

By: Representative Banks

To: Judiciary A

HOUSE BILL NO. 1099

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THAT MARRIAGE APPLICATIONS POST ADVISE TO BE TESTED FOR
3 HIV/AIDS; AND 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 have the following printed upon it in bold 24
24 point print: "It is advisable but not required that the man and
25 woman should have an HIV/AIDS test prior to their marriage." The
26 application shall be sworn to by both applicants.

27 (b) The application shall remain on file, open to the
28 public, in the office of the circuit court clerk for a period of
29 three (3) days before the clerk is authorized to issue the
30 marriage license. Provided, however, that if satisfactory proof
31 is furnished to the judge of any circuit, chancery or county court
32 that sufficient reasons exist, then the judge of any such court in
33 the judicial district where either of such parties resides if they
34 be over the age of twenty-one (21) years, or where the female
35 resides if she be under the age of twenty-one (21), may waive the
36 three-day waiting period and by written instrument authorize the
37 clerk of the court to issue the marriage license to the parties if
38 they are otherwise qualified by law. Authorization shall be a
39 part of the confidential files of the clerk of the court, subject
40 to inspection only by written permission of the judge. If either
41 of the applying parties appears from the evidence to be under
42 twenty-one (21) years of age, the circuit court clerk, immediately
43 upon filing the application, shall cause notice of the filing of
44 said application to be sent by prepaid certified mail to the
45 father, mother, guardian or next of kin of both applying parties
46 at the address named in said application.

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

60 document evidencing age. Said document substantiating age and
61 date of birth shall be examined by the circuit court clerk before
62 whom application is made, and the circuit court clerk shall retain
63 in his file with the application such document or a certified or
64 photostatic copy thereof.

65 (d) The clerk shall not issue a marriage license under
66 the provisions of this section unless the male applicant is at
67 least seventeen (17) years of age, and the female is at least
68 fifteen (15) years of age; provided, however, that if satisfactory
69 proof is furnished to the judge of any circuit, chancery or county
70 court that sufficient reasons exist and that said parties desire
71 to be married to each other and that the parents or other person
72 in loco parentis of the person or persons so under age consent
73 thereto, then the judge of any such court in the county where
74 either of such parties resides may waive the minimum age
75 requirement and by written instrument authorize the clerk of the
76 court to issue the marriage license to the parties if they are
77 otherwise qualified by law. Authorization shall be a part of the
78 confidential files of the clerk of the court, subject to
79 inspection only by written permission of the judge.

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

90 (f) In no event shall a license be issued by the
91 circuit court clerk when it appears to the circuit court clerk

92 that the applicants are, or either of them is, drunk, insane or an
93 imbecile.

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

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

101 SECTION 2. This act shall take effect and be in force from
102 and after July 1, 2001.