

By: Representative Chism

To: Judiciary A

HOUSE BILL NO. 419

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO
2 REVISE AGE AFFIDAVIT REQUIREMENTS FOR A MINOR TO RECEIVE A
3 MARRIAGE LICENSE; 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 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 * * * the father and the mother, if both
46 are living and have custody or by the guardian or next of kin of
47 each of the contracting parties and filed with the clerk of the
48 circuit court along with the application; or in lieu thereof, said
49 both applying parties shall appear in person before the circuit
50 court clerk and make and subscribe an oath in person, which said
51 affidavit shall be attached to and noted on the application for
52 the marriage license. In addition to either of the previous
53 conditions stated, further proof of age shall be presented to the
54 circuit court clerk in the form of either a birth certificate,
55 baptismal record, armed service discharge, armed service
56 identification card, life insurance policy, insurance certificate,
57 school record, driver's license, or other official document
58 evidencing age. Said document substantiating age and date of
59 birth shall be examined by the circuit court clerk before whom
60 application is made, and the circuit court clerk shall retain in



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



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

99 **SECTION 2.** This act shall take effect and be in force from
100 and after July 1, 2003.

