

TEXAS CODE OF JUDICIAL CONDUCT

(As amended by the Supreme Court of Texas through August 22, 2002)

Preamble

Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code of Judicial Conduct are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.

Canon 1: Upholding the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and should personally observe those standards so that the integrity and independence of the judiciary is preserved. The provisions of this Code are to be construed and applied to further that objective.

Canon 2: Avoiding Impropriety and the Appearance of Impropriety in All of the Judge's Activities

- A. A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- B. A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.
- C. A judge shall not knowingly hold membership in any organization that practices discrimination prohibited by law.

Canon 3: Performing the Duties of Judicial Office Impartially and Diligently

A. Judicial Duties in General. The judicial duties of a judge take precedence over all the judge's other activities. Judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply:

B. Adjudicative Responsibilities.

- (1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required or recusal is appropriate.
- (2) A judge should be faithful to the law and shall maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.
- (3) A judge shall require order and decorum in proceedings before the judge.
- (4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.
- (5) A judge shall perform judicial duties without bias or prejudice.
- (6) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not knowingly permit staff, court officials and others subject to the judge's direction and control to do so.
- (7) A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status against parties, witnesses, counsel or others. This requirement does not preclude legitimate advocacy when any of these factors is an issue in the proceeding.
- (8) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit, or consider *ex parte* communications or other communications made to the judge outside the presence of the parties between the judge and a party, an attorney, a guardian or attorney ad litem, an alternative dispute resolution neutral, or any other court appointee concerning the merits of a pending or impending judicial proceeding. A judge shall require compliance with this subsection by court personnel subject to the judge's direction and control. This subsection does not prohibit:
 - (a) communications concerning uncontested administrative or uncontested procedural matters;
 - (b) conferring separately with the parties and/or their lawyers in an effort to mediate or settle matters, provided, however, that the judge shall first give notice to all parties and not thereafter hear any contested matters between the parties except with the consent of all parties;

- (c) obtaining the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond;
 - (d) consulting with other judges or with court personnel;
 - (e) considering an *ex parte* communication expressly authorized by law.
- (9) A judge should dispose of all judicial matters promptly, efficiently and fairly.
- (10) A judge shall abstain from public comment about a pending or impending proceeding which may come before the judge's court in a manner which suggests to a reasonable person the judge's probable decision on any particular case. This prohibition applies to any candidate for judicial office, with respect to judicial proceedings pending or impending in the court on which the candidate would serve if elected. A judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This section does not apply to proceedings in which the judge or judicial candidate is a litigant in a personal capacity.
- (11) A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity. The discussions, votes, positions taken, and writings of appellate judges and court personnel about causes are confidences of the court and shall be revealed only through a court's judgment, a written opinion or in accordance with Supreme Court guidelines for a court approved history project.

C. Administrative Responsibilities.

- (1) A judge should diligently and promptly discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.
- (2) A judge should require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.
- (3) A judge with supervisory authority for the judicial performance of other judges should take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.
- (4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.
- (5) A judge shall not fail to comply with Rule 12 of the Rules of Judicial Administration, knowing that the failure to comply is in violation of the rule.

D. Disciplinary Responsibilities.

(1) A judge who receives information clearly establishing that another judge has committed a violation of this Code should take appropriate action. A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the other judge's fitness for office shall inform the State Commission on Judicial Conduct or take other appropriate action.

(2) A judge who receives information clearly establishing that a lawyer has committed a violation of the Texas Disciplinary Rules of Professional Conduct should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Texas Disciplinary Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the Office of the General Counsel of the State Bar of Texas or take other appropriate action.

Canon 4: Conducting the Judge's Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Obligations

A. Extra-Judicial Activities in General. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; or
- (2) interfere with the proper performance of judicial duties.

B. Activities to Improve the Law. A judge may:

- (1) speak, write, lecture, teach and participate in extra-judicial activities concerning the law, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code; and,
- (2) serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. He or she may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system and the administration of justice.

C. Civic or Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of judicial duties. A judge may serve as an officer, director, trustee or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the profit of its members, subject to the following limitations:

- (1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly or frequently engaged in adversary proceedings in any court.
- (2) A judge shall not solicit funds for any educational, religious, charitable, fraternal or civic organization, but may be listed as an officer, director, delegate, or trustee of such an organization, and may be a speaker or a guest of honor at an organization's fund raising events.

(3) A judge should not give investment advice to such an organization, but may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

D. Financial Activities.

(1) A judge shall refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of the judicial duties, exploit his or her judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves. This limitation does not prohibit either a judge or candidate from soliciting funds for appropriate campaign or officeholder expenses as permitted by state law.

(2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity including the operation of a business. A judge shall not be an officer, director or manager of a publicly owned business. For purposes of this Canon, a "publicly owned business" is a business having more than ten owners who are not related to the judge by consanguinity or affinity within the third degree of relationship.

(3) A judge should manage any investments and other economic interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge should divest himself or herself of investments and other economic interests that might require frequent disqualification. A judge shall be informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to be informed about the personal economic interests of any family member residing in the judge's household.

(4) Neither a judge nor a family member residing in the judge's household shall accept a gift, bequest, favor, or loan from anyone except as follows:

(a) a judge may accept a gift incident to a public testimonial to the judge; books and other resource materials supplied by publishers on a complimentary basis for official use; or an invitation to the judge and spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;

(b) a judge or a family member residing in the judge's household may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a gift from a friend for a special occasion such as a wedding, engagement, anniversary, or birthday, if the gift is fairly commensurate with the occasion and the relationship; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

(c) a judge or a family member residing in the judge's household may accept any other gift, bequest, favor, or loan only if the donor is not a party or person whose interests have come or are likely to come before the judge;

(d) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member residing in the judge's household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties.

E. Fiduciary Activities.

- (1) A judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary, except for the estate, trust or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties.
- (2) A judge shall not serve as a fiduciary if it is likely that the judge as a fiduciary will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.
- (3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

F. Service as Arbitrator or Mediator. An active full-time judge shall not act as an arbitrator or mediator for compensation outside the judicial system, but a judge may encourage settlement in the performance of official duties.

G. Practice of Law. A judge shall not practice law except as permitted by statute or this Code. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family.

H. Extra-Judicial Appointments. Except as otherwise provided by constitution and statute, a judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent his or her country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

COMMENT TO 2000 CHANGE

This change is to clarify that a judge may serve on the Texas Board of Criminal Justice.

I. Compensation, Reimbursement and Reporting.

- (1) Compensation and Reimbursement. A judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.
 - (a) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.
 - (b) Expense reimbursement shall be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's family. Any payment in excess of such an amount is compensation.
- (2) Public Reports. A judge shall file financial and other reports as required by law.

Canon 5: Refraining from Inappropriate Political Activity

- (1) A judge or judicial candidate shall not:
- (i) make pledges or promises of conduct in office regarding pending or impending cases, specific classes of cases, specific classes of litigants, or specific propositions of law that would suggest to a reasonable person that the judge is predisposed to a probable decision in cases within the scope of the pledge;
 - (ii) knowingly or recklessly misrepresent the identity, qualifications, present position, or other fact concerning the candidate or an opponent; or
 - (iii) make a statement that would violate Canon 3B(10).
- (2) A judge or judicial candidate shall not authorize the public use of his or her name endorsing another candidate for any public office, except that either may indicate support for a political party. A judge or judicial candidate may attend political events and express his or her views on political matters in accord with this Canon and Canon 3B(10).
- (3) A judge shall resign from judicial office upon becoming a candidate in a contested election for a non-judicial office either in a primary or in a general or in a special election. A judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention or while being a candidate for election to any judicial office.
- (4) A judge or judicial candidate subject to the Judicial Campaign Fairness Act, Tex. Elec. Code §253.151, *et seq.* (the "Act"), shall not knowingly commit an act for which he or she knows the Act imposes a penalty. Contributions returned in accordance with Sections 253.155(e), 253.157(b) or 253.160(b) of the Act are not a violation of this paragraph.

COMMENT

A statement made during a campaign for judicial office, whether or not prohibited by this Canon, may cause a judge's impartiality to be reasonably questioned in the context of a particular case and may result in recusal.

Canon 6: Compliance with the Code of Judicial Conduct

A. The following persons shall comply with all provisions of this Code:

- (1) An active, full-time justice or judge of one of the following courts:
- (a) the Supreme Court,
 - (b) the Court of Criminal Appeals,
 - (c) courts of appeals,
 - (d) district courts,
 - (e) criminal district courts, and
 - (f) statutory county courts.
- (2) A full-time commissioner, master, magistrate, or referee of a court listed in (1) above.

B. A County Judge who performs judicial functions shall comply with all provisions of this Code except the judge is not required to comply:

- (1) when engaged in duties which relate to the judge's role in the administration of the county;
- (2) with Canons 4D(2), 4D(3), or 4H;
- (3) with Canon 4G, except practicing law in the court on which he or she serves or in any court subject to the appellate jurisdiction of the county court, or acting as a lawyer in a proceeding in which he or she has served as a judge or in any proceeding related thereto.
- (4) with Canon 5(3).

C. Justices of the Peace and Municipal Court Judges.

- (1) A justice of the peace or municipal court judge shall comply with all provisions of this Code, except the judge is not required to comply:
 - (a) with Canon 3B(8) pertaining to *ex parte* communications; in lieu thereof a justice of the peace or municipal court judge shall comply with 6C(2) below;
 - (b) with Canons 4D(2), 4D(3), 4E, or 4H;
 - (c) with Canon 4F, unless the court on which the judge serves may have jurisdiction of the matter or parties involved in the arbitration or mediation; or
 - (d) if an attorney, with Canon 4G, except practicing law in the court on which he or she serves, or acting as a lawyer in a proceeding in which he or she has served as a judge or in any proceeding related thereto.
 - (e) with Canons 5(3).
- (2) A justice of the peace or a municipal court judge, except as authorized by law, shall not directly or indirectly initiate, permit, nor consider *ex parte* or other communications concerning the merits of a pending judicial proceeding. This subsection does not prohibit communications concerning:
 - (a) uncontested administrative matters,
 - (b) uncontested procedural matters,
 - (c) magistrate duties and functions,
 - (d) determining where jurisdiction of an impending claim or dispute may lie,
 - (e) determining whether a claim or dispute might more appropriately be resolved in some other judicial or non-judicial forum,
 - (f) mitigating circumstances following a plea of nolo contendere or guilty for a fine-only offense, or
 - (g) any other matters where *ex parte* communications are contemplated or authorized by law.

D. A Part-time commissioner, master, magistrate, or referee of a court listed in Canon 6A(1) above:

- (1) shall comply with all provisions of this Code, except he or she is not required to comply with Canons 4D(2), 4E, 4F, 4G or 4H, and
- (2) should not practice law in the court which he or she serves or in any court subject to the appellate jurisdiction of the court which he or she serves, or act as a lawyer in a proceeding in which he or she has served as a commissioner, master, magistrate, or referee, or in any other proceeding related thereto.

E. A Judge Pro Tempore, while acting as such:

- (1) shall comply with all provisions of this Code applicable to the court on which he or she is serving, except he or she is not required to comply with Canons 4D(2), 4D(3), 4E, 4F, 4G or 4H, and
- (2) after serving as a judge pro tempore, should not act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto.

F. Any Senior Judge, or a former appellate or district judge, or a retired or former statutory county court judge who has consented to be subject to assignment as a judicial officer:

- (1) shall comply with all the provisions of this Code except he or she is not required to comply with Canon 4D(2), 4E, 4F, 4G, or 4H, but
- (2) should refrain from judicial service during the period of an extra-judicial appointment permitted by Canon 4H.

G. Candidates for Judicial Office.

- (1) Any person seeking elective judicial office listed in Canon 6A(1) shall be subject to the same standards of Canon 5 that are required of members of the judiciary.
- (2) Any judge who violates this Code shall be subject to sanctions by the State Commission on Judicial Conduct.
- (3) Any lawyer who is a candidate seeking judicial office who violates Canon 5 or other relevant provisions of this Code is subject to disciplinary action by the State Bar of Texas.
- (4) The conduct of any other candidate for elective judicial office, not subject to paragraphs (2) and (3) of this section, who violates Canon 5 or other relevant provisions of the Code is subject to review by the Secretary of State, the Attorney General, or the local District Attorney for appropriate action.

H. Attorneys.

Any lawyer who contributes to the violation of Canons 3B(7), 3B(10), 4D(4), 5, or 6C(2), or other relevant provisions of this Code, is subject to disciplinary action by the State Bar of Texas.

Canon 7: Effective Date of Compliance

A person to whom this Code becomes applicable should arrange his or her affairs as soon as reasonably possible to comply with it.

Canon 8: Construction and Terminology of the Code

A. Construction.

The Code of Judicial Conduct is intended to establish basic standards for ethical conduct of judges. It consists of specific rules set forth in Sections under broad captions called Canons.

The Sections are rules of reason, which should be applied consistent with constitutional requirements, statutes, other court rules and decisional law and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and candidates for judicial office and to provide a structure for regulating conduct through the State Commission on Judicial Conduct. It is not designed or intended as a basis for civil liability or criminal prosecution. Furthermore, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

It is not intended, however, that every transgression will result in disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable and reasoned application of the text and should depend on such factors as the seriousness of the transgression, whether there is a pattern of improper activity and the effect of the improper activity on others or on the judicial system.

B. Terminology.

- (1) "Shall" or "shall not" denotes binding obligations the violation of which can result in disciplinary action.
- (2) "Should" or "should not" relates to aspirational goals and as a statement of what is or is not appropriate conduct but not as a binding rule under which a judge may be disciplined.
- (3) "May" denotes permissible discretion or, depending on the context, refers to action that is not covered by specific proscriptions.
- (4) "De minimis" denotes an insignificant interest that could not raise reasonable question as to a judge's impartiality.
- (5) "Economic interest" denotes ownership of a more than de minimis legal or equitable interest, or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that:
 - (i) ownership of an interest in a mutual or common investment fund that holds securities is not an economic interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;

- (ii) service by a judge as an officer, director, advisor or other active participant, in an educational, religious, charitable, fraternal, or civic organization or service by a judge's spouse, parent or child as an officer, director, advisor or other active participant in any organization does not create an economic interest in securities held by that organization;
 - (iii) a deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not an economic interest in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest; and
 - (iv) ownership of government securities is not an economic interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.
- (6) "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian.
- (7) "Knowingly," "knowledge," "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.
- (8) "Law" denotes court rules as well as statutes, constitutional provisions and decisional law.
- (9) "Member of the judge's (or the candidate's) family" denotes a spouse, child, grandchild, parent, grandparent or other relative or person with whom the candidate maintains a close familial relationship.
- (10) "Family member residing in the judge's household" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides at the judge's household.
- (11) "Require." The rules prescribing that a judge "require" certain conduct of others are, like all of the rules in this Code, rules of reason. The use of the term "require" in that context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge's direction and control.
- (12) "Third degree of relationship." The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece.
- (13) "Retired Judge" means a person who receives from the Texas Judicial Retirement System, Plan One or Plan Two, an annuity based on service that was credited to the system. (Secs. 831.001 and 836.001, V.T.C.A. Government Code [Ch. 179, Sec. 1, 71st Legislature (1989)])
- (14) "Senior Judge" means a retired appellate or district judge who has consented to be subject to assignment pursuant to Section 75.001, Government Code. [Ch. 359, 69th Legislature, Reg. Session (1985)]

(15) "Statutory County Court Judge" means the judge of a county court created by the legislature under Article V, Section 1, of the Texas Constitution, including county courts at law, statutory probate courts, county criminal courts, county criminal courts of appeals, and county civil courts at law. (Sec. 21.009, V.T.C.A. Government Code [Ch. 2, Sec. 16.01(18), 71st Legislature (1989)])

(16) "County Judge" means the judge of the county court created in each county by Article V, Section 15, of the Texas Constitution. (Sec. 21.009, V.T.C.A. Government Code [Ch. 2, Sec. 16.01(18), 71st Legislature (1989)])

(17) "Part-time" means service on a continuing or periodic basis, but with permission by law to devote time to some other profession or occupation and for which the compensation for that reason is less than that for full-time service.

(18) "Judge Pro Tempore" means a person who is appointed to act temporarily as a judge.

FAMILY CODE CHAPTER 2. THE MARRIAGE RELATIONSHIP

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 this subchapter;
- (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.

Sec. 2.003. APPLICATION FOR LICENSE BY MINOR. 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) documents establishing, as provided by Section 2.102, parental consent for the person to the marriage;

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

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

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

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; and

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

(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, Sec. 4.05, eff. September 1, 2005.

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 a certified copy of the applicant's birth certificate or by some certificate, license, or document issued by this state or another state, the United States, or a foreign government.

(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, Sec. 4.06, eff. September 1, 2005.

Sec. 2.006. ABSENT APPLICANT. (a) If an applicant 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) the affidavit of the absent applicant as provided by this subchapter;

(2) proof of the identity and age of the absent applicant as provided by this subchapter; and

(3) if required because the absent applicant is a person under 18 years of age, the documents establishing parental consent, documents establishing that a prior marriage has been dissolved, or a court order authorizing the marriage of the absent, underage applicant.

(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:

(1) on active duty as a member of the armed forces of the United States or the state military forces; or

(2) confined in a correctional facility, as defined by Section 1.07, Penal Code.

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

Amended by:

Acts 2005, 79th Leg., Ch. 947, Sec. 1, eff. September 1, 2005.

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) if the absent applicant will be unable to attend the ceremony, the appointment of any adult, other than the other applicant, to act as proxy for the purpose of participating in the ceremony.

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

Amended by:

Acts 2005, 79th Leg., Ch. 268, Sec. 4.07, eff. September 1, 2005.

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 16 years of age and has not been granted a court order as provided by Section 2.103;

(4) is 16 years of age or older but under 18 years of

age and has not presented at least one of the following:

(A) parental consent as provided by Section 2.102;

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

(C) a court order as provided by Section 2.103;

(5) 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

(6) indicates that the applicant has been divorced by a decree of a court of this state 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 printed materials about acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) and note on the license that the distribution was made; and

(5) distribute to each applicant a premarital education handbook provided by the attorney general under Section 2.014.

(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."

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, Sec. 4.08, eff. September 1,

2005.

Sec. 2.010. AIDS INFORMATION. Materials providing information about acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) shall be prepared and provided to the clerk by the Texas Department of Health and shall be designed to inform the applicants 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.

Sec. 2.011. RECORDING. The county clerk shall record all licenses issued by the clerk and all documents submitted with an application for a license or note a summary of the documents on the application.

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

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, 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 and distribution 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) shall be distributed to each applicant for a marriage license as provided by Section 2.009(c)(5) and shall contain information on:

(1) conflict management;

- (2) communication skills;
- (3) children and parenting responsibilities; and
- (4) financial responsibilities.

(d) The attorney general shall appoint an advisory committee to assist in the development of the premarital education handbook.

The advisory committee shall consist of nine members, including at least three members who are eligible under Section 2.013(d) to provide a premarital education course. A member of the advisory committee is not entitled to reimbursement of the member's expenses.

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

SUBCHAPTER B. UNDERAGE APPLICANTS

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

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

Sec. 2.102. PARENTAL CONSENT FOR UNDERAGE APPLICANT. (a) If an applicant is 16 years of age or older but under 18 years of age, the county clerk shall issue the license if parental consent is given as provided by this section.

(b) Parental consent must be evidenced by a written

declaration on a form supplied by the county clerk in which the person consents to the marriage and swears that the person is a parent (if there is no person who has the court-ordered right to consent to marriage for the applicant) or a person who has the court-ordered right to consent to marriage for the applicant (whether an individual, authorized agency, or court).

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

(d) If the person giving parental consent resides in another state, the consent may be acknowledged before an officer authorized to issue marriage licenses in that state.

(e) If the person giving parental consent is unable because of illness or incapacity to comply with the provisions of Subsection (c) or (d), the consent may be acknowledged before any officer authorized to take acknowledgments. A consent under this subsection must be accompanied by a physician's affidavit stating that the person giving parental consent is unable to comply because of illness or incapacity.

(f) Parental consent must be given at the time the application for the marriage license is made or not earlier than the 30th day preceding the date the application is made.

(g) A person commits an offense if the person knowingly provides parental consent for an underage applicant under this section and the person is not a parent or a person who has the

court-ordered right to consent to marriage for the applicant. An offense under this subsection is a Class A misdemeanor.

(h) A parent or a person who has the court-ordered right to consent to marriage for the applicant commits an offense if the parent or other person knowingly provides parental consent under this section for an applicant who is younger than 16 years of age or who is presently married to a person other than the person the applicant desires to marry. 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, Sec. 4.09, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 52, Sec. 1, eff. September 1, 2007.

Sec. 2.103. COURT ORDER FOR UNDERAGE APPLICANT. (a) A minor may petition the court in the minor's own name for an order granting permission to marry. In a suit under this section, the trial judge may advance the suit if the best interest of the applicant would be served by an early hearing.

(b) The petition must be filed in the county where a parent resides if a court has not awarded another person the right to consent to marriage for the minor. If a court has awarded another

person the right to consent to marriage for the minor, the petition must be filed in the county where that person resides. If no parent or person who has the court-ordered right to consent to marriage for the minor resides in this state, the petition must be filed in the county where the minor lives.

(c) The petition must include:

(1) a statement of the reasons the minor desires to marry;

(2) a statement of whether each parent is living or is dead;

(3) the name and residence address of each living parent; and

(4) a statement of whether a court has awarded to a person other than a parent of the minor the right to consent to marriage for the minor.

(d) Process shall be served as in other civil cases on each living parent of the minor or on a person who has the court-ordered right to consent to marriage for the minor, as applicable. Citation may be given by publication as in other civil cases, except that notice shall be published one time only.

(e) The court shall appoint an amicus attorney or an attorney ad litem to represent the minor in the proceeding. The court shall specify a fee to be paid by the minor for the services of the amicus attorney or attorney ad litem. The fee shall be collected

in the same manner as other costs of the proceeding.

(f) If after a hearing the court, sitting without a jury, believes marriage to be in the best interest of the minor, the court, by order, shall grant the minor permission to marry.

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

Amended by:

Acts 2005, 79th Leg., Ch. 172, Sec. 12, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 52, Sec. 2, eff. September 1, 2007.

SUBCHAPTER C. CEREMONY AND RETURN OF LICENSE

Sec. 2.201. EXPIRATION OF LICENSE. If a marriage ceremony has not been conducted before the 31st 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.

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; and

(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, or judge or magistrate of a federal court of this state.

(b) For the purposes of this section, 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).

(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, Sec. 4.10, eff. September 1, 2005.

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 unable to appear for the ceremony may assent to marriage by the appearance of a proxy appointed in the affidavit authorized by Subchapter A.

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

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, Sec. 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 327, 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 the application and proof of identity of a person whose marriage is recorded in the records of the county clerk, the county clerk shall issue a duplicate marriage license completed with information as contained in the records.

(b) On the application and proof of identity of both persons to whom a marriage license was issued but not recorded as required by Section 2.208, the county clerk shall issue a duplicate license

if each person applying submits to the clerk an affidavit stating:

(1) that the persons to whom the original license was issued were married to each other before the expiration date of the original license by a person authorized to conduct a marriage ceremony;

(2) the name of the person who conducted the ceremony;
and

(3) the date of the ceremony.

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

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, 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, 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, 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 certified copy of the party's birth certificate or by some certificate, license, or document issued by this state or another state, the United States, or a foreign government.

(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, Sec. 4.14, eff. September 1, 2005.

Sec. 2.404. RECORDING OF 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.

(b) The county clerk may not certify or record the 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 and all documents submitted with the declaration or note a summary of them on the declaration form, deliver the original of the declaration to the parties, and send a copy to the bureau of vital statistics.

(d) A declaration 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.

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.

OUTLINE OF PRACTICAL PRIMER FOR MARRIAGE CEREMONIES

I. Passage of Marriage Bill

- A. 30 years of effort finally pays off!
 - a. Municipal Judges in Texas can now perform weddings

II. What to do to get married

A. Familiarize yourself with Chapter 2 of Family Code.

(The Marriage Relationship)

- a. Man and woman only — No same sex marriages (yet)
- b. Must obtain marriage license from County Clerk of Any County in this state

B. Best and easier advice—

When they call, refer them to county clerk to obtain marriage license- and let County Clerk answer their questions.

- a. Must apply for license
- b. Clerk has application form
- c. Minors under 18 yrs old must have parental consent
- d. Providing false information is a class C misdemeanor, unless false information concerns bigamy or incest issue – then Class A misdemeanor.
- e. Provisions for absent applicant also, and need to obtain affidavit. (again, let clerk to it!)
- f. If clerk violates or fails to do it – it's a \$200 - \$500 fine.

C. Premarital Education (Fam. 2.013)

- a. Have to pay for course but get break on license fee. (Check with your County Clerk.

D. Marriage Ceremony has to be conducted on or before 31 days of issuance, or license expires and not less than 3 days immediately following issuance of license unless waived.

- a. If you conduct marriage after license expired you may get to pay a \$200 – 500 fine.
- b. A municipal Court Judge cannot waive 3 day waiting period –only certain judges can (see Fam. 2.204C)

E. Criminal Offenses and other unpleasant surprises

- a. If you discriminate because of race, religion, or national origin – The State Commission on Judicial Conduct may recommend you be removed from office.
- b. Have 30 days after ceremony to return license to County Clerk who issued it – if you don't -- \$200 - \$500 fine!
- c. Any person is not authorized to conduct marriage commits a Class A misdemeanor.
- d. If you conduct marriage after license expires - \$200 - \$500 fine.
- e. If knowingly conduct marriage ceremony of a minor who is prohibited from marrying or a Bigamist – 3rd Degree felony (Fam. 2.202 D)
- f. Marriage is still valid even if person is unauthorized to perform it. (Maybe –see Fam. 2.302)
- g. Still want to do 'em? If so continue on.

III. Fun and Frustration

A. How to have some fun and avoid some frustration.

1. When --- Find Out!!

- a. Date – can you do it on that date – or do you even want to?
- b. Time – good or bad.
 - 1. New Years Eve at Midnight
 - 2. 3 a.m. in a Wal-Mart parking lot.
- c. Where – at the local Country Club – a back yard – in a Hot Air Balloon.

IV. Civil vs. Religious

A. They called you because they probably want a Civil Ceremony

- a. Don't turn it into a Religious one.
- b. If they want someone or you to read Bible verses or say a prayer or give a blessing – let them or you do it at their suggestion.

V. The Big Day

A. Now What?

1. The ceremony – what to say—

- a. Think about it before hand—
- b. Prepare what you're going to say.
- c. Score some vows – “Beg, Borrow, Steal”
Make your own.

2. Where do you find them –

- a. Songs/Music/Bookstores/Poems/Literature/Internet/
From a friend.

3. Vows

- a. They may write & recite their own –
- b. Use yours
- c. Repeating is bad idea
- d. Use “Obey” in vows – not good idea either anymore.

VI. Types of Weddings

- a. Exotic places
- b. Already Married
- c. Bride may be pregnant already

- d. Children of previous relationship
- e. Mixed racial or religious couples

II. Specialty Wedding Ceremonies

- a. Unity Candle
 - b. Lasso or Ropes
 - c. Coins
 - d. Breaking Glass
 - e. Mixing Sand
 - f. Elvis/Clown Wedding
- (Check Internet to find these and more)

VIII. Delays and Distractions

A. You'll have'em so come prepared---

1. People showing up late
2. Forgot Bouquet or rings
3. Mother-in-law/Bride Mad
4. Babies/Brides Crying
5. Cell phones going off.
6. Bells ringing – trains blowing—birds singing

'X. Rehearsal/Reception

A. Do you really want to go?

- a. Wedding of friends or family – maybe
- b. Strangers – maybe not.

X. How to have more fun & less frustration

A. Get Paid!

1. How – in advance or you'll be doing a lot of free weddings.
2. Do them for free as a judicial service
3. Figure in all I've told you so far and about 2 – 3 hours getting ready – getting there – and getting back to calculate what a reasonable fee for the service you are performing.
4. Ask around and see what the going rate is in your area.

XI. Conclusion

A. Good Luck! And don't say I didn't warn you.

Judge Odell Holmes
 Municipal Court of Appeals for
 The City of El Paso, Texas

TEST QUESTIONS

DESIGNED TO PASS – EVEN BETTER “NO GRADES”

- 1. IF PERFORMING A WEDDING NOT AUTHORIZED TO DO ---**
- 2. IF PERFORMING A WEDDING AFTER LICENSE EXPIRED --**
- 3. IF FAIL TO RETURN LICENSE AFTER WEDDING WITHIN 30 DAYS—**
- 4. IF DISCRIMINATE ON BASES OF RACE – RELIGION – NATIONAL ORIGIN --**

ETHICS ISSUES

- 1. INTERRUPT COURT PROCEEDINGS TO DO WEDDING –**
- 2. USE COURTROOM FACILITES TO CONDUCT WEDDINGS**
- 3. USING CT. PERSONEL TO SCHEDULE WEDDINGS**
- 4. USING COURT PERSONNEL TO COLLECT MONEY—**
- 5. CUTTING DEALS – FLOWER SHOP/JUDGE**
- 6. ADVERTISING - PAMPHLET**

YOU START MAKING SO MUCH MONEY DOING WEDDINGS ON WEEKENDS - YOU DECIDE TO GIVE UP YOUR "DAY JOB" AND RETIRE AND JUST DO WEDDINGS -

YOU WANT TO BUILD YOUR WEDDING PRACTICE - SO YOU PRODUCE A REAL NICE PAMPHLET WHICH ADVERTISES YOUR SERVICES AND PUT IT IN FRONT OF YOUR BENCH. "NOW NOT ONLY DOING JUSTICE BUT NOW CAN DO WEDDINGS TOO?"

GROOM TELLS YOU HE HATES TO BE GETTING MARRIED AT 16 - BUT HIS GIRLFRIEND IS PREGNANT AND EVEN THOUGH HE COULDN'T GET HIS PARENTS CONSENT - THEY WERE ABLE TO GET A MARRIAGE LICENSE IN LAS VEGAS AND WANT TO GET MARRIED AND THEY ARE SO HAPPY THEY FOUND YOU BECAUSE THEY KNOW YOU'LL MARRY THEM.

YOU ARE ABOUT TO PERFORM THE WEDDING AND THE "BEST MAN" TELLS YOU HOW HAPPY HE IS THAT THE BRIDE AND GROOM HAVE BEEN COUSINS ALL THEIR LIVES AND NOW THEY ARE ABOUT TO BE HUSBAND AND WIFE. NOW WHAT DO YOU DO?

IF YOU MARRY THEM-----

ABOUT TO DO WEDDING AND GROOM TELLS YOU HIS DIVORCE WILL BE FINAL NEXT WEEK - SO THERE IS NO PROBLEM GOING AHEAD

WITH CEREMONY BECAUSE NO ONE KNOWS ABOUT THIS ANYWAY –

**THE WEDDING COUPLE DOESN'T PAY YOU, SO YOU DECIDE YOU
WON'T FILE LICENSE UNTIL THEY DO – DON'T FILE IT UNTIL AFTER 30
DAYS –**

**DO A WEDDING – THEY MAKE YOU WAIT FOR 1 ½ HOUR UNTIL UPSET
MOTHER-IN-LAW SHOWS UP AND THEN AFTER CEREMONY – BRIDE
AND GROOM TELL YOU THEY WERE VERY UNHAPPY WITH YOUR
CEREMONY – PARTICULARLY BECAUSE YOU USED THE WORD “OBEY”
IN VOWS. THE NEXT WEEK, THE BRIDE IS IN YOUR COURT ON A
SPEEDING TICKET.**

Wedding Vows

IT'S GREAT TO LOVE/ BUT BETTER YET TO BE LOVED/ BECAUSE THE ONE WHO LOVES YOU IS WITH YOU WHEN YOU ARE HAPPY/ BUT ALSO WHEN YOU ARE SAD/ WITH YOU WHEN YOU SUCCEED/ BUT EVEN MORE IMPORTANTLY WHEN YOU FAIL/ WITH YOU WHEN YOU WANT THEM TO BE/ BUT MOST IMPORTANTLY WHEN YOU NEED THEM TO BE.

ON THIS OCCASION WHEN YOU ARE CELEBRATING THE COMMITMENT THAT EACH YOU ARE MAKING TO ONE ANOTHER IN THE NAME OF LOVE/ IN THE PRESENCE OF YOUR FRIENDS AND FAMILY, I KNOW THAT DEEP WITHIN YOUR HEARTS AND SOULS/ YOU WANT A RELATIONSHIP THAT WILL LAST FOREVER

THE VOWS THAT YOU ARE ABOUT TO EXCHANGE SPEAK TO SUCH A TIME PERIOD

AND WHAT IS THE SECRET FOR A LONG LASTING REALTIONSHIP

I BELIEVE THAT SECRET IS FRIENDSHIP/ I BELIEVE THAT LOVE IS FOUNDED ON FRIENDSHIP AND LOVE SPRINGS FROM THE FOUNTAIN OF FRIENDSHIP.

REMEMBER THAT IF YOU ARE FRIENDS FIRST, YOU WILL ALWAYS, ALWAYS BE LOVERS/

TODAY IS A GREAT AND JOYOUS DAY FOR BOTH OF YOU AND AS YOU WALK ALONG LIFE'S PATHWAYS, YOU WILL HAVE MANY SUCH OCCASSIONS TO CELEBRATE/

I CAN ALSO TELL YOU THAT THE STORMS OF LIFE CAN TOSS YOU ABOUT/ AND THAT IS WHEN YOU NEED TO BE IN YOUR BEST FRIENDS ARMS/ TO FIND THE COMFORT AND STRENGTH THAT ONLY YOUR BEST FRIEND CAN GIVE YOU/ DURING THOSE MOST DIFFICULT TIMES./

YOU CAME HERE TODAY AS TWO INDIVIDUALS,/ BUT YOU SHALL LEAVE AS ONE/

UNITED IN LOVE, UNITED IN FRIENDSHIP, AND UNITED IN MARRIAGE./

YOU KNOW IT WOULD NOT SURPRISE ME/ THAT BEFORE TODAY/ YOU HAVE TOLD EACH OTHER THAT YOU LOVE ONE ANOTHER/ BUT TODAY YOU SAY IT AGAIN, BUT SO VERY DIFFERENTLY./

BECAUSE TODAY YOU TELL ONE ANOTHER/ THAT YOU LOVE EACH OTHER/ AND THAT YOU ALWAYS, ALWAYS WILL.

NOT ONLY LOVE EACH OTHER BUT LEARN TO ADORE EACH OTHER FOR LOVE IS OF THE HEART BUT ADORATION IS OF THE SPIRIT AND THE SOUL, AND TOGETHER THEY BIND YOUR HOPES, DREAMS AND LIVES TOGETHER

LET ME ALSO REMIND YOU THAT YOU SHOULD NEVER TAKE YOUR LOVE FOR GRANTED.

ALWAYS REMEMBER THAT YOUR LOVE IS A LIVING RELATIONSHIP/ AND LIKE ALL LIVING THINGS IT REQUIRES YOUR CONSTANT CARE, ATTENTION, AND NURTURING FOR IT TO GROW.

LET ME SHARE WITH YOU THE BEAUTIFUL WORDS WRITTEN BY A POET WHO SPOKE OF LOVE AND MARRIAGE

HE SAID:

LOVE ONE ANOTHER/ BUT MAKE NOT A BOND OF LOVE/ LET IT
 RATHER BE A MOVING SEA BETWEEN THE SHORES OF YOUR SOULS/ FILL
 EACH OTHERS CUP BUT DRINK NOT FROM ONE CUP/ AND GIVE ONE ANOTHER
 OF YOUR BREAD/ BUT EAT NOT FROM THE SAME LOAF/

SING AND DANCE TOGETHER AND BE JOYOUS/ BUT LET EACH ONE OF
 YOU BE ALONE/ EVEN AS THE STRINGS OF THE LUTE ARE ALONE/ THOUGH
 THEY QUIVER WITH THE SAME MUSIC/

THOSE ELEGANT WORDS TELL YOU TO GROW TOGETHER/ BUT LET EACH
 ONE OF YOU/ HAVE ROOM TO GROW.

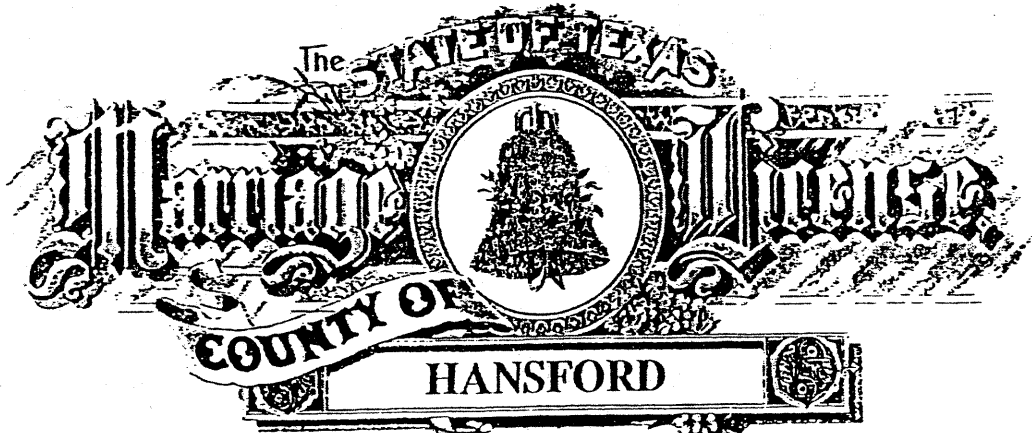
(HERE YOU HAVE THE COUPLE EXCHANGE RINGS AND VOWS)

DO YOU H TAKE W TO BE YOUR LAWFUL WEDDED WIFE/ COMMITTING
 YOURSELF TO HER HAPPINESS AND TO HER FULFILLMENT/ PROMISEING TO
 LOVE/ TO HONOR/ TO TRUST/ AND TO SERVE HER/ IN SICKNESS AND IN
 HEALTH/ IN GOOD TIMES AND BAD AND TO BE TRUE AND LOYAL TO HER SO
 LONG AS YOU SHALL LIVE.

DO YOU W TAKE H TO BE YOUR LAWFUL WEDDED HUSBAND/ COMMITTING
 YOURSELF TO HIS HAPPINESS AND TO HIS FULFILLMENT/PROMISING TO
 LOVE/ TO HONOR/ TO TRUST/ AND TO SERVE HIM/ IN SICKNESS AND IN
 HEALTH/ IN GOOD TIMES AND BAD/ AND TO BE TRUE AND LOYAL TO HIM
 SO LONG AS YOU SHALL LIVE.

THE VOWS THAT YOU'VE JUST EXCHANGED ARE PROMISES MADE TO
 ONE ANOTHER/ PROMISES MADE IN THE NAME OF LOVE/ BE TRUE TO THOSE
 PROMISES/

AND BY THE AUTHORITY VESTED IN ME BY THE STATE OF TEXAS/ I
HAPPILY PRONOUNCE YOU HUSBAND AND WIFE/ YOU MAY KISS YOUR BRIDE.



To Any Person Authorized by the Laws of the State of Texas
to Celebrate the Rites of Matrimony in the State of Texas

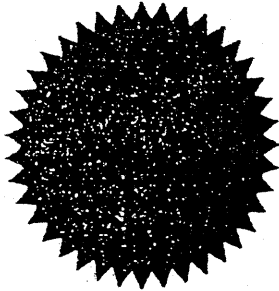
GREETING:

YOU ARE HEREBY AUTHORIZED TO SOLEMNIZE THE



Between Mr. _____
and M. _____

and make due return to the Clerk of the County Court of said County
within Thirty days thereafter, certifying your action under this License



Witness my official signature and seal of office at
office in _____ Spearman _____ Texas, this, the
_____ day of _____ A.D. 20 _____

At _____ O'Clock _____ M.
_____ Clerk County Court
_____ Hansford _____ County, Texas

By _____ Deputy

I hereby certify that on the _____ day of _____ A.D. 20 _____
At _____ O'Clock _____ M. I united in Marriage the parties above named.

Witness my hand this _____ day of _____ A.D. 20 _____

County of Marriage: _____

Signature of person performing ceremony

Type or printed name of person performing ceremony

Title of person performing ceremony

_____ County, Texas

Address of person performing ceremony

Returned and filed for record the _____ day of _____, 20 _____
and recorded the _____ day of _____, 20 _____
in Book _____ Page _____ Marriage Records of _____ Hansford _____ County
By _____ Deputy _____ County Clerk

Marriage License

and

Signed this _____ day of _____ 20__

By _____
Clerk Family Court Deputy

Filed this _____ day of _____ 20__

Clerk Family Court

By _____ Deputy
Recorded in Book _____ Page _____

of Marriage Records

"THE MARRIAGE CEREMONY MAY NOT TAKE PLACE DURING A 72-HOUR PERIOD IMMEDIATELY FOLLOWING THE ISSUANCE OF THE MARRIAGE LICENSE UNLESS AN APPLICANT IS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES AND ON ACTIVE DUTY OR A JUDGE WAIVES THE 72-HOUR WAITING PERIOD FOR GOOD CAUSE. SEE SEC. 2.204, V.T.C.A. FAMILY CODE."

ISSUED THE _____ DAY OF _____ 20__ AT _____ O'CLOCK _____ M.

If a marriage ceremony has not been conducted before the 31st day after the date the license is issued, the marriage license expires.
Sec. 2.201 V.T.C.A. Family Code.

RETURN LICENSE TO

M _____
St. _____
City _____
State _____

Sec. 2.202 Permits 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; and
- (4) a justice of the supreme court, judge of the court of criminal appeals, justice of the court of appeals, judge of the district, county, and probate courts, judge of the county courts at law, judge of the court of domestic relations, judge of the juvenile courts, retired justice or judge of those courts, justice of the peace, retired justice of the peace, or judge or magistrate of a federal court of this state.

(b) For the purposes of this section, 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).

"Information regarding Acquired Immune Deficiency Syndrome and Human Immunodeficiency Virus has been distributed as required by Sec. 2.009(c), V.T.C.A. Family Code and each applicant has been provided with a premarital education handbook provided by the attorney general under Sec. 2.014."