

BILL ANALYSIS

Senate Research Center
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H.B. 869
By: Ashby et al. (Paxton)
Jurisprudence
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Marriage by proxy allows for an individual to stand in for another person while applying for a marriage license. Under certain circumstances, if an individual is unable to appear in person for the application or the ceremony, the individual can sign an affidavit naming another person to represent that individual. According to interested parties, Texas is one of only four states that allows for marriage by proxy.

There is concern that, in its present form, this process allows for potential fraud and abuse. Concerned parties contend that there have been documented cases where individuals have fraudulently acquired a marriage license by proxy without the other person's knowledge, enabling them to receive entitlement benefits. H.B. 869 seeks to address these concerns while preserving the full benefits of marriage by proxy for certain members of the United States military. H.B. 869 still allows a clerk to issue a marriage license to a person on behalf of both absent applicants if one or both absent applicants are members of the military. However, if neither absent applicants are members of the military, then at least one of the people getting married has to appear before the clerk with an absent applicant affidavit for the other in hand to acquire the marriage license.

H.B. 869 amends current law relating to the issuance of a marriage license for an absent applicant, the participation of a proxy in certain marriage ceremonies, and the maintenance and submission of records relating to a marriage license issued for an absent applicant.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2.006(c), Family Code, to prohibit a county clerk, notwithstanding Subsection (a) (relating to authorizing any adult person or the other applicant to apply on behalf of the absent applicant for a marriage license if an applicant is unable to appear personally before the county clerk), from issuing 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, rather than an affidavit of the applicant declaring that the applicant is on active duty as a member of the armed forces of the United States or the state military forces or confined in a correctional facility, as defined by Section 1.07 (Definitions), Penal Code.

SECTION 2. Amends Section 2.007, Family Code, to require that the affidavit of an absent applicant include, in addition to other requirements, 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 member of the armed forces of the United States stationed in another country in support of combat or another military operation and unable to attend the ceremony, rather than 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 will be unable to attend the ceremony.

SECTION 3. Amends Subchapter A, Chapter 2, Family Code, by adding Section 2.0071, as follows:

Sec. 2.0071. MAINTENANCE OF RECORDS BY CLERK RELATING TO LICENSE FOR ABSENT APPLICANT. Requires a county clerk who issues a marriage license for an absent applicant to 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.

SECTION 4. Amends Section 2.203(b), Family Code, to authorize a person, rather than a person unable to appear for the ceremony, to assent to marriage by the appearance of a proxy appointed in the affidavit authorized by Subchapter A if the person is a member of the armed forces of the United States stationed in another country in support of combat or another military operation and unable to attend the ceremony.

SECTION 5. Amends Section 194.001(a), Health and Safety Code, as follows:

(a) Requires the county clerk to file with the bureau of vital statistics a copy of each completed marriage license application and a copy of any affidavit of an absent applicant submitted with an application. Requires the clerk to file the copies, rather than the copy, not later than the 90th day after the date of the application. Prohibits the clerk from collecting a fee for filing the copies, rather than the copy.

SECTION 6. Makes application of Sections 2.006 and 2.007, Family Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2013.