

By: Hinojosa, Rodríguez

S.B. No. 157

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain statutory changes to reflect same-sex  
3 marriages, including the repeal of the statutory prohibition  
4 against the recognition of a civil union or similar relationship  
5 entered into in another state between two persons of the same sex.

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

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

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

12 SECTION 2. Section 2.004(b), Family Code, is amended to  
13 read as follows:

14 (b) The application form must contain:

15 (1) a heading entitled "Application for Marriage  
16 License, \_\_\_\_\_ County, Texas";

17 (2) spaces for each applicant's full name, including  
18 the [~~woman's maiden~~] surname of an applicant intending to change  
19 the applicant's surname as a result of the marriage, address,  
20 social security number, if any, date of birth, and place of birth,  
21 including city, county, and state;

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

24 (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 that:

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

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

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

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

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

18           SECTION 3. Section 2.401(a), Family Code, is amended to  
19 read as follows:

20           (a) In a judicial, administrative, or other proceeding, the  
21 marriage of two individuals [~~a man and woman~~] may be proved by  
22 evidence that:

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

25                 (2) the individuals [~~man and woman~~] agreed to be  
26 married and after the agreement they lived together in this state as  
27 spouses [~~husband and wife~~] and there represented to others that

1 they were married.

2 SECTION 4. Section 2.402(b), Family Code, is amended to  
3 read as follows:

4 (b) The declaration form must contain:

5 (1) a heading entitled "Declaration and Registration  
6 of Informal Marriage, \_\_\_\_\_ County, Texas";

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

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

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

17 (A) an ancestor or descendant, by blood or  
18 adoption;

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

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

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

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

26 or

27 (F) a son or daughter of a parent's brother or

1 sister, of the whole or half blood or by adoption.";

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

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

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

15 SECTION 5. Sections 3.401(4) and (5), Family Code, are  
16 amended to read as follows:

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

18 (A) the community property owned by the spouses  
19 together and referred to as the community marital estate;

20 (B) the separate property owned individually by  
21 one spouse [~~the husband~~] and referred to as a separate marital  
22 estate; or

23 (C) the separate property owned individually by  
24 the other spouse [~~wife~~], also referred to as a separate marital  
25 estate.

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

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

3 SECTION 6. Section 6.104(b), Family Code, is amended to  
4 read as follows:

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

8 SECTION 7. Section 6.202(b), Family Code, is amended to  
9 read as follows:

10 (b) The later marriage that is void under this section  
11 becomes valid when the prior marriage is dissolved if, after the  
12 date of the dissolution, the parties have lived together as spouses  
13 [~~husband and wife~~] and represented themselves to others as being  
14 married.

15 SECTION 8. Section 6.203, Family Code, is amended to read as  
16 follows:

17 Sec. 6.203. CERTAIN VOID MARRIAGES VALIDATED. Except for a  
18 marriage that would have been void under Section 6.201, a marriage  
19 that was entered into before January 1, 1970, in violation of the  
20 prohibitions of Article 496, Penal Code of Texas, 1925, is  
21 validated from the date the marriage commenced if the parties  
22 continued until January 1, 1970, to live together as spouses  
23 [~~husband and wife~~] and to represent themselves to others as being  
24 married.

25 SECTION 9. Section 6.704, Family Code, is amended to read as  
26 follows:

27 Sec. 6.704. TESTIMONY OF SPOUSE [~~HUSBAND OR WIFE~~]. (a) In

1 a suit for dissolution of a marriage, each spouse is a [~~the husband~~  
2 ~~and wife are~~] competent witness [~~witnesses~~] for and against the  
3 [~~each~~] other spouse. A spouse may not be compelled to testify as to  
4 a matter that will incriminate the spouse.

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

8 SECTION 10. The following laws are repealed:

- 9 (1) Section 2.001(b), Family Code;  
10 (2) Section 6.204, Family Code; and  
11 (3) Sections 810.001(g), (h), and (i), Government  
12 Code.

13 SECTION 11. This Act takes effect September 1, 2017.