

By: Sheets

H.B. No. 3734

A BILL TO BE ENTITLED

AN ACT

relating to the application for and issuance of a marriage license and the marriage of a minor.

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

SECTION 1. Section 2.003, Family Code, is amended to read as follows:

Sec. 2.003. APPLICATION FOR LICENSE BY MINOR. In addition to the other requirements provided by this chapter, a person 16 years of age or older but under 18 years of age applying for a license must provide to the county clerk:

(1) both:

(A) documents establishing, as provided by Section 2.102, parental consent for the person to the marriage; and

(B) a court order granted under Section 2.103 authorizing the marriage of the person; or

(2) documents establishing that a prior marriage of the person has been dissolved[~~, or~~

~~(3) a court order granted under Section 2.103 authorizing the marriage of the person].~~

SECTION 2. Sections 2.006(a) and (b), Family Code, are amended to read as follows:

(a) If an applicant who is 18 years of age or older is unable to appear personally before the county clerk to apply for a marriage license, any adult person or the other applicant may apply on behalf

1 of the absent applicant.

2 (b) The person applying on behalf of an absent applicant
3 shall provide to the clerk:

4 (1) notwithstanding Section 132.001, Civil Practice
5 and Remedies Code, the notarized affidavit of the absent applicant
6 as provided by this subchapter; and

7 (2) proof of the identity and age of the absent
8 applicant under Section 2.005(b) [~~and~~

9 ~~[(3) if required because the absent applicant is a
10 person under 18 years of age, documents establishing that a prior
11 marriage has been dissolved, a court order authorizing the marriage
12 of the absent, underage applicant, or documents establishing
13 consent by a parent or a person who has legal authority to consent
14 to the marriage, including:~~

15 ~~[(A) proof of identity of the parent or person
16 with legal authority to consent to the marriage under Section
17 2.005(b); and~~

18 ~~[(B) proof that the parent or person has the
19 legal authority to consent to the marriage for the applicant under
20 rules adopted under Section 2.102(j)].~~

21 SECTION 3. Section 2.009(a), Family Code, is amended to
22 read as follows:

23 (a) Except as provided by Subsections (b) and (d), the
24 county clerk may not issue a license if either applicant:

25 (1) fails to provide the information required by this
26 subchapter;

27 (2) fails to submit proof of age and identity;

1 (3) [~~is under 16 years of age and has not been granted~~
2 ~~a court order as provided by Section 2.103;~~

3 [~~(4)~~] is 16 years of age or older but under 18 years of
4 age and has not presented [~~at least one of the following~~]:

5 (A) both:

6 (i) parental consent as provided by Section
7 2.102; and

8 (ii) a court order as provided by Section
9 2.103; or

10 (B) documents establishing that a prior marriage
11 of the applicant has been dissolved[~~, or~~

12 [~~(C) a court order as provided by Section 2.103~~];

13 (4) [~~(5)~~] checks "false" in response to a statement in
14 the application, except as provided by Subsection (b) or (d), or
15 fails to make a required declaration in an affidavit required of an
16 absent applicant; or

17 (5) [~~(6)~~] indicates that the applicant has been
18 divorced within the last 30 days, unless:

19 (A) the applicants were divorced from each other;

20 or

21 (B) the prohibition against remarriage is waived
22 as provided by Section 6.802.

23 SECTION 4. Subchapter B, Chapter 2, Family Code, is amended
24 by adding Section 2.1015 to read as follows:

25 Sec. 2.1015. PARENTAL CONSENT AND COURT ORDER FOR UNDERAGE
26 APPLICANT REQUIRED. If an applicant is 16 years of age or older but
27 under 18 years of age, the county clerk may only issue a marriage

1 license if:

2 (1) parental consent is given as provided by Section
3 2.102; and

4 (2) a court grants the applicant permission to marry
5 as provided by Section 2.103.

6 SECTION 5. Section 2.102, Family Code, is amended by
7 amending Subsections (a), (b), (d), and (e) and adding Subsections
8 (a-1) and (b-1) to read as follows:

9 (a) Except as provided by Subsection (a-1), the county clerk
10 may not issue a marriage license for an underage applicant unless
11 consent is given by each living parent of the applicant and any
12 person who has the court-ordered right to consent to marriage for
13 the applicant [~~If an applicant is 16 years of age or older but under~~
14 ~~18 years of age, the county clerk shall issue the license if~~
15 ~~parental consent is given as provided by this section].~~

16 (a-1) Consent is not required to be given by a parent of an
17 underage applicant if the parent:

18 (1) is incarcerated in jail or prison;

19 (2) has been found by a court to be incompetent;

20 (3) does not have actual or court-ordered possession
21 of or access to the applicant; or

22 (4) because of illness or other incapacity, lacks the
23 capacity to consent.

24 (b) Parental consent must be evidenced by a written
25 declaration on a form supplied by the county clerk in which the
26 person consents to the marriage and swears that the person is a
27 parent [~~if there is no person who has the court-ordered right to~~

1 ~~consent to marriage for the applicant)~~] or a person who has the
2 court-ordered right to consent to marriage for the applicant
3 [~~(whether an individual, authorized agency, or court)~~].

4 (b-1) If the parent of an underage applicant is deceased or
5 not required to give consent under Subsection (a-1), the applicant
6 shall submit an affidavit to the county clerk stating that the
7 parent is deceased or the reason the parent's consent is not
8 required.

9 (d) If a [~~the~~] person giving parental consent resides in
10 another state, the consent may be acknowledged before an officer
11 authorized to issue marriage licenses in that state.

12 (e) If a [~~the~~] person giving parental consent is unable
13 because of illness or incapacity to comply with the provisions of
14 Subsection (c) or (d), the consent may be acknowledged before any
15 officer authorized to take acknowledgments. A consent under this
16 subsection must be accompanied by a physician's affidavit stating
17 that the person giving parental consent is unable to comply because
18 of illness or incapacity.

19 SECTION 6. Section [2.103](#)(a), Family Code, is amended to
20 read as follows:

21 (a) A minor who is 16 years of age or older may petition the
22 court in the minor's own name for an order granting permission to
23 marry. In a suit under this section, the trial judge may advance the
24 suit if the best interest of the applicant would be served by an
25 early hearing.

26 SECTION 7. Section [6.205](#), Family Code, is amended to read as
27 follows:

1 Sec. 6.205. MARRIAGE TO MINOR. A marriage is void if either
2 party to the marriage is younger than 16 years of age[~~, unless a~~
3 ~~court order has been obtained under Section 2.103~~].

4 SECTION 8. Subchapter D, Chapter 261, Family Code, is
5 amended by adding Section 261.318 to read as follows:

6 Sec. 261.318. INVESTIGATION OF PENDING FORCED OR COERCED
7 MARRIAGE. The department shall make a prompt and thorough
8 investigation of a report of a child being forced or coerced into
9 entering a marriage. The department may remove the child from the
10 child's home and place the child in substitute care as provided by
11 this subtitle if the department determines that removal and
12 substitute care are in the best interest of the child and necessary
13 to prevent the pending forced or coerced marriage.

14 SECTION 9. (a) Sections 2.003, 2.006, 2.009, and 2.102,
15 Family Code, as amended by this Act, and Section 2.1015, Family
16 Code, as added by this Act, apply only to an application for a
17 marriage license filed on or after the effective date of this Act.
18 An application filed before that date is governed by the law in
19 effect on the date the application was filed, and the former law is
20 continued in effect for that purpose.

21 (b) Section 2.103, Family Code, as amended by this Act,
22 applies only to a suit under that section filed on or after the
23 effective date of this Act. A suit filed before that date is
24 governed by the law in effect on the date the suit was filed, and the
25 former law is continued in effect for that purpose.

26 (c) Section 6.205, Family Code, as amended by this Act,
27 applies only to a marriage entered into on or after the effective

1 date of this Act. A marriage entered into before that date is
2 governed by the law in effect on the date the marriage was entered
3 into, and the former law is continued in effect for that purpose.

4 SECTION 10. This Act takes effect September 1, 2015.