

By: Senator(s) Furniss

To: Judiciary

SENATE BILL NO. 2424

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO
2 ELIMINATE THE THREE-DAY WAITING PERIOD TO SECURE A MARRIAGE
3 LICENSE FOR THOSE WHO HAVE REACHED THE AGE OF MAJORITY; TO AMEND
4 SECTION 93-1-7, MISSISSIPPI CODE OF 1972, TO ELIMINATE THE RIGHT
5 OF PROTEST DURING THE THREE-DAY WAITING PERIOD FOR LICENSES NOT
6 REQUIRING A WAITING PERIOD; AND FOR RELATED PURPOSES.

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

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

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

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

27 (b) If either of the applicants appears from the
28 evidence to be under twenty-one (21) years of age, the application
29 shall remain on file, open to the public, in the office of the



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

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



63 whom application is made, and the circuit court clerk shall retain
64 in his file with the application such document or a certified or
65 photostatic copy thereof.

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

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

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



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

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

102 **SECTION 2.** Section 93-1-7, Mississippi Code of 1972, is
103 amended as follows:

104 93-1-7. Any interested party shall have the right to contest
105 the issuance of a marriage license, in case either of the
106 applicants is a minor, provided such party files a written protest
107 in the circuit or chancery court of the county wherein the license
108 is being sought, naming as parties the circuit court clerk of such
109 county and the parties to the application. Upon the filing of
110 such written protest, a summons shall be forthwith issued thereon
111 for the parties defendant, except that in the case of the filing
112 thereof in the circuit court, it shall not be necessary to issue a
113 summons for the circuit clerk. No license shall be issued
114 subsequent to the filing of such protest in the circuit court or
115 the service of a summons issued by the chancery court upon the
116 circuit clerk or any of his deputies, except as herein provided.
117 Such protest may be heard upon three (3) days' notice to the
118 parties defendant by the circuit judge or chancellor in termtime
119 or in vacation. If the circuit judge or chancellor shall find
120 that there is a legal impediment to the consummation of such
121 marriage, or * * * that the parties applicant are not of mature
122 discretion or are not capable of assuming the responsibilities of
123 marriage, then he shall enter an order prohibiting the issuance of
124 such license. No marriage license shall be issued to either
125 applicant in any county in this state within one (1) year of the
126 rendition of such order unless such legal impediment has been



127 removed, or, in the case of a minor, without the permission first
128 obtained from the court rendering such order.

129 If the judge or chancellor shall not make such a finding as
130 hereinabove set forth, then such action shall be dismissed at the
131 cost of the protestant and the clerk shall forthwith issue the
132 license as applied for. The party protesting shall file a cost
133 bond in the sum of Fifty Dollars (\$50.00) with good and sufficient
134 sureties, to be approved by the clerk of the court in which filed,
135 conditioned as in other civil cases.

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

