

By: Dutton

H.B. No. 1663

A BILL TO BE ENTITLED

AN ACT

relating to certain statutory changes to reflect and address same-sex marriages and parenting relationships.

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

ARTICLE 1. FAMILY CODE PROVISIONS

SECTION 1.01. Subchapter A, Chapter 1, Family Code, is amended by adding Section 1.0015 to read as follows:

Sec. 1.0015. CONSTRUCTION OF GENDER-SPECIFIC TERMINOLOGY.

When necessary to implement the rights and duties of spouses or parents in a marriage between persons of the same sex under the laws of this state, gender-specific terminology must be construed in a neutral manner to refer to a person of either gender.

SECTION 1.02. Section 2.001(a), Family Code, is amended to read as follows:

(a) Two individuals [~~A man and a woman~~] desiring to enter into a ceremonial marriage must obtain a marriage license from the county clerk of any county of this state.

SECTION 1.03. Section 2.004(b), Family Code, is amended to read as follows:

(b) The application form must contain:

(1) a heading entitled "Application for Marriage License, _____ County, Texas";

(2) spaces for each applicant's full name, including the [~~woman's maiden~~] surname of an applicant intending to change

1 the applicant's surname as a result of the marriage, address,
2 social security number, if any, date of birth, and place of birth,
3 including city, county, and state;

4 (3) a space for indicating the document tendered by
5 each applicant as proof of identity and age;

6 (4) spaces for indicating whether each applicant has
7 been divorced within the last 30 days;

8 (5) printed boxes for each applicant to check "true"
9 or "false" in response to the following statement: "I am not
10 presently married and the other applicant is not presently
11 married.";

12 (6) printed boxes for each applicant to check "true"
13 or "false" in response to the following statement: "The other
14 applicant is not related to me as:

15 (A) an ancestor or descendant, by blood or
16 adoption;

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

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

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

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

24 or

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

27 (7) printed boxes for each applicant to check "true"

1 or "false" in response to the following statement: "I am not
2 presently delinquent in the payment of court-ordered child
3 support.";

4 (8) a printed oath reading: "I SOLEMNLY SWEAR (OR
5 AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS
6 CORRECT.";

7 (9) spaces immediately below the printed oath for the
8 applicants' signatures;

9 (10) a certificate of the county clerk that:

10 (A) each applicant made the oath and the date and
11 place that it was made; or

12 (B) an applicant did not appear personally but
13 the prerequisites for the license have been fulfilled as provided
14 by this chapter;

15 (11) spaces for indicating the date of the marriage
16 and the county in which the marriage is performed;

17 (12) a space for the address to which the applicants
18 desire the completed license to be mailed; and

19 (13) a printed box for each applicant to check
20 indicating that the applicant wishes to make a voluntary
21 contribution of \$5 to promote healthy early childhood by supporting
22 the Texas Home Visiting Program administered by the Office of Early
23 Childhood Coordination of the Health and Human Services Commission.

24 SECTION 1.04. Section 2.401(a), Family Code, is amended to
25 read as follows:

26 (a) In a judicial, administrative, or other proceeding, the
27 marriage of two individuals [~~a man and woman~~] may be proved by

1 evidence that:

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

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

8 SECTION 1.05. Section 2.402(b), Family Code, is amended to
9 read as follows:

10 (b) The declaration form must contain:

11 (1) a heading entitled "Declaration and Registration
12 of Informal Marriage, _____ County, Texas";

13 (2) spaces for each party's full name, including the
14 [~~woman's maiden~~] surname of a party intending to change the party's
15 surname as a result of the marriage, address, date of birth, place
16 of birth, including city, county, and state, and social security
17 number, if any;

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

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

23 (A) an ancestor or descendant, by blood or
24 adoption;

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

27 (C) a parent's brother or sister, of the whole or

1 half blood or by adoption;

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

4 (E) a current or former stepchild or stepparent;
5 or

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

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

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

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

21 SECTION 1.06. Section 3.401, Family Code, is amended by
22 adding Subdivision (1) and amending Subdivisions (4) and (5) to
23 read as follows:

24 (1) "Civil union" means any relationship status other
25 than marriage that:

26 (A) is intended as an alternative to marriage or
27 applies primarily to cohabitating persons; and

1 (B) grants to the parties of the relationship
2 legal protections, benefits, or responsibilities granted to the
3 spouses of a marriage.

4 (4) "Marital estate" means one of three estates:

5 (A) the community property owned by the spouses
6 together and referred to as the community marital estate; or

7 (B) the separate property owned individually by
8 each spouse [~~the husband~~] and referred to as a separate marital
9 estate[~~; or~~

10 [~~(C) the separate property owned individually by~~
11 ~~the wife, also referred to as a separate marital estate]~~.

12 (5) "Spouse" means one of the two individuals who are
13 the parties to:

14 (A) a marriage; or

15 (B) [a husband, who is a man, or a wife, who is a
16 ~~woman. A member of]~~ a civil union [~~or similar relationship]~~ entered
17 into in another state [~~between persons of the same sex is not a~~
18 ~~spouse]~~.

19 SECTION 1.07. Section 6.104(b), Family Code, is amended to
20 read as follows:

21 (b) In exercising its discretion, the court shall consider
22 the pertinent facts concerning the welfare of the parties to the
23 marriage, including whether a spouse [~~the female~~] is pregnant.

24 SECTION 1.08. Section 6.202(b), Family Code, is amended to
25 read as follows:

26 (b) The later marriage that is void under this section
27 becomes valid when the prior marriage is dissolved if, after the

1 date of the dissolution, the parties have lived together as spouses
2 [~~husband and wife~~] and represented themselves to others as being
3 married.

4 SECTION 1.09. Section 6.203, Family Code, is amended to
5 read as follows:

6 Sec. 6.203. CERTAIN VOID MARRIAGES VALIDATED. Except for a
7 marriage that would have been void under Section 6.201, a marriage
8 that was entered into before January 1, 1970, in violation of the
9 prohibitions of Article 496, Penal Code of Texas, 1925, is
10 validated from the date the marriage commenced if the parties
11 continued until January 1, 1970, to live together as spouses
12 [~~husband and wife~~] and to represent themselves to others as being
13 married.

14 SECTION 1.10. Section 6.704, Family Code, is amended to
15 read as follows:

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

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

24 SECTION 1.11. Chapter 51, Family Code, is amended by adding
25 Section 51.015 to read as follows:

26 Sec. 51.015. CONSTRUCTION OF GENDER-SPECIFIC TERMINOLOGY.

27 When necessary to implement the rights and duties of spouses or

1 parents in a marriage between persons of the same sex under the laws
2 of this state, gender-specific terminology must be construed in a
3 neutral manner to refer to a person of either gender.

4 SECTION 1.12. Chapter 101, Family Code, is amended by
5 adding Section 101.0012 to read as follows:

6 Sec. 101.0012. CONSTRUCTION OF GENDER-SPECIFIC
7 TERMINOLOGY. When necessary to implement the rights and duties of
8 spouses or parents in a marriage between persons of the same sex
9 under the laws of this state, gender-specific terminology must be
10 construed in a neutral manner to refer to a person of either gender.

11 SECTION 1.13. Section 101.024(a), Family Code, is amended
12 to read as follows:

13 (a) "Parent" means the mother, a man presumed to be the
14 father, an individual [~~a man~~] legally determined to be a parent [~~the~~
15 ~~father~~], an individual [~~a man~~] who has been adjudicated to be a
16 parent [~~the father~~] by a court of competent jurisdiction, a man who
17 has acknowledged his parentage [~~paternity~~] under applicable law, or
18 an adoptive mother or father. Except as provided by Subsection (b),
19 the term does not include a parent as to whom the parent-child
20 relationship has been terminated.

21 SECTION 1.14. Section 108.009(b), Family Code, is amended
22 to read as follows:

23 (b) The new certificate may not show that a parent-child
24 [~~the father and child~~] relationship was established after the
25 child's birth but may show the child's actual place and date of
26 birth.

27 SECTION 1.15. Section 152.310(d), Family Code, is amended

1 to read as follows:

2 (d) A privilege against disclosure of communications
3 between spouses and a defense of immunity based on the relationship
4 of spouses [~~husband and wife~~] or parent and child may not be invoked
5 in a proceeding under this subchapter.

6 SECTION 1.16. Section 153.312(b), Family Code, is amended
7 to read as follows:

8 (b) The following provisions govern possession of the child
9 for vacations and certain specific holidays and supersede
10 conflicting weekend or Thursday periods of possession. The
11 possessory conservator and the managing conservator shall have
12 rights of possession of the child as follows:

13 (1) the possessory conservator shall have possession
14 in even-numbered years, beginning at 6 p.m. on the day the child is
15 dismissed from school for the school's spring vacation and ending
16 at 6 p.m. on the day before school resumes after that vacation, and
17 the managing conservator shall have possession for the same period
18 in odd-numbered years;

19 (2) if a possessory conservator:

20 (A) gives the managing conservator written
21 notice by April 1 of each year specifying an extended period or
22 periods of summer possession, the possessory conservator shall have
23 possession of the child for 30 days beginning not earlier than the
24 day after the child's school is dismissed for the summer vacation
25 and ending not later than seven days before school resumes at the
26 end of the summer vacation, to be exercised in not more than two
27 separate periods of at least seven consecutive days each, with each

1 period of possession beginning and ending at 6 p.m. on each
2 applicable day; or

3 (B) does not give the managing conservator
4 written notice by April 1 of each year specifying an extended period
5 or periods of summer possession, the possessory conservator shall
6 have possession of the child for 30 consecutive days beginning at 6
7 p.m. on July 1 and ending at 6 p.m. on July 31;

8 (3) if the managing conservator gives the possessory
9 conservator written notice by April 15 of each year, the managing
10 conservator shall have possession of the child on any one weekend
11 beginning Friday at 6 p.m. and ending at 6 p.m. on the following
12 Sunday during one period of possession by the possessory
13 conservator under Subdivision (2), provided that the managing
14 conservator picks up the child from the possessory conservator and
15 returns the child to that same place; and

16 (4) if the managing conservator gives the possessory
17 conservator written notice by April 15 of each year or gives the
18 possessory conservator 14 days' written notice on or after April 16
19 of each year, the managing conservator may designate one weekend
20 beginning not earlier than the day after the child's school is
21 dismissed for the summer vacation and ending not later than seven
22 days before school resumes at the end of the summer vacation, during
23 which an otherwise scheduled weekend period of possession by the
24 possessory conservator will not take place, provided that the
25 weekend designated does not interfere with the possessory
26 conservator's period or periods of extended summer possession or
27 with Father's Day if the possessory conservator is a the father of

1 the child who is entitled to possession of the child for Father's
2 Day weekend that year.

3 SECTION 1.17. Sections 153.313 and 153.314, Family Code,
4 are amended to read as follows:

5 Sec. 153.313. PARENTS WHO RESIDE OVER 100 MILES APART. If
6 the possessory conservator resides more than 100 miles from the
7 residence of the child, the possessory conservator shall have the
8 right to possession of the child as follows:

9 (1) either regular weekend possession beginning on the
10 first, third, and fifth Friday as provided under the terms
11 applicable to parents who reside 100 miles or less apart or not more
12 than one weekend per month of the possessory conservator's choice
13 beginning at 6 p.m. on the day school recesses for the weekend and
14 ending at 6 p.m. on the day before school resumes after the weekend,
15 provided that the possessory conservator gives the managing
16 conservator 14 days' written or telephonic notice preceding a
17 designated weekend, and provided that the possessory conservator
18 elects an option for this alternative period of possession by
19 written notice given to the managing conservator within 90 days
20 after the parties begin to reside more than 100 miles apart, as
21 applicable;

22 (2) each year beginning at 6 p.m. on the day the child
23 is dismissed from school for the school's spring vacation and
24 ending at 6 p.m. on the day before school resumes after that
25 vacation;

26 (3) if the possessory conservator:

27 (A) gives the managing conservator written

1 notice by April 1 of each year specifying an extended period or
2 periods of summer possession, the possessory conservator shall have
3 possession of the child for 42 days beginning not earlier than the
4 day after the child's school is dismissed for the summer vacation
5 and ending not later than seven days before school resumes at the
6 end of the summer vacation, to be exercised in not more than two
7 separate periods of at least seven consecutive days each, with each
8 period of possession beginning and ending at 6 p.m. on each
9 applicable day; or

10 (B) does not give the managing conservator
11 written notice by April 1 of each year specifying an extended period
12 or periods of summer possession, the possessory conservator shall
13 have possession of the child for 42 consecutive days beginning at 6
14 p.m. on June 15 and ending at 6 p.m. on July 27;

15 (4) if the managing conservator gives the possessory
16 conservator written notice by April 15 of each year the managing
17 conservator shall have possession of the child on one weekend
18 beginning Friday at 6 p.m. and ending at 6 p.m. on the following
19 Sunday during one period of possession by the possessory
20 conservator under Subdivision (3), provided that if a period of
21 possession by the possessory conservator exceeds 30 days, the
22 managing conservator may have possession of the child under the
23 terms of this subdivision on two nonconsecutive weekends during
24 that time period, and further provided that the managing
25 conservator picks up the child from the possessory conservator and
26 returns the child to that same place; and

27 (5) if the managing conservator gives the possessory

1 conservator written notice by April 15 of each year, the managing
2 conservator may designate 21 days beginning not earlier than the
3 day after the child's school is dismissed for the summer vacation
4 and ending not later than seven days before school resumes at the
5 end of the summer vacation, to be exercised in not more than two
6 separate periods of at least seven consecutive days each, with each
7 period of possession beginning and ending at 6 p.m. on each
8 applicable day, during which the possessory conservator may not
9 have possession of the child, provided that the period or periods so
10 designated do not interfere with the possessory conservator's
11 period or periods of extended summer possession or with Father's
12 Day if the possessory conservator is a the father of the child who
13 is entitled to possession of the child for Father's Day weekend that
14 year.

15 Sec. 153.314. HOLIDAY POSSESSION UNAFFECTED BY DISTANCE
16 PARENTS RESIDE APART. The following provisions govern possession
17 of the child for certain specific holidays and supersede
18 conflicting weekend or Thursday periods of possession without
19 regard to the distance the parents reside apart. The possessory
20 conservator and the managing conservator shall have rights of
21 possession of the child as follows:

22 (1) the possessory conservator shall have possession
23 of the child in even-numbered years beginning at 6 p.m. on the day
24 the child is dismissed from school for the Christmas school
25 vacation and ending at noon on December 28, and the managing
26 conservator shall have possession for the same period in
27 odd-numbered years;

1 (2) the possessory conservator shall have possession
2 of the child in odd-numbered years beginning at noon on December 28
3 and ending at 6 p.m. on the day before school resumes after that
4 vacation, and the managing conservator shall have possession for
5 the same period in even-numbered years;

6 (3) the possessory conservator shall have possession
7 of the child in odd-numbered years, beginning at 6 p.m. on the day
8 the child is dismissed from school before Thanksgiving and ending
9 at 6 p.m. on the following Sunday, and the managing conservator
10 shall have possession for the same period in even-numbered years;

11 (4) the parent not otherwise entitled under this
12 standard possession order to present possession of a child on the
13 child's birthday shall have possession of the child beginning at 6
14 p.m. and ending at 8 p.m. on that day, provided that the parent
15 picks up the child from the residence of the conservator entitled to
16 possession and returns the child to that same place;

17 (5) if a conservator, the father shall have possession
18 of the child beginning at 6 p.m. on the Friday preceding Father's
19 Day and ending on Father's Day at 6 p.m., provided that, if he is not
20 otherwise entitled under this standard possession order to present
21 possession of the child, he picks up the child from the residence of
22 the conservator entitled to possession and returns the child to
23 that same place, except that if the child has two fathers appointed
24 as conservators, the managing conservator shall have possession of
25 the child for the period described by this subdivision in
26 even-numbered years and the possessory conservator shall have
27 possession of the child for that period in odd-numbered years; and

1 (6) if a conservator, the mother shall have possession
2 of the child beginning at 6 p.m. on the Friday preceding Mother's
3 Day and ending on Mother's Day at 6 p.m., provided that, if she is
4 not otherwise entitled under this standard possession order to
5 present possession of the child, she picks up the child from the
6 residence of the conservator entitled to possession and returns the
7 child to that same place, except that if the child has two mothers
8 appointed as conservators, the managing conservator shall have
9 possession of the child for the period described by this
10 subdivision in even-numbered years and the possessory conservator
11 shall have possession of the child for that period in odd-numbered
12 years.

13 SECTION 1.18. The following provisions of the Family Code
14 are repealed:

15 (1) Section 2.001(b); and

16 (2) Section 6.204.

17 SECTION 1.19. The change in law made by this article to
18 Section 108.009(b), Family Code, applies only to a new birth
19 certificate for a child born on or after the effective date of this
20 Act. A new birth certificate for a child born before that date is
21 governed by the law in effect on the date the child was born, and the
22 former law is continued in effect for that purpose.

23 SECTION 1.20. The changes in law made by this article to
24 Sections 153.312(b), 153.313, and 153.314, Family Code, apply only
25 to a court order providing for possession of or access to a child
26 rendered on or after the effective date of this Act. A court order
27 rendered before the effective date of this Act is governed by the

1 law in effect on the date the order was rendered, and the former law
2 is continued in effect for that purpose.

3 ARTICLE 2. HEALTH AND SAFETY CODE PROVISIONS

4 SECTION 2.01. Section 191.0046(b), Health and Safety Code,
5 is amended to read as follows:

6 (b) The state registrar shall issue without fee a certified
7 copy of a record not otherwise prohibited by law to a veteran or to
8 the veteran's widow or widower, orphan, or other dependent if the
9 copy is for use in settling a claim against the government.

10 SECTION 2.02. Section 193.006(a), Health and Safety Code,
11 is amended to read as follows:

12 (a) This section applies to the death certificate of a
13 person who:

14 (1) served in a war, campaign, or expedition of the
15 United States, the Confederate States of America, or the Republic
16 of Texas;

17 (2) was the spouse, widower, [~~wife~~] or widow of a
18 person who served in a war, campaign, or expedition of the United
19 States, the Confederate States of America, or the Republic of
20 Texas; or

21 (3) at the time of death was in the service of the
22 United States.

23 SECTION 2.03. Section 574.045(d), Health and Safety Code,
24 is amended to read as follows:

25 (d) A female patient must be accompanied by a female
26 attendant unless the patient is accompanied by her father, spouse
27 [~~husband~~], or adult brother or son.

1 ARTICLE 3. EFFECTIVE DATE

2 SECTION 3.01. This Act takes effect September 1, 2017.