

BILL ANALYSIS

Senate Research Center

S.B. 575
By: Nelson
State Affairs
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As Filed

DIGEST

Currently, Section 1.01, Texas Family Code, prohibits the issuance of a marriage license for persons of the same sex. Section 1.91, Texas Family Code, states that common law marriage will only apply to the marriage of a man and a woman. However, ongoing court action in Hawaii has questioned the definition of marriage. Because of the Full Faith and Credit Clause of the United States Constitution, there is a possibility that same-sex marriages performed in Hawaii or any other state might be valid in Texas. Notwithstanding the Full Faith and Credit Clause, well settled constitutional law dictates that one state may refuse to recognize legal contracts such as marriage executed in another state if the contract does not conform to the public policy of the forum state. S.B. 575 would prevent a law in a sister state which does allow same-sex marriage from overriding well-established Texas law.

PURPOSE

As proposed, S.B. 575 outlines provisions regarding recognition of a same-sex marriage.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2B, Family Code, by adding Section 2.25, as follows:

Sec. 2.25. RECOGNITION OF SAME-SEX MARRIAGE. Prohibits the state from giving effect to a public act, record, or judicial proceeding that recognizes or validates a marriage between persons of the same sex or a right or claim asserted as a result of the marriage.

SECTION 2. Emergency clause.

Effective date: upon passage.