

By: Representative Flaggs

To: Judiciary A

## HOUSE BILL NO. 605

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE COUNSELING BEFORE THE GRANTING OF A MARRIAGE LICENSE; AND  
3 FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 93-1-5, Mississippi Code of 1972, is  
6 amended as follows:

7 93-1-5. It shall be unlawful for the circuit court clerk to  
8 issue a marriage license until the following conditions precedent  
9 have been complied with:

10 (a) Parties desiring a marriage license shall make  
11 application therefor in writing to the clerk of the circuit court  
12 of any county in the State of Mississippi; provided, however, that  
13 if the female applicant shall be under the age of twenty-one (21)  
14 years and shall be a resident of the State of Mississippi, said  
15 application shall be made to the circuit court clerk of the county  
16 of residence of such female applicant. Said application shall be  
17 forthwith filed with the circuit court clerk and shall include the  
18 names, ages and addresses of the parties applying; the names and  
19 addresses of the parents of the parties applying, and if no  
20 parents, then names and addresses of the guardian or next of kin;  
21 the signatures of witnesses; and any other data which may be  
22 required by law or the Mississippi State Board of Health. The  
23 application shall be sworn to by both applicants.

24 (b) The application shall remain on file, open to the  
25 public, in the office of the circuit court clerk for a period of  
26 three (3) days before the clerk is authorized to issue the

27 marriage license. Provided, however, that if satisfactory proof  
28 is furnished to the judge of any circuit, chancery or county court  
29 that sufficient reasons exist, then the judge of any such court in  
30 the judicial district where either of such parties resides if they  
31 be over the age of twenty-one (21) years, or where the female  
32 resides if she be under the age of twenty-one (21), may waive the  
33 three-day waiting period and by written instrument authorize the  
34 clerk of the court to issue the marriage license to the parties if  
35 they are otherwise qualified by law. Authorization shall be a  
36 part of the confidential files of the clerk of the court, subject  
37 to inspection only by written permission of the judge. If either  
38 of the applying parties appears from the evidence to be under  
39 twenty-one (21) years of age, the circuit court clerk, immediately  
40 upon filing the application, shall cause notice of the filing of  
41 said application to be sent by prepaid certified mail to the  
42 father, mother, guardian or next of kin of both applying parties  
43 at the address named in said application.

44 (c) An affidavit showing the age of both applying  
45 parties shall be made by either the father, mother, guardian or  
46 next of kin of each of the contracting parties and filed with the  
47 clerk of the circuit court along with the application; or in lieu  
48 thereof, said both applying parties shall appear in person before  
49 the circuit court clerk and make and subscribe an oath in person,  
50 which said affidavit shall be attached to and noted on the  
51 application for the marriage license. In addition to either of  
52 the previous conditions stated, further proof of age shall be  
53 presented to the circuit court clerk in the form of either a birth  
54 certificate, baptismal record, armed service discharge, armed  
55 service identification card, life insurance policy, insurance  
56 certificate, school record, driver's license, or other official  
57 document evidencing age. Said document substantiating age and  
58 date of birth shall be examined by the circuit court clerk before  
59 whom application is made, and the circuit court clerk shall retain  
60 in his file with the application such document or a certified or  
61 photostatic copy thereof.

62 (d) The clerk shall not issue a marriage license under  
63 the provisions of this section unless the male applicant is at

64 least seventeen (17) years of age, and the female is at least  
65 fifteen (15) years of age; provided, however, that if satisfactory  
66 proof is furnished to the judge of any circuit, chancery or county  
67 court that sufficient reasons exist and that said parties desire  
68 to be married to each other and that the parents or other person  
69 in loco parentis of the person or persons so under age consent  
70 thereto, then the judge of any such court in the county where  
71 either of such parties resides may waive the minimum age  
72 requirement and by written instrument authorize the clerk of the  
73 court to issue the marriage license to the parties if they are  
74 otherwise qualified by law. Authorization shall be a part of the  
75 confidential files of the clerk of the court, subject to  
76 inspection only by written permission of the judge.

77 (e) A medical certificate dated within thirty (30)  
78 days prior to the application shall be presented to the circuit  
79 court clerk showing that the applicant is free from syphilis, as  
80 nearly as can be determined by a blood test performed in a  
81 laboratory approved by the State Board of Health. The medical  
82 certificate may be obtained through the local health department by  
83 the applicant or applicants, or it may be obtained through any  
84 private laboratory approved by the State Board of Health. Said  
85 medical certificate shall be examined by the circuit court clerk  
86 and filed in a permanent file kept by the clerk for this purpose.

87 (f) In no event shall a license be issued by the  
88 circuit court clerk when it appears to the circuit court clerk  
89 that the applicants are, or either of them is, drunk, insane or an  
90 imbecile.

91 (g) An affidavit from both parties seeking a marriage  
92 license which states that the parties have successfully completed  
93 counseling sessions with a licensed counselor or clergyman  
94 regarding marriage. The affidavit shall state that the counselor  
95 or clergyman has determined that both parties understand the  
96 responsibilities and implications of entering into a contract of

97 marriage.

98           Any circuit clerk shall be liable under his official bond  
99 because of noncompliance with the provisions of this section.

100           Any circuit court clerk who issues a marriage license without  
101 complying with the provisions of this section shall be guilty of a  
102 misdemeanor, and upon conviction shall be punished by a fine of  
103 not less than Fifty Dollars (\$50.00) and not more than Five  
104 Hundred Dollars (\$500.00).

105           SECTION 2. This act shall take effect and be in force from  
106 and after July 1, 1999.