

SENATE AMENDMENTS

2nd Printing

By: Farney, Thompson of Harris, et al.

H.B. No. 2794

A BILL TO BE ENTITLED

AN ACT

relating to a delayed birth certificate; creating a criminal offense.

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

SECTION 1. Section 25.0021(b), Government Code, is amended to read as follows:

(b) A statutory probate court as that term is defined in Section 22.007, Estates [~~3(ii), Texas Probate~~] Code, has:

(1) the general jurisdiction of a probate court as provided by the Estates [~~Texas Probate~~] Code; and

(2) the jurisdiction provided by law for a county court to hear and determine actions, cases, matters, or proceedings instituted under:

(A) Section 166.046, [~~192.027~~] 193.007, 552.015, 552.019, 711.004, or 714.003, Health and Safety Code;

(B) Chapter 462, Health and Safety Code; or

(C) Subtitle C or D, Title 7, Health and Safety Code.

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

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

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

1 (2) advise the applicant of the right to appeal to the
2 district [county] court with jurisdiction over [for probate matters
3 of] the county in which the birth occurred, or in the district court
4 with jurisdiction over the county in which the person resides, as
5 provided by Section 192.027.

6 SECTION 3. Section 192.027, Health and Safety Code, is
7 amended by amending Subsections (a) and (d) and adding Subsection
8 (b-1) to read as follows:

9 (a) If a delayed birth certificate is not accepted for
10 registration by the state registrar, the person may file a petition
11 in the district [county probate] court with jurisdiction over [of]
12 the county in which the birth occurred, or in the district court
13 with jurisdiction over the county in which the person resides, for
14 an order establishing a record of the person's date of birth, place
15 of birth, and parentage.

16 (b-1) The petition must include:

17 (1) the name and place of residence of the petitioner;
18 (2) whether the petitioner has been the subject of a
19 final felony conviction;

20 (3) whether the petitioner is subject to the
21 registration requirements of Chapter 62, Code of Criminal
22 Procedure; and

23 (4) a legible and complete set of the petitioner's
24 fingerprints on a fingerprint card format acceptable to the
25 Department of Public Safety and the Federal Bureau of
26 Investigation.

27 (d) If, after a hearing, the court finds from the evidence

1 submitted to the registrar and any other relevant evidence
2 presented by the person that the person was born in this state, the
3 court shall:

4 (1) make findings as to the person's date and place of
5 birth and parentage;

6 (2) make other findings required by the case; and

7 (3) enter an order on a form prescribed and furnished
8 by the department to establish a record of birth.

9 SECTION 4. Subchapter B, Chapter 192, Health and Safety
10 Code, is amended by adding Sections 192.028 and 192.029 to read as
11 follows:

12 Sec. 192.028. APPOINTMENT OF ATTORNEY AD LITEM. A judge of
13 a district court may appoint an attorney ad litem in a proceeding
14 under Section 192.027 to represent the interests of the person
15 seeking the delayed birth certificate.

16 Sec. 192.029. REFUSAL TO SIGN AFFIDAVIT OF PERSONAL
17 KNOWLEDGE. (a) A parent of a person who is seeking a delayed birth
18 certificate under this subchapter shall sign an affidavit of
19 personal knowledge acknowledging that the individual is the parent
20 of the person seeking the delayed birth certificate if:

21 (1) the person seeking a delayed birth certificate, a
22 managing conservator or guardian of the person, or, if the person is
23 a minor, another person with custody of the minor has requested the
24 person's parent to sign the affidavit of personal knowledge; and

25 (2) the parent's affidavit of personal knowledge is
26 necessary for the issuance of the birth certificate because the
27 person seeking the delayed birth certificate is unable to provide

1 sufficient alternative documentary evidence as required by Section
2 192.025.

3 (b) A parent shall sign an affidavit as described by
4 Subsection (a) not later than the 30th day after the date a request
5 is made as described by Subsection (a)(1).

6 (c) A person who is a parent of a person seeking a delayed
7 birth certificate and who fails to sign an affidavit of personal
8 knowledge as required by this section:

9 (1) commits an offense punishable as a Class B
10 misdemeanor if the request under Subsection (a)(1) is made on or
11 after the fourth anniversary of the date of birth but before the
12 15th anniversary of the date of birth; or

13 (2) commits an offense punishable as a Class A
14 misdemeanor if the request under Subsection (a)(1) is made on or
15 after the 15th anniversary of the date of birth.

16 SECTION 5. This Act takes effect September 1, 2015.

ADOPTED

MAY 25 2015

Patay Saw
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Zaffirini*

1 Amend H.B. No. 2794 (senate committee report) as follows:

2 (1) Strike SECTION 1 of the bill, amending Section
3 25.0021(b), Government Code (page 1, lines 22-35).

4 (2) In SECTION 2 of the bill, in amended Section
5 192.026(b)(2), Health and Safety Code (page 1, line 43), strike
6 "district [county] court with jurisdiction over [for probate
7 matters" and substitute "statutory probate [county] court or
8 district court in [for probate matters]".

9 (3) In SECTION 2 of the bill, in amended Section
10 192.026(b)(2), Health and Safety Code (page 1, lines 44-45), strike
11 "district court with jurisdiction over" and substitute "statutory
12 probate court or district court in".

13 (4) Strike the recital to SECTION 3 of the bill (page 1,
14 lines 47-49), and substitute the following:

15 SECTION 3. Sections 192.027(a), (b), and (d), Health and
16 Safety Code, are amended to read as follows:

17 (5) In SECTION 3 of the bill, in amended Section 192.027(a),
18 Health and Safety Code (page 1, line 52), strike "district [county
19 probate] court with jurisdiction over" and substitute "statutory
20 [county] probate court or district court in".

21 (6) In SECTION 3 of the bill, in amended Section 192.027(a),
22 Health and Safety Code (page 1, lines 53-54), strike "district
23 court with jurisdiction over" and substitute "statutory probate
24 court or district court in".

25 (7) In SECTION 3 of the bill, strike added Section
26 192.027(b-1), Health and Safety Code (page 1, line 57, through page
27 2, line 6), and substitute the following:

28 (b) The petition must include:

29 (1) the petitioner's:

SECTION 4
HEALTH AND SAFETY CODE

- 1 (A) full name;
- 2 (B) place of residence;
- 3 (C) date of birth;
- 4 (D) city or town, if applicable, and county of
- 5 birth;
- 6 (E) race or ethnicity; and
- 7 (F) gender;
- 8 (2) the full name and county of birth of the
- 9 petitioner's father;
- 10 (3) the full name, including any maiden name, and
- 11 county of birth of the petitioner's mother;
- 12 (4) whether the petitioner has been the subject of a
- 13 final felony conviction;
- 14 (5) whether the petitioner is subject to the
- 15 registration requirements of Chapter 62, Code of Criminal
- 16 Procedure; and
- 17 (6) a legible and complete set of the petitioner's
- 18 fingerprints on a fingerprint card format acceptable to the
- 19 Department of Public Safety and the Federal Bureau of Investigation
- 20 [be on a form prescribed and furnished by the department].
- 21 (8) In SECTION 4 of the bill, in added Section 192.028,
- 22 Health and Safety Code (page 2, line 20), between "a" and "district
- 23 court" insert "statutory probate court or".
- 24 (9) Renumber SECTIONS of the bill as necessary.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 26, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2794 by Farney (Relating to a delayed birth certificate; creating a criminal offense.),
As Passed 2nd House

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 192 of the Health and Safety Code as it relates to delayed birth certificates that are not accepted by the state registrar and would amend the process for court orders for an individual seeking to establish a record of birth. The Office of Court Administration indicates that implementation of the bill would not result in a significant fiscal impact to the state court system.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution, and confinement could likely be absorbed with existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, VJC, AG, FR, SS, KVe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 15, 2015

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2794 by Farney (Relating to a delayed birth certificate; creating a criminal offense.),
As Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 192 of the Health and Safety Code as it relates to delayed birth certificates that are not accepted by the state registrar and would amend the process for court orders for an individual seeking to establish a record of birth. The bill would amend the Government Code to remove the jurisdiction over these cases from probate court. The Office of Court Administration indicates that implementation of the bill would not result in a significant fiscal impact to the state court system.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution, and confinement could likely be absorbed with existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, AG, FR, VJC, SS, KVe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION
Revision 1

April 29, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2794 by Farney (Relating to a delayed birth certificate; creating a criminal offense.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 192 of the Health and Safety Code as it relates to delayed birth certificates that are not accepted by the state registrar and would amend the process for court orders for an individual seeking to establish a record of birth. The bill would amend the Government Code to remove the jurisdiction over these cases from probate court. The Office of Court Administration indicates that implementation of the bill would not result in a significant fiscal impact to the state court system.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution, and confinement could likely be absorbed with existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, FR, VJC, SS, KVe

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 24, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2794 by Farney (Relating to a delayed birth certificate; providing a criminal offense.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 192 of the Health and Safety Code as it relates to delayed birth certificates that are not accepted by the state registrar and would amend the process for court orders for an individual seeking to establish a record of birth. The bill would amend the Government Code to remove the jurisdiction over these cases from probate court. The Office of Court Administration indicates that implementation of the bill would not result in a significant fiscal impact to the state court system.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution, and confinement could likely be absorbed with existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council

LBB Staff: UP, FR, VJC, SS, KVe

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 19, 2015

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2794 by Farney (Relating to a delayed birth certificate; providing a criminal penalty.),
As Introduced

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 192 of the Health and Safety Code as it relates to delayed birth certificates that are not accepted by the state registrar and would amend the process for court orders for an individual seeking to establish a record of birth. The Department of State Health Services does not anticipate a fiscal impact, and the Office of Court Administration indicates that implementation of the bill would not result in a significant fiscal impact to the state court system.

Local Government Impact

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. Costs associated with enforcement, prosecution, and confinement could likely be absorbed with existing resources. Revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 537 State Health Services, Department of

LBB Staff: UP, FR, VJC, SS, KVe