

By: Lang

H.B. No. 2795

A BILL TO BE ENTITLED

AN ACT

relating to issuing a marriage license and conducting a marriage ceremony.

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

SECTION 1. Section 2.001(a), Family Code, is amended to read as follows:

(a) A man and a woman desiring to enter into a ceremonial marriage must obtain a marriage license from the county clerk or deputy county clerk of any county of this state.

SECTION 2. Section 2.002, Family Code, is amended to read as follows:

Sec. 2.002. APPLICATION FOR LICENSE. Except as provided by Section 2.006, each person applying for a license must:

(1) appear before the county clerk or deputy county clerk;

(2) submit the person's proof of identity and age as provided by Section 2.005(b);

(3) provide the information applicable to that person for which spaces are provided in the application for a marriage license;

(4) mark the appropriate boxes provided in the application; and

(5) take the oath printed on the application and sign the application before the county clerk or deputy county clerk.

1 SECTION 3. Section 2.003, Family Code, is amended to read as
2 follows:

3 Sec. 2.003. APPLICATION FOR LICENSE BY MINOR. In addition
4 to the other requirements provided by this chapter, a person under
5 18 years of age applying for a license must provide to the county
6 clerk or deputy county clerk:

7 (1) documents establishing, as provided by Section
8 2.102, parental consent for the person to the marriage;

9 (2) documents establishing that a prior marriage of
10 the person has been dissolved; or

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

13 SECTION 4. Sections 2.004(a) and (b), Family Code, are
14 amended to read as follows:

15 (a) The county clerk or deputy county clerk shall furnish
16 the application form as prescribed by the bureau of vital
17 statistics.

18 (b) The application form must contain:

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

21 (2) spaces for each applicant's full name, including
22 the woman's maiden surname, address, social security number, if
23 any, date of birth, and place of birth, including city, county, and
24 state;

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

27 (4) spaces for indicating whether each applicant has

1 been divorced within the last 30 days;

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

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

9 (A) an ancestor or descendant, by blood or
10 adoption;

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

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

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

17 (E) a current or former stepchild or stepparent;
18 or

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

21 (7) printed boxes for each applicant to check "true"
22 or "false" in response to the following statement: "I am not
23 presently delinquent in the payment of court-ordered child
24 support.";

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

1 (9) spaces immediately below the printed oath for the
2 applicants' signatures;

3 (10) a certificate of the county clerk or deputy
4 county clerk that:

5 (A) each applicant made the oath and the date and
6 place that the oath [~~it~~] was made; or

7 (B) an applicant did not appear personally but
8 the prerequisites for the license have been fulfilled as provided
9 by this chapter;

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

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

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

19 SECTION 5. Sections 2.005(a) and (b), Family Code, are
20 amended to read as follows:

21 (a) The county clerk or deputy county clerk shall require
22 proof of the identity and age of each applicant.

23 (b) The proof must be established by:

24 (1) a driver's license or identification card issued
25 by this state, another state, or a Canadian province that is current
26 or has expired not more than two years preceding the date the
27 identification is submitted to the county clerk or deputy county

- 1 clerk in connection with an application for a license;
- 2 (2) a United States passport;
- 3 (3) a current passport issued by a foreign country or a
4 consular document issued by a state or national government;
- 5 (4) an unexpired Certificate of United States
6 Citizenship, Certificate of Naturalization, United States Citizen
7 Identification Card, Permanent Resident Card, Temporary Resident
8 Card, Employment Authorization Card, or other document issued by
9 the federal Department of Homeland Security or the United States
10 Department of State including an identification photograph;
- 11 (5) an unexpired military identification card for
12 active duty, reserve, or retired personnel with an identification
13 photograph;
- 14 (6) an original or certified copy of a birth
15 certificate issued by a bureau of vital statistics for a state or a
16 foreign government;
- 17 (7) an original or certified copy of a Consular Report
18 of Birth Abroad or Certificate of Birth Abroad issued by the United
19 States Department of State;
- 20 (8) an original or certified copy of a court order
21 relating to the applicant's name change or sex change;
- 22 (9) school records from a secondary school or
23 institution of higher education;
- 24 (10) an insurance policy continuously valid for the
25 two years preceding the date of the application for a license;
- 26 (11) a motor vehicle certificate of title;
- 27 (12) military records, including documentation of

1 release or discharge from active duty or a draft record;

2 (13) an unexpired military dependent identification
3 card;

4 (14) an original or certified copy of the applicant's
5 marriage license or divorce decree;

6 (15) a voter registration certificate;

7 (16) a pilot's license issued by the Federal Aviation
8 Administration or another authorized agency of the United States;

9 (17) a license to carry a handgun under Subchapter H,
10 Chapter 411, Government Code;

11 (18) a temporary driving permit or a temporary
12 identification card issued by the Department of Public Safety; or

13 (19) an offender identification card issued by the
14 Texas Department of Criminal Justice.

15 SECTION 6. Section 2.006, Family Code, is amended to read as
16 follows:

17 Sec. 2.006. ABSENT APPLICANT. (a) If an applicant is
18 unable to appear personally before the county clerk or deputy
19 county clerk to apply for a marriage license, any adult person or
20 the other applicant may apply on behalf of the absent applicant.

21 (b) The person applying on behalf of an absent applicant
22 shall provide to the county clerk or deputy county clerk:

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

26 (2) proof of the identity and age of the absent
27 applicant under Section 2.005(b); and

1 (3) if required because the absent applicant is a
2 person under 18 years of age, documents establishing that a prior
3 marriage has been dissolved, a court order authorizing the marriage
4 of the absent, underage applicant, or documents establishing
5 consent by a parent or a person who has legal authority to consent
6 to the marriage, including:

7 (A) proof of identity of the parent or person
8 with legal authority to consent to the marriage under Section
9 2.005(b); and

10 (B) proof that the parent or person has the legal
11 authority to consent to the marriage for the applicant under rules
12 adopted under Section 2.102(j).

13 (c) Notwithstanding Subsection (a), the county clerk or
14 deputy county clerk may not issue a marriage license for which both
15 applicants are absent unless the person applying on behalf of each
16 absent applicant provides to the county clerk or deputy county
17 clerk an affidavit of the applicant declaring that the applicant is
18 a member of the armed forces of the United States stationed in
19 another country in support of combat or another military operation.

20 SECTION 7. Section 2.007, Family Code, is amended to read as
21 follows:

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

24 (1) the absent applicant's full name, including the
25 maiden surname of a female applicant, address, date of birth, place
26 of birth, including city, county, and state, citizenship, and
27 social security number, if any;

- 1 (2) a declaration that the absent applicant has not
2 been divorced within the last 30 days;
- 3 (3) a declaration that the absent applicant is:
4 (A) not presently married; or
5 (B) married to the other applicant and they wish
6 to marry again;
- 7 (4) a declaration that the other applicant is not
8 presently married and is not related to the absent applicant as:
9 (A) an ancestor or descendant, by blood or
10 adoption;
11 (B) a brother or sister, of the whole or half
12 blood or by adoption;
13 (C) a parent's brother or sister, of the whole or
14 half blood or by adoption;
15 (D) a son or daughter of a brother or sister, of
16 the whole or half blood or by adoption;
17 (E) a current or former stepchild or stepparent;
18 or
19 (F) a son or daughter of a parent's brother or
20 sister, of the whole or half blood or by adoption;
- 21 (5) a declaration that the absent applicant desires to
22 marry and the name, age, and address of the person to whom the
23 absent applicant desires to be married;
- 24 (6) the approximate date on which the marriage is to
25 occur;
- 26 (7) the reason the absent applicant is unable to
27 appear [~~personally~~] before the county clerk or deputy county clerk

1 for the issuance of the license; and

2 (8) the appointment of any adult, other than the other
3 applicant, to act as proxy for the purpose of participating in the
4 ceremony, if the absent applicant is:

5 (A) a member of the armed forces of the United
6 States stationed in another country in support of combat or another
7 military operation; and

8 (B) unable to attend the ceremony.

9 SECTION 8. Section 2.0071, Family Code, is amended to read
10 as follows:

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

18 SECTION 9. Section 2.008, Family Code, is amended to read as
19 follows:

20 Sec. 2.008. CERTIFICATION [EXECUTION] OF APPLICATION [~~BY~~
21 ~~CLERK~~]. (a) The county clerk or deputy county clerk shall:

22 (1) determine that all necessary information, other
23 than the date of the marriage ceremony, the county in which the
24 ceremony is conducted, and the name of the person who performs the
25 ceremony, is recorded on the application and that all necessary
26 documents are submitted;

27 (2) administer the oath to each applicant appearing

1 before the county clerk or deputy county clerk;

2 (3) have each applicant appearing before the county
3 clerk or deputy county clerk sign the application in the clerk's
4 presence; and

5 (4) execute the clerk's certificate on the
6 application.

7 (a-1) If the county clerk has given notice under Section
8 2.603(a) that the clerk is unwilling to certify the application,
9 administer the oath, and issue the license, and the deputy county
10 clerk has also given notice under that subsection, the county clerk
11 shall provide the applicants with notice of any county clerk or
12 deputy county clerk in an adjacent county or, if applicable, in the
13 nearest county, who may be willing to certify the application,
14 administer the oath, and issue the license.

15 (b) A person appearing before the county clerk or deputy
16 county clerk on behalf of an absent applicant is not required to
17 take the oath on behalf of the absent applicant.

18 SECTION 10. Section 2.009, Family Code, is amended to read
19 as follows:

20 Sec. 2.009. ISSUANCE OF LICENSE. (a) Except as provided by
21 Subsections (b) and (d), the county clerk or deputy county clerk may
22 not issue a license if either applicant:

23 (1) fails to provide the information required by this
24 subchapter;

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

26 (3) is under 16 years of age and has not been granted a
27 court order as provided by Section 2.103;

1 (4) is 16 years of age or older but under 18 years of
2 age and has not presented at least one of the following:

3 (A) parental consent as provided by Section
4 [2.102](#);

5 (B) documents establishing that a prior marriage
6 of the applicant has been dissolved; or

7 (C) a court order as provided by Section [2.103](#);

8 (5) checks "false" in response to a statement in the
9 application, except as provided by Subsection (b) or (d), or fails
10 to make a required declaration in an affidavit required of an absent
11 applicant; or

12 (6) indicates that the applicant has been divorced
13 within the last 30 days, unless:

14 (A) the applicants were divorced from each other;
15 or

16 (B) the prohibition against remarriage is waived
17 as provided by Section [6.802](#).

18 (b) If an applicant checks "false" in response to the
19 statement "I am not presently married and the other applicant is not
20 presently married," the county clerk or deputy county clerk shall
21 inquire as to whether the applicant is presently married to the
22 other applicant. If the applicant states that the applicant is
23 currently married to the other applicant, the county clerk or
24 deputy county clerk shall record that statement on the license
25 before the administration of the oath. The county clerk or deputy
26 county clerk may not refuse to issue a license on the ground that
27 the applicants are already married to each other.

1 (c) On the proper certification [~~execution~~] of the
2 application, the county clerk or deputy county clerk shall:

3 (1) prepare the license;

4 (2) enter on the license the names of the licensees,
5 the date that the license is issued, and, if applicable, the name of
6 the person appointed to act as proxy for an absent applicant, if
7 any;

8 (3) record the time at which the license was issued;

9 (4) distribute to each applicant written notice of the
10 online location of the information prepared under Section 2.010
11 regarding acquired immune deficiency syndrome (AIDS) and human
12 immunodeficiency virus (HIV) and note on the license that the
13 distribution was made; and

14 (5) inform each applicant:

15 (A) that a premarital education handbook
16 developed by the child support division of the office of the
17 attorney general under Section 2.014 is available on the child
18 support division's Internet website; or

19 (B) if the applicant does not have Internet
20 access, how the applicant may obtain a paper copy of the handbook
21 described by Paragraph (A).

22 (d) The county clerk or deputy county clerk may not refuse
23 to issue a license to an applicant on the ground that the applicant
24 checked "false" in response to the statement "I am not presently
25 delinquent in the payment of court-ordered child support."

26 SECTION 11. Section 2.012, Family Code, is amended to read
27 as follows:

1 Sec. 2.012. VIOLATION OF SUBCHAPTER [~~BY COUNTY CLERK~~];
2 PENALTY. (a) A county clerk or deputy county clerk who violates or
3 fails to comply with this subchapter commits an offense.

4 (b) An offense under this section is a Class C misdemeanor
5 punishable by a fine of [~~not less than \$200 and~~] not more than \$500.

6 SECTION 12. Section 2.101, Family Code, is amended to read
7 as follows:

8 Sec. 2.101. GENERAL AGE REQUIREMENT. Except as otherwise
9 provided by this subchapter or on a showing that a prior marriage
10 has been dissolved, a county clerk or deputy county clerk may not
11 issue a marriage license if either applicant is under 18 years of
12 age.

13 SECTION 13. Sections 2.102(a), (b), and (c), Family Code,
14 are amended to read as follows:

15 (a) If an applicant is 16 years of age or older but under 18
16 years of age, the county clerk or deputy county clerk shall issue
17 the license if parental consent is given as provided by this
18 section.

19 (b) Parental consent must be evidenced by a written
20 declaration on a form supplied by the county clerk or deputy county
21 clerk in which the person consents to the marriage and swears that
22 the person is a parent (if there is no person who has the
23 court-ordered right to consent to marriage for the applicant) or a
24 person who has the court-ordered right to consent to marriage for
25 the applicant (whether an individual, authorized agency, or court).

26 (c) Except as otherwise provided by this section, consent
27 must be acknowledged before a county clerk or deputy county clerk.

1 SECTION 14. Section 2.202, Family Code, is amended by
2 adding Subsection (e) to read as follows:

3 (e) A person authorized to conduct a marriage ceremony under
4 this section may decline to conduct a marriage ceremony and, unless
5 the person declines to conduct the ceremony for a reason prohibited
6 under Section 2.205:

7 (1) the person is not subject to an administrative or
8 civil penalty imposed by this state, an agency of this state, or a
9 political subdivision of this state; and

10 (2) a civil cause of action may not be brought against
11 the person based on the person's refusal to conduct the marriage
12 ceremony.

13 SECTION 15. Section 2.204(b), Family Code, is amended to
14 read as follows:

15 (b) The 72-hour waiting period after issuance of a marriage
16 license does not apply to an applicant who:

17 (1) is a member of the armed forces of the United
18 States and on active duty;

19 (2) is not a member of the armed forces of the United
20 States but performs work for the United States Department of
21 Defense as a department employee or under a contract with the
22 department;

23 (3) obtains a written waiver under Subsection (c); or

24 (4) completes a premarital education course described
25 by Section 2.013, and who provides to the county clerk or deputy
26 county clerk a premarital education course completion certificate
27 indicating completion of the premarital education course not more

1 than one year before the date the marriage license application is
2 filed with the county clerk or deputy county clerk.

3 SECTION 16. Section 2.206(a), Family Code, is amended to
4 read as follows:

5 (a) The person who conducts a marriage ceremony shall record
6 on the license the date on which and the county in which the
7 ceremony is performed and the person's name, subscribe the license,
8 and return the license to the county clerk of the county in which
9 the license was ~~[who]~~ issued ~~[it]~~ not later than the 30th day after
10 the date the ceremony is conducted.

11 SECTION 17. Section 2.207(a), Family Code, is amended to
12 read as follows:

13 (a) A person who is to conduct a marriage ceremony shall
14 determine whether the license has expired from the date of
15 certification of ~~[county clerk's endorsement on]~~ the license.

16 SECTION 18. Section 2.209(b), Family Code, is amended to
17 read as follows:

18 (b) If a marriage license ~~[issued by a county clerk]~~ is
19 lost, destroyed, or rendered useless, the county clerk or deputy
20 county clerk shall issue a duplicate license.

21 SECTION 19. The heading to Subchapter G, Chapter 2, Family
22 Code, is amended to read as follows:

23 SUBCHAPTER G. FREEDOM OF RELIGION WITH RESPECT TO RECOGNIZING,
24 LICENSING, OR PERFORMING CERTAIN MARRIAGES

25 SECTION 20. Subchapter G, Chapter 2, Family Code, is
26 amended by adding Section 2.603 to read as follows:

27 Sec. 2.603. REFUSAL BY COUNTY CLERK OR DEPUTY COUNTY CLERK.

1 (a) If a county clerk or deputy county clerk has a sincerely held
2 religious belief that conflicts with the clerk's ability to fulfill
3 the clerk's duties with regard to certifying an application for a
4 marriage license, administering the oath, and issuing the license,
5 the clerk shall notify the commissioners court of the county of that
6 belief in writing.

7 (b) A county clerk or deputy county clerk may not be
8 required to certify an application for a marriage license,
9 administer the oath, or issue the license if the clerk has made the
10 notification under Subsection (a).

11 (c) A refusal by a county clerk or deputy county clerk who
12 has made a notification under Subsection (a) to certify an
13 application for a marriage license, administer the oath, or issue
14 the license is not the basis for a civil cause of action by any
15 person.

16 (d) A county clerk may not terminate the employment of or
17 take any other adverse employment action against a deputy county
18 clerk because the deputy county clerk has or has not made a
19 notification under Subsection (a).

20 (e) A county clerk may not refuse to hire an applicant for
21 employment as a deputy county clerk because the applicant expresses
22 an intent to make or not make a notification under Subsection (a).

23 (f) A violation of Subsection (d) or (e) is an unlawful
24 employment practice under Section 21.051, Labor Code.

25 (g) A person aggrieved by an unlawful employment practice
26 described by Subsection (d) or (e) may file a complaint with the
27 Texas Workforce Commission.

1 (h) A complaint filed under Subsection (g) is subject to
2 Subchapters E and F, Chapter 21, Labor Code.

3 SECTION 21. Sections 118.018(b-1) and (c), Local Government
4 Code, are amended to read as follows:

5 (b-1) The county clerk or deputy county clerk shall issue a
6 marriage license without collecting a marriage license fee from an
7 applicant who:

8 (1) completes a premarital education course described
9 by Section 2.013, Family Code; and

10 (2) provides to the county clerk or deputy county
11 clerk a premarital education course completion certificate
12 indicating completion of the premarital education course not more
13 than one year before the date the marriage license application is
14 filed with the county clerk or deputy county clerk.

15 (c) A person applying for a marriage license may make a
16 voluntary contribution of \$5 to promote healthy early childhood by
17 supporting the Texas Home Visiting Program administered by the
18 Office of Early Childhood Coordination of the Health and Human
19 Services Commission. A county clerk or deputy county clerk shall
20 collect the additional voluntary contribution under this section.

21 SECTION 22. Sections 194.0011(a) and (d), Health and Safety
22 Code, are amended to read as follows:

23 (a) The executive commissioner by rule shall prescribe the
24 format and content of the department form used for the marriage
25 license application. The executive commissioner may not prescribe
26 a form that requires personal execution of the application by a
27 county clerk or that the name of the county clerk appear on the

1 application. The executive commissioner may prescribe a form that
2 requires execution of the application by a deputy county clerk and
3 identification of the county in which the application is submitted.

4 (d) A county clerk or deputy county clerk may reproduce the
5 department form locally.

6 SECTION 23. This Act takes effect September 1, 2017.