

FAMILY CODE

TITLE 1. THE MARRIAGE RELATIONSHIP

SUBTITLE A. MARRIAGE

CHAPTER 2. THE MARRIAGE RELATIONSHIP

SUBCHAPTER A. APPLICATION FOR MARRIAGE LICENSE

Sec. 2.001. MARRIAGE LICENSE. (a) 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.

(b) A license may not be issued for the marriage of persons of the same sex.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

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;
- (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.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 978 (H.B. 3666), Sec. 1, eff. September 1, 2009.

Sec. 2.003. APPLICATION FOR LICENSE BY MINOR. (a) A person under 18 years of age may not marry unless the person has been granted by this state or another state a court order removing the disabilities of minority of the person for general purposes.

(b) In addition to the other requirements provided by this chapter, a person under 18 years of age applying for a license must

provide to the county clerk:

(1) a court order granted by this state under Chapter 31 removing the disabilities of minority of the person for general purposes; or

(2) if the person is a nonresident minor, a certified copy of an order removing the disabilities of minority of the person for general purposes filed with this state under Section 31.007.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 934 (S.B. 1705), Sec. 1, eff. September 1, 2017.

Sec. 2.004. APPLICATION FORM. (a) The county clerk shall furnish the application form as prescribed by the bureau of vital statistics.

(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, address, social security number, if any, date of birth, and place of birth, including city, county, and state;

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) a certificate of the county clerk that:

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

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

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

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

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

(c) An applicant commits an offense if the applicant knowingly provides false information under Subsection (b)(1), (2), (3), or (4). An offense under this subsection is a Class C misdemeanor.

(d) An applicant commits an offense if the applicant

knowingly provides false information under Subsection (b)(5) or (6). An offense under this subsection is a Class A misdemeanor.

Added by Acts 1997, 75th Leg., ch.7, Sec. 1, eff. April 17, 1997.

Amended by Acts 1997, 75th Leg., ch. 776, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.05, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 820 (S.B. 1836), Sec. 1, eff. June 14, 2013.

Sec. 2.005. PROOF OF IDENTITY AND AGE. (a) The county clerk shall require proof of the identity and age of each applicant.

(b) The proof must be established by:

(1) a driver's license or identification card issued by this state, another state, or a Canadian province that is current or has expired not more than two years preceding the date the identification is submitted to the county clerk in connection with an application for a license;

(2) a United States passport;

(3) a current passport issued by a foreign country or a consular document issued by a state or national government;

(4) an unexpired Certificate of United States Citizenship, Certificate of Naturalization, United States Citizen Identification Card, Permanent Resident Card, Temporary Resident Card, Employment Authorization Card, or other document issued by the federal Department of Homeland Security or the United States Department of State including an identification photograph;

(5) an unexpired military identification card for active duty, reserve, or retired personnel with an identification photograph;

(6) an original or certified copy of a birth certificate issued by a bureau of vital statistics for a state or a foreign government;

(7) an original or certified copy of a Consular Report of Birth Abroad or Certificate of Birth Abroad issued by the United States Department of State;

(8) an original or certified copy of a court order relating to the applicant's name change or sex change;

(9) school records from a secondary school or institution of higher education;

(10) an insurance policy continuously valid for the two years preceding the date of the application for a license;

(11) a motor vehicle certificate of title;

(12) military records, including documentation of release or discharge from active duty or a draft record;

(13) an unexpired military dependent identification card;

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

(15) a voter registration certificate;

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

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

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

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

(c) A person commits an offense if the person knowingly provides false, fraudulent, or otherwise inaccurate proof of an applicant's identity or age under this section. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.06, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 978 (H.B. 3666), Sec. 2, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 10, eff. January 1, 2016.

Sec. 2.006. ABSENT APPLICANT. (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 of the absent applicant.

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

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

(2) proof of the identity and age of the absent applicant under Section 2.005(b).

(c) Notwithstanding Subsection (a), the clerk may not issue a marriage license for which both applicants are absent unless the person applying on behalf of each absent applicant provides to the clerk an affidavit of the applicant declaring that the applicant is a member of the armed forces of the United States stationed in another country in support of combat or another military operation. Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 947 (H.B. 858), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 978 (H.B. 3666), Sec. 3, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 650 (H.B. 869), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 934 (S.B. 1705), Sec. 2, eff. September 1, 2017.

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

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

(2) a declaration that the absent applicant has not been divorced within the last 30 days;

(3) a declaration that the absent applicant is:

(A) not presently married; or

(B) married to the other applicant and they wish

to marry again;

(4) a declaration that the other applicant is not presently married and is not related to the absent applicant as:

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

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

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

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

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

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

(5) a declaration that the absent applicant desires to marry and the name, age, and address of the person to whom the absent applicant desires to be married;

(6) the approximate date on which the marriage is to occur;

(7) the reason the absent applicant is unable to appear personally before the county clerk for the issuance of the license; and

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

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

(B) unable to attend the ceremony.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.07, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 650 (H.B. 869), Sec. 2, eff. September 1, 2013.

Sec. 2.0071. MAINTENANCE OF RECORDS BY CLERK RELATING TO LICENSE FOR ABSENT APPLICANT. A county clerk who issues a marriage license for an absent applicant shall maintain the affidavit of the absent applicant and the application for the marriage license in the same manner that the clerk maintains an application for a marriage license submitted by two applicants in person.

Added by Acts 2013, 83rd Leg., R.S., Ch. 650 (H.B. 869), Sec. 3, eff. September 1, 2013.

Sec. 2.008. EXECUTION OF APPLICATION BY CLERK. (a) The county clerk shall:

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

(2) administer the oath to each applicant appearing before the clerk;

(3) have each applicant appearing before the clerk sign the application in the clerk's presence; and

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

(b) A person appearing before the clerk on behalf of an absent applicant is not required to take the oath on behalf of the absent applicant.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Sec. 2.009. ISSUANCE OF LICENSE.

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

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

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

(3) is under 18 years of age and has not presented:

(A) a court order granted by this state under Chapter 31 removing the disabilities of minority of the applicant for general purposes; or



(B) if the applicant is a nonresident minor, a certified copy of an order removing the disabilities of minority of the applicant for general purposes filed with this state under Section 31.007;

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

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

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

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

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

(c) On the proper execution of the application, the clerk shall:

(1) prepare the license;

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

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

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

(5) inform each applicant:

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

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

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

(e) A license issued by a county clerk under this section:

(1) must identify the county in which the license is issued; and

(2) may include the name of the county clerk.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by Acts 1997, 75th Leg., ch. 776, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 6.01(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 185, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.08, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 978 (H.B. 3666), Sec. 4, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 742 (S.B. 355), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 890 (H.B. 984), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 695 (H.B. 555), Sec. 1, eff. June 12, 2017.

Acts 2017, 85th Leg., R.S., Ch. 934 (S.B. 1705), Sec. 3, eff. September 1, 2017.

Sec. 2.010. AIDS INFORMATION; POSTING ON INTERNET. The Department of State Health Services shall prepare and make available to the public on its Internet website information about acquired immune deficiency syndrome (AIDS) and human

immunodeficiency virus (HIV). The information must be designed to inform an applicant for a marriage license about:

(1) the incidence and mode of transmission of AIDS and HIV;

(2) the local availability of medical procedures, including voluntary testing, designed to show or help show whether a person has AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and

(3) available and appropriate counseling services regarding AIDS and HIV infection.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 890 (H.B. 984), Sec. 2, eff. September 1, 2013.

Sec. 2.012. VIOLATION BY COUNTY CLERK; PENALTY. A county clerk or deputy county clerk who violates or fails to comply with this subchapter commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$200 and not more than \$500.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Sec. 2.013. PREMARITAL EDUCATION COURSES. (a) Each person applying for a marriage license is encouraged to attend a premarital education course of at least eight hours during the year preceding the date of the application for the license.

(b) A premarital education course must include instruction in:

(1) conflict management;

(2) communication skills; and

(3) the key components of a successful marriage.

(c) A course under this section should be offered by instructors trained in a skills-based and research-based marriage preparation curricula. The following individuals and organizations may provide courses:

(1) marriage educators;

(2) clergy or their designees;

- (3) licensed mental health professionals;
- (4) faith-based organizations; and
- (5) community-based organizations.

(d) The curricula of a premarital education course must meet the requirements of this section and provide the skills-based and research-based curricula of:

- (1) the United States Department of Health and Human Services healthy marriage initiative;
- (2) the National Healthy Marriage Resource Center;
- (3) criteria developed by the Health and Human Services Commission; or
- (4) other similar resources.

(e) The Health and Human Services Commission shall maintain an Internet website on which individuals and organizations described by Subsection (c) may electronically register with the commission to indicate the skills-based and research-based curriculum in which the registrant is trained.

(f) A person who provides a premarital education course shall provide a signed and dated completion certificate to each individual who completes the course. The certificate must include the name of the course, the name of the course provider, and the completion date.

Added by Acts 1999, 76th Leg., ch. 185, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 327 (H.B. 2685), Sec. 1, eff. September 1, 2008.

Sec. 2.014. FAMILY TRUST FUND. (a) The family trust fund is created as a trust fund with the state comptroller and shall be administered by the attorney general for the beneficiaries of the fund.

(b) Money in the trust fund is derived from depositing \$3 of each marriage license fee as authorized under Section 118.018(c), Local Government Code, and may be used only for:

- (1) the development of a premarital education handbook;
- (2) grants to institutions of higher education having

academic departments that are capable of research on marriage and divorce that will assist in determining programs, courses, and policies to help strengthen families and assist children whose parents are divorcing;

(3) support for counties to create or administer free or low-cost premarital education courses;

(4) programs intended to reduce the amount of delinquent child support; and

(5) other programs the attorney general determines will assist families in this state.

(c) The premarital education handbook under Subsection (b)(1) must:

(1) as provided by Section 2.009(c)(5), be made available to each applicant for a marriage license in an electronic form on the Internet website of the child support division of the office of the attorney general or, for an applicant who does not have Internet access, in paper copy form; and

(2) contain information on:

(A) conflict management;

(B) communication skills;

(C) children and parenting responsibilities; and

(D) financial responsibilities.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 6(b), and Ch. 755 (S.B. 1731), Sec. 15(b), eff. September 1, 2017.

Added by Acts 1999, 76th Leg., ch. 185, Sec. 2, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 742 (S.B. 355), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 890 (H.B. 984), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 553 (S.B. 526), Sec. 6(b), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 15(b), eff. September 1, 2017.

#### SUBCHAPTER B. UNDERAGE APPLICANTS

Sec. 2.101. GENERAL AGE REQUIREMENT. A county clerk may not issue a marriage license if either applicant is under 18 years of age, unless each underage applicant shows that the applicant has been granted by this state or another state a court order removing the disabilities of minority of the applicant for general purposes. Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 934 (S.B. 1705), Sec. 4, eff. September 1, 2017.

#### SUBCHAPTER C. CEREMONY AND RETURN OF LICENSE

Sec. 2.201. EXPIRATION OF LICENSE. If a marriage ceremony has not been conducted before the 90th day after the date the license is issued, the marriage license expires.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1350 (S.B. 1317), Sec. 1, eff. September 1, 2013.

Sec. 2.202. PERSONS AUTHORIZED TO CONDUCT CEREMONY.

(a) The following persons are authorized to conduct a marriage ceremony:

(1) a licensed or ordained Christian minister or priest;

(2) a Jewish rabbi;

(3) a person who is an officer of a religious organization and who is authorized by the organization to conduct a marriage ceremony;

(4) a justice of the supreme court, judge of the court of criminal appeals, justice of the courts of appeals, judge of the district, county, and probate courts, judge of the county courts at law, judge of the courts of domestic relations, judge of the juvenile courts, retired justice or judge of those courts, justice of the peace, retired justice of the peace, judge of a municipal court, retired judge of a municipal court, associate judge of a

statutory probate court, retired associate judge of a statutory probate court, associate judge of a county court at law, retired associate judge of a county court at law, or judge or magistrate of a federal court of this state; and

(5) a retired judge or magistrate of a federal court of this state.

(b) For the purposes of Subsection (a)(4), a retired judge or justice is a former judge or justice who is vested in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two or who has an aggregate of at least 12 years of service as judge or justice of any type listed in Subsection (a)(4).

(b-1) For the purposes of Subsection (a)(5), a retired judge or magistrate is a former judge or magistrate of a federal court of this state who is fully vested in the Federal Employees Retirement System under 28 U.S.C. Section 371 or 377.

(c) Except as provided by Subsection (d), a person commits an offense if the person knowingly conducts a marriage ceremony without authorization under this section. An offense under this subsection is a Class A misdemeanor.

(d) A person commits an offense if the person knowingly conducts a marriage ceremony of a minor whose marriage is prohibited by law or of a person who by marrying commits an offense under Section 25.01, Penal Code. An offense under this subsection is a felony of the third degree.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.10, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 134 (S.B. 935), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1350 (S.B. 1317), Sec. 2, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1069 (H.B. 2278), Sec. 1, eff. September 1, 2015.

Sec. 2.203. CEREMONY. (a) On receiving an unexpired

marriage license, an authorized person may conduct the marriage ceremony as provided by this subchapter.

(b) A person may assent to marriage by the appearance of a proxy appointed in the affidavit authorized by Subchapter A if the person is:

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

(2) unable to attend the ceremony.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 650 (H.B. 869), Sec. 4, eff. September 1, 2013.

Sec. 2.204. 72-HOUR WAITING PERIOD; EXCEPTIONS. (a) Except as provided by this section, a marriage ceremony may not take place during the 72-hour period immediately following the issuance of the marriage license.

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

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

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

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

(4) completes a premarital education course described by Section 2.013, and who provides to the county clerk a premarital education course completion certificate indicating completion of the premarital education course not more than one year before the date the marriage license application is filed with the clerk.

(c) An applicant may request a judge of a court with jurisdiction in family law cases, a justice of the supreme court, a judge of the court of criminal appeals, a county judge, or a judge of a court of appeals for a written waiver permitting the marriage ceremony to take place during the 72-hour period immediately



following the issuance of the marriage license. If the judge finds that there is good cause for the marriage to take place during the period, the judge shall sign the waiver. Notwithstanding any other provision of law, a judge under this section has the authority to sign a waiver under this section.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by Acts 1999, 76th Leg., ch. 1052, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 1196 (H.B. 418), Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 327 (H.B. 2685), Sec. 2, eff. September 1, 2008.

Sec. 2.205. DISCRIMINATION IN CONDUCTING MARRIAGE PROHIBITED. (a) A person authorized to conduct a marriage ceremony by this subchapter is prohibited from discriminating on the basis of race, religion, or national origin against an applicant who is otherwise competent to be married.

(b) On a finding by the State Commission on Judicial Conduct that a person has intentionally violated Subsection (a), the commission may recommend to the supreme court that the person be removed from office.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Sec. 2.206. RETURN OF LICENSE; PENALTY. (a) The person who conducts a marriage ceremony shall record on the license the date on which and the county in which the ceremony is performed and the person's name, subscribe the license, and return the license to the county clerk who issued it not later than the 30th day after the date the ceremony is conducted.

(b) A person who fails to comply with this section commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$200 and not more than \$500.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Sec. 2.207. MARRIAGE CONDUCTED AFTER LICENSE EXPIRED;

PENALTY. (a) A person who is to conduct a marriage ceremony shall determine whether the license has expired from the county clerk's endorsement on the license.

(b) A person who conducts a marriage ceremony after the marriage license has expired commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$200 and not more than \$500.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Sec. 2.208. RECORDING AND DELIVERY OF LICENSE. (a) The county clerk shall record a returned marriage license and mail the license to the address indicated on the application.

(b) On the application form the county clerk shall record:

(1) the date of the marriage ceremony;

(2) the county in which the ceremony was conducted;

and

(3) the name of the person who conducted the ceremony.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Sec. 2.209. DUPLICATE LICENSE. (a) On request, the county clerk shall issue a certified copy of a recorded marriage license.

(b) If a marriage license issued by a county clerk is lost, destroyed, or rendered useless, the clerk shall issue a duplicate license.

(c) If one or both parties to a marriage license discover an error on the recorded marriage license, both parties to the marriage shall execute a notarized affidavit stating the error. The county clerk shall file and record the affidavit as an amendment to the marriage license, and the affidavit is considered part of the marriage license. The clerk shall include a copy of the affidavit with any future certified copy of the marriage license issued by the clerk.

(d) The executive commissioner of the Health and Human Services Commission by rule shall prescribe the form of the affidavit under Subsection (c).

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 978 (H.B. 3666), Sec. 6, eff. September 1, 2009.

#### SUBCHAPTER D. VALIDITY OF MARRIAGE

Sec. 2.301. FRAUD, MISTAKE, OR ILLEGALITY IN OBTAINING LICENSE. Except as otherwise provided by this chapter, the validity of a marriage is not affected by any fraud, mistake, or illegality that occurred in obtaining the marriage license.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Sec. 2.302. CEREMONY CONDUCTED BY UNAUTHORIZED PERSON. The validity of a marriage is not affected by the lack of authority of the person conducting the marriage ceremony if:

(1) there was a reasonable appearance of authority by that person;

(2) at least one party to the marriage participated in the ceremony in good faith and that party treats the marriage as valid; and

(3) neither party to the marriage:

(A) is a minor whose marriage is prohibited by law; or

(B) by marrying commits an offense under Section 25.01, Penal Code.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.11, eff. September 1, 2005.

#### SUBCHAPTER E. MARRIAGE WITHOUT FORMALITIES

Sec. 2.401. PROOF OF INFORMAL MARRIAGE. (a) In a judicial, administrative, or other proceeding, the marriage of a man and woman may be proved by evidence that:

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

(2) the man and woman agreed to be married and after

the agreement they lived together in this state as husband and wife and there represented to others that they were married.

(b) If a proceeding in which a marriage is to be proved as provided by Subsection (a)(2) is not commenced before the second anniversary of the date on which the parties separated and ceased living together, it is rebuttably presumed that the parties did not enter into an agreement to be married.

(c) A person under 18 years of age may not:

(1) be a party to an informal marriage; or

(2) execute a declaration of informal marriage under Section 2.402.

(d) A person may not be a party to an informal marriage or execute a declaration of an informal marriage if the person is presently married to a person who is not the other party to the informal marriage or declaration of an informal marriage, as applicable.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by Acts 1997, 75th Leg., ch. 1362, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.12, eff. September 1, 2005.

Sec. 2.402. DECLARATION AND REGISTRATION OF INFORMAL MARRIAGE. (a) A declaration of informal marriage must be signed on a form prescribed by the bureau of vital statistics and provided by the county clerk. Each party to the declaration shall provide the information required in the form.

(b) The declaration form must contain:

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Repealed by Acts 1997, 75th Leg., ch. 1362, Sec. 4, eff. Sept. 1, 1997.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by Acts 1997, 75th Leg., ch. 1362, Sec. 4, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.13, eff. September 1, 2005.

Sec. 2.403. PROOF OF IDENTITY AND AGE; OFFENSE. (a) The

county clerk shall require proof of the identity and age of each party to the declaration of informal marriage to be established by a document listed in Section 2.005(b).

(b) A person commits an offense if the person knowingly provides false, fraudulent, or otherwise inaccurate proof of the person's identity or age under this section. An offense under this subsection is a Class A misdemeanor.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.14, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 978 (H.B. 3666), Sec. 7, eff. September 1, 2009.

Sec. 2.404. RECORDING OF CERTIFICATE OR DECLARATION OF INFORMAL MARRIAGE. (a) The county clerk shall:

(1) determine that all necessary information is recorded on the declaration of informal marriage form and that all necessary documents are submitted to the clerk;

(2) administer the oath to each party to the declaration;

(3) have each party sign the declaration in the clerk's presence; and

(4) execute the clerk's certificate to the declaration.

(a-1) On the proper execution of the declaration, the clerk may:

(1) prepare a certificate of informal marriage;

(2) enter on the certificate the names of the persons declaring their informal marriage and the date the certificate or declaration is issued; and

(3) record the time at which the certificate or declaration is issued.

(b) The county clerk may not certify the declaration or issue or record the certificate of informal marriage or declaration if:

(1) either party fails to supply any information or

provide any document required by this subchapter;

(2) either party is under 18 years of age; or

(3) either party checks "false" in response to the statement of relationship to the other party.

(c) On execution of the declaration, the county clerk shall record the declaration or certificate of informal marriage, deliver the original of the declaration to the parties, deliver the original of the certificate of informal marriage to the parties, if a certificate was prepared, and send a copy of the declaration of informal marriage to the bureau of vital statistics.

(d) An executed declaration or a certificate of informal marriage recorded as provided in this section is prima facie evidence of the marriage of the parties.

(e) At the time the parties sign the declaration, the clerk shall distribute to each party printed materials about acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV). The clerk shall note on the declaration that the distribution was made. The materials shall be prepared and provided to the clerk by the Texas Department of Health and shall be designed to inform the parties about:

(1) the incidence and mode of transmission of AIDS and HIV;

(2) the local availability of medical procedures, including voluntary testing, designed to show or help show whether a person has AIDS or HIV infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and

(3) available and appropriate counseling services regarding AIDS and HIV infection.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

Amended by Acts 1997, 75th Leg., ch. 1362, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 978 (H.B. 3666), Sec. 8, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 978 (H.B. 3666), Sec. 9, eff. September 1, 2009.

Sec. 2.405. VIOLATION BY COUNTY CLERK; PENALTY. A county clerk or deputy county clerk who violates this subchapter commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$200 and not more than \$500. Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

#### SUBCHAPTER F. RIGHTS AND DUTIES OF SPOUSES

Sec. 2.501. DUTY TO SUPPORT. (a) Each spouse has the duty to support the other spouse.

(b) A spouse who fails to discharge the duty of support is liable to any person who provides necessaries to the spouse to whom support is owed.

Added by Acts 1997, 75th Leg., ch. 7, Sec. 1, eff. April 17, 1997.

#### SUBCHAPTER G. FREEDOM OF RELIGION WITH RESPECT TO RECOGNIZING OR PERFORMING CERTAIN MARRIAGES

Sec. 2.601. RIGHTS OF CERTAIN RELIGIOUS ORGANIZATIONS. A religious organization, an organization supervised or controlled by or in connection with a religious organization, an individual employed by a religious organization while acting in the scope of that employment, or a clergy or minister may not be required to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, or celebration of any marriage if the action would cause the organization or individual to violate a sincerely held religious belief.

Added by Acts 2015, 84th Leg., R.S., Ch. 434 (S.B. 2065), Sec. 1, eff. June 11, 2015.

Sec. 2.602. DISCRIMINATION AGAINST RELIGIOUS ORGANIZATION PROHIBITED. A refusal to provide services, accommodations, facilities, goods, or privileges under Section 2.601 is not the basis for a civil or criminal cause of action or any other action by this state or a political subdivision of this state to penalize or withhold benefits or privileges, including tax exemptions or



governmental contracts, grants, or licenses, from any protected organization or individual.

Added by Acts 2015, 84th Leg., R.S., Ch. 434 (S.B. [2065](#)), Sec. 1, eff. June 11, 2015.