

By: Hinojosa, Rodríguez

S.B. No. 98

A BILL TO BE ENTITLED

AN ACT

relating to authorizing a marriage between two persons of the same sex in this state and repealing the statutory prohibition against the recognition of a civil union or similar relationship entered into in another state between two persons of the same sex.

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, a man and a man, or a woman 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 2. Section 2.401(a), Family Code, is amended to read as follows:

(a) In a judicial, administrative, or other proceeding, the marriage of a man and woman, a man and man, or a woman 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, man and man, or woman and woman agreed to be married and after the agreement they lived together in this state as spouses [~~husband and wife~~] and there represented to others that they were married.

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

(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 for a woman, 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

1 AGREED TO BE MARRIED, AND AFTER THAT DATE WE LIVED TOGETHER AS
2 SPOUSES [~~HUSBAND AND WIFE~~] AND IN THIS STATE WE REPRESENTED TO
3 OTHERS THAT WE WERE MARRIED. SINCE THE DATE OF MARRIAGE TO THE
4 OTHER PARTY I HAVE NOT BEEN MARRIED TO ANY OTHER PERSON. THIS
5 DECLARATION IS TRUE AND THE INFORMATION IN IT WHICH I HAVE GIVEN IS
6 CORRECT.";

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

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

11 SECTION 4. Section 3.401(5), Family Code, is amended to
12 read as follows:

13 (5) "Spouse" means a party to a marriage [~~husband, who~~
14 ~~is a man, or a wife, who is a woman. A member of a civil union or~~
15 ~~similar relationship entered into in another state between persons~~
16 ~~of the same sex is not a spouse~~].

17 SECTION 5. Section 6.202(b), Family Code, is amended to
18 read as follows:

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

24 SECTION 6. Section 6.704, Family Code, is amended to read as
25 follows:

26 Sec. 6.704. TESTIMONY OF SPOUSE [~~HUSBAND OR WIFE~~]. (a) In
27 a suit for dissolution of a marriage, each spouse is a [~~the husband~~

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

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

7 SECTION 7. The following laws are repealed:

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

12 SECTION 8. This Act takes effect January 1, 2016, but only
13 if the constitutional amendment proposed by the 84th Legislature,
14 Regular Session, 2015, repealing the constitutional provision
15 providing that marriage in this state consists only of the union of
16 one man and one woman and prohibiting this state or a political
17 subdivision of this state from creating or recognizing any legal
18 status identical or similar to marriage is approved by the voters.
19 If that amendment is not approved by the voters, this Act has no
20 effect.