

By: Representatives Cummings, Jennings, Mayo To: Judiciary A

HOUSE BILL NO. 766

1 AN ACT TO AMEND SECTION 25-7-13, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE FEE FOR A MARRIAGE LICENSE; TO REVISE THE AMOUNT OF THE
3 FEE DEPOSITED INTO THE VICTIMS OF DOMESTIC VIOLENCE FUND; TO AMEND
4 SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO REMOVE THE WAITING
5 PERIOD AND BLOOD TEST REQUIREMENTS FROM THE CONDITIONS PRECEDENT
6 TO THE ISSUANCE OF A MARRIAGE LICENSE; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 25-7-13, Mississippi Code of 1972, is
9 amended as follows:

10 25-7-13. (1) The clerks of the circuit court shall charge
11 the following fees:

12 (a) Docketing, filing, marking and registering each
13 complaint, petition and indictment..... \$75.00

14 The fee set forth in this paragraph shall be the total fee
15 for all services performed by the clerk up to and including entry
16 of judgment with respect to each complaint, petition or
17 indictment, including all answers, claims, orders, continuances
18 and other papers filed therein, issuing each writ, summons,
19 subpoena or other such instruments, swearing witnesses, taking and
20 recording bonds and pleas, and recording judgments, orders, fiats
21 and certificates; the fee shall be payable upon filing and shall
22 accrue to the clerk at the time of collection. The clerk or his
23 successor in office shall perform all duties set forth above
24 without additional compensation or fee.

25 (b) Docketing and filing each suggestion for a writ of
26 garnishment, suggestion for a writ of execution and judgment
27 debtor actions and issuing all process, filing and recording
28 orders or other papers and swearing witnesses..... \$30.00



29 (2) Except as provided in subsection (1) of this section,
30 the clerks of the circuit court shall charge the following fees:

31 (a) Filing and marking each order or other paper and
32 recording and indexing same..... \$ 2.00

33 (b) Issuing each writ, summons, subpoena, citation,
34 capias and other such instruments..... \$ 1.00

35 (c) Administering an oath and taking bond..... \$ 2.00

36 (d) Certifying copies of filed documents, for each
37 complete document..... \$ 1.00

38 (e) Recording orders, fiats, licenses, certificates,
39 oaths and bonds:

40 First page..... \$ 2.00

41 Each additional page..... \$ 1.00

42 (f) Furnishing copies of any papers of record or on
43 file and entering marginal notations on documents of record:

44 If performed by the clerk or his employee,
45 per page..... \$ 1.00

46 If performed by any other person, per page.. \$.25

47 (g) Judgment roll entry..... \$ 5.00

48 (h) Taxing cost and certificate..... \$ 1.00

49 (i) For taking and recording application for marriage
50 license, for filing and recording consent of parents when required
51 by law, for filing and recording medical certificate, filing and
52 recording proof of age, recording and issuing license, recording
53 and filing returns..... \$30.00

54 The clerk shall deposit Eighteen Dollars (\$18.00) of each fee
55 collected for a marriage license in the Victims of Domestic
56 Violence Fund established in Section 93-21-117, on a monthly
57 basis.

58 (j) For certified copy of marriage license and search
59 of record, the same fee charged by the Bureau of Vital Statistics
60 of the State Board of Health.



61 (k) For public service not particularly provided for,
62 the circuit court may allow the clerk, per annum, to be paid by
63 the county on presentation of the circuit court's order, the
64 following amount..... \$5,000.00

65 However, in the counties having two (2) judicial districts,
66 such above allowance shall be made for each judicial district.

67 (l) For drawing jurors and issuing venire, to be paid
68 by the county..... \$ 5.00

69 (m) For each day's attendance upon the circuit court
70 term, for himself and necessary deputies allowed by the court,
71 each to be paid by the county..... \$30.00

72 (n) Summons, each juror to be paid by the county upon
73 the allowance of the court..... \$ 1.00

74 (o) For issuing each grand jury subpoena, to be paid by
75 the county on allowance by the court, not to exceed Twenty-five
76 Dollars (\$25.00) in any one (1) term of court..... \$ 1.00

77 (3) On order of the court, clerks and deputies may be
78 allowed five (5) extra days for attendance upon the court to get
79 up records.

80 (4) The clerk's fees in state cases where the state fails in
81 the prosecution, or in cases of felony where the defendant is
82 convicted and the cost cannot be made out of his estate, in an
83 amount not to exceed Four Hundred Dollars (\$400.00) in one (1)
84 year, shall be paid out of the county treasury on approval of the
85 circuit court, and the allowance thereof by the board of
86 supervisors of the county. In counties having two (2) judicial
87 districts, such allowance shall be made in each judicial district;
88 however, the maximum thereof shall not exceed Eight Hundred
89 Dollars (\$800.00). Clerks in the circuit court, in cases where
90 appeals are taken in criminal cases and no appeal bond is filed,
91 shall be allowed by the board of supervisors of the county after
92 approval of their accounts by the circuit court, in addition to



93 the above fees, for making such transcript the rate of Two Dollars
94 (\$2.00) per page.

95 (5) The clerk of the circuit court may retain as his
96 commission on all money coming into his hands, by law or order of
97 the court, a sum to be fixed by the court not exceeding one-half
98 of one percent (1/2 of 1%) on all such sums.

99 (6) For making final records required by law, including, but
100 not limited to, circuit and county court minutes, and furnishing
101 transcripts of records, the circuit clerk shall charge Two Dollars
102 (\$2.00) per page. The same fees shall be allowed to all officers
103 for making and certifying copies of records or papers which they
104 are authorized to copy and certify.

105 (7) The circuit clerk shall prepare an itemized statement of
106 fees for services performed, cost incurred, or for furnishing
107 copies of any papers of record or on file, and shall submit the
108 statement to the parties or, if represented, to their attorneys
109 within sixty (60) days. A bill for same shall accompany the
110 statement.

111 **SECTION 2.** Section 93-1-5, Mississippi Code of 1972, is
112 amended as follows:

113 93-1-5. It shall be unlawful for the circuit court clerk to
114 issue a marriage license until the following conditions precedent
115 have been complied with:

116 (a) Parties desiring a marriage license shall make
117 application therefor in writing to the clerk of the circuit court
118 of any county in the State of Mississippi; provided, however, that
119 if the female applicant shall be under the age of twenty-one (21)
120 years and shall be a resident of the State of Mississippi, said
121 application shall be made to the circuit court clerk of the county
122 of residence of such female applicant. Said application shall be
123 forthwith filed with the circuit court clerk and shall include the
124 names, ages and addresses of the parties applying; the names and
125 addresses of the parents of the parties applying, and if no



126 parents, then names and addresses of the guardian or next of kin;
127 the signatures of witnesses; and any other data which may be
128 required by law or the Mississippi State Board of Health. The
129 application shall be sworn to by both applicants.

130 * * *

131 (b) An affidavit showing the age of both applying
132 parties shall be made by either the father, mother, guardian or
133 next of kin of each of the contracting parties and filed with the
134 clerk of the circuit court along with the application; or in lieu
135 thereof, said both applying parties shall appear in person before
136 the circuit court clerk and make and subscribe an oath in person,
137 which said affidavit shall be attached to and noted on the
138 application for the marriage license. In addition to either of
139 the previous conditions stated, further proof of age shall be
140 presented to the circuit court clerk in the form of either a birth
141 certificate, baptismal record, armed service discharge, armed
142 service identification card, life insurance policy, insurance
143 certificate, school record, driver's license, or other official
144 document evidencing age. Said document substantiating age and
145 date of birth shall be examined by the circuit court clerk before
146 whom application is made, and the circuit court clerk shall retain
147 in his file with the application such document or a certified or
148 photostatic copy thereof.

149 (c) The clerk shall not issue a marriage license under
150 the provisions of this section unless the male applicant is at
151 least seventeen (17) years of age, and the female is at least
152 fifteen (15) years of age; provided, however, that if satisfactory
153 proof is furnished to the judge of any circuit, chancery or county
154 court that sufficient reasons exist and that said parties desire
155 to be married to each other and that the parents or other person
156 in loco parentis of the person or persons so under age consent
157 thereto, then the judge of any such court in the county where
158 either of such parties resides may waive the minimum age



159 requirement and by written instrument authorize the clerk of the
160 court to issue the marriage license to the parties if they are
161 otherwise qualified by law. Authorization shall be a part of the
162 confidential files of the clerk of the court, subject to
163 inspection only by written permission of the judge.

164 * * *

165 (d) In no event shall a license be issued by the
166 circuit court clerk when it appears to the circuit court clerk
167 that the applicants are, or either of them is, drunk, insane or an
168 imbecile.

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

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

176 **SECTION 3.** This act shall take effect and be in force from
177 and after July 1, 2002.

