

By: Senator(s) Burton (By Request)

To: Judiciary; Public Health and Welfare

SENATE BILL NO. 2022

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE PREMARITAL TEST TO SEARCH FOR HIV; AND FOR RELATED
3 PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF
4 MISSISSIPPI:

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

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

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

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

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

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

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

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

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

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

92 (g) For purposes of this paragraph, (i) "HIV" means
93 Human Immunodeficiency Virus; (ii) "STD" means sexually
94 transmitted disease; (iii) "premarital test" means a blood test
95 required by the State of Mississippi before engaging in marriage;
96 (iv) "RPR" means Rapid Plasma Reagen; and (v) "pathologist" means
97 a person specializing in the branch of medicine dealing with the

98 scientific study of disease and the anatomic or functional
99 manifestations of disease. In order to receive a marriage
100 license, marriage partners must take a premarital test. This test
101 will search for venereal diseases, by way of an RPR and HIV. The
102 cost of the test will be paid by the applicants. Test results
103 having been established, marriage partners will be informed.

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

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

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