.]~~

3 SECTION 4. Section 6.204, Family Code, is amended to read as  
4 follows:

5 Sec. 6.204. RECOGNITION OF SAME-SEX MARRIAGE [~~OR CIVIL~~  
6 ~~UNION~~]. (a) [~~In this section, "civil union" means any~~  
7 ~~relationship status other than marriage that:~~

8 [~~(1) is intended as an alternative to marriage or~~  
9 ~~applies primarily to cohabitating persons; and~~

10 [~~(2) grants to the parties of the relationship legal~~  
11 ~~protections, benefits, or responsibilities granted to the spouses~~  
12 ~~of a marriage.~~

13 [~~(b)~~] A marriage between persons of the same sex [~~or a civil~~  
14 ~~union~~] is contrary to the public policy of this state and is void in  
15 this state.

16 (b) [~~(c)~~] The state or an agency or political subdivision of  
17 the state may not give effect to a:

18 (1) public act, record, or judicial proceeding that  
19 creates, recognizes, or validates a marriage between persons of the  
20 same sex [~~or a civil union~~] in this state or in any other  
21 jurisdiction; or

22 (2) right or claim to any legal protection, benefit,  
23 or responsibility asserted as a result of a marriage between  
24 persons of the same sex [~~or a civil union~~] in this state or in any  
25 other jurisdiction.

26 SECTION 5. Section 810.001(h), Government Code, is amended  
27 to read as follows:

1 (h) For purposes of this title, the state may not give  
2 effect to a:

3 (1) public act, record, or judicial proceeding that  
4 recognizes or validates a marriage [~~or civil union~~] between persons  
5 of the same sex; or

6 (2) right or claim asserted as a result of the  
7 purported marriage [~~or civil union~~].

8 SECTION 6. The heading to Chapter 194, Health and Safety  
9 Code, is amended to read as follows:

10 CHAPTER 194. MARRIAGE, ~~[AND]~~ DIVORCE, AND CIVIL UNION RECORDS

11 SECTION 7. Sections 194.002(a), (c), (d), (e), and (f),  
12 Health and Safety Code, are amended to read as follows:

13 (a) The bureau of vital statistics shall prescribe a form  
14 for reporting divorces and annulments of marriage and civil union.  
15 The form must require the following information:

16 (1) each party's:

17 (A) full name;

18 (B) usual residence;

19 (C) age;

20 (D) place of birth;

21 (E) color or race; and

22 (F) number of children;

23 (2) the date and place of the parties' marriage or  
24 civil union;

25 (3) the date the divorce or annulment of marriage or  
26 civil union was granted; and

27 (4) the court and the style and docket number of the

1 case in which the divorce or annulment of marriage or civil union  
2 was granted.

3 (c) When an attorney presents a final judgment for a divorce  
4 or annulment of marriage or civil union to a court for a final  
5 decree, the attorney shall:

6 (1) enter on the form the information required under  
7 Subsection (a); and

8 (2) submit the report to the district clerk with the  
9 final judgment.

10 (d) Not later than the ninth day of each month, each  
11 district clerk shall file with the bureau of vital statistics a  
12 completed report for each divorce or annulment of marriage or civil  
13 union granted in the district court during the preceding calendar  
14 month. If a report does not include the information required by  
15 Subsection (a)(3) or (4), the clerk must complete that information  
16 on the report before the clerk files the report with the bureau.

17 (e) For each report that a district clerk files with the  
18 bureau of vital statistics under this section, the clerk may  
19 collect a \$1 fee as costs in the case in which the divorce or  
20 annulment of marriage or civil union is granted.

21 (f) If the bureau of vital statistics determines that a  
22 report filed with the bureau under this section requires  
23 correction, the bureau shall mail the report form directly to an  
24 attorney of record with respect to the divorce or annulment of  
25 marriage or civil union. The attorney shall return the corrected  
26 report form to the bureau. If there is no attorney of record, the  
27 bureau shall mail the report form to the district clerk for

1 correction.

2 SECTION 8. Section 194.003, Health and Safety Code, is  
3 amended to read as follows:

4 Sec. 194.003. STATE INDEX. (a) The bureau of vital  
5 statistics shall maintain a statewide alphabetical index, under the  
6 names of both parties, of each marriage license application, ~~[or]~~  
7 declaration of informal marriage, and civil union application. The  
8 statewide index does not replace the indexes required in each  
9 county.

10 (b) The bureau of vital statistics shall maintain a  
11 statewide alphabetical index, under the names of both parties, of  
12 each report of divorce or annulment of a marriage or civil union.

13 SECTION 9. Section 194.004, Health and Safety Code, is  
14 amended to read as follows:

15 Sec. 194.004. RELEASE OF INFORMATION. (a) The bureau of  
16 vital statistics shall furnish on request any information it has on  
17 record relating to any marriage, civil union, divorce, or annulment  
18 of a marriage or civil union.

19 (b) The bureau of vital statistics may not issue:

20 (1) a certificate or a certified copy of information  
21 relating to a marriage or civil union; or

22 (2) a certified copy of a report of divorce or  
23 annulment of a marriage or civil union.

24 SECTION 10. Chapter 194, Health and Safety Code, is amended  
25 by adding Sections 194.006 and 194.007 to read as follows:

26 Sec. 194.006. REPORT OF CIVIL UNION. The county clerk shall  
27 file with the bureau of vital statistics a copy of each completed

1 civil union license application. The clerk shall file the copy not  
2 later than the 90th day after the date of the application. The  
3 clerk may not collect a fee for filing the copy.

4 Sec. 194.007. CIVIL UNION LICENSE APPLICATIONS. (a) The  
5 board by rule shall prescribe the format and contents of the form  
6 used for a civil union license application.

7 (b) The bureau of vital statistics shall print and  
8 distribute the forms to each county clerk in the state.

9 (c) A county clerk may reproduce the board's form locally.

10 SECTION 11. Section 810.001(g), Government Code, is  
11 repealed.

12 SECTION 12. The Department of State Health Services shall  
13 prescribe the format and contents of a civil union license  
14 application and distribute applications to each county clerk in the  
15 state as required by Section 194.007, Health and Safety Code, as  
16 added by this Act, not later than May 1, 2014.

17 SECTION 13. This Act takes effect January 1, 2014, but only  
18 if the constitutional amendment proposed by the 83rd Legislature,  
19 Regular Session, 2013, repealing the constitutional provision  
20 providing that marriage in this state consists only of the union of  
21 one man and one woman and prohibiting this state or a political  
22 subdivision of this state from creating or recognizing any legal  
23 status identical or similar to marriage is approved by the voters.  
24 If that amendment is not approved by the voters, this Act has no  
25 effect.