

By: Representative Cummings

To: Judiciary A

HOUSE BILL NO. 807

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE WAITING PERIOD AND DELETE BLOOD TEST REQUIREMENTS FROM
3 THE CONDITIONS PRECEDENT TO THE ISSUANCE OF A MARRIAGE LICENSE;
4 AND FOR RELATED PURPOSES.

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

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. The application
25 may be taken by telephone, facsimile, e-mail or in person.

26 (b) The application shall remain on file, open to the
27 public, in the office of the circuit court clerk until the next



28 business day before the clerk is authorized to issue the marriage
29 license. * * *

30 (c) An affidavit showing the age of both applying
31 parties shall be made by either the father, mother, guardian or
32 next of kin of each of the contracting parties and filed with the
33 clerk of the circuit court along with the application; or in lieu
34 thereof, said both applying parties shall appear in person before
35 the circuit court clerk and make and subscribe an oath in person,
36 which said affidavit shall be attached to and noted on the
37 application for the marriage license. In addition to either of
38 the previous conditions stated, further proof of age shall be
39 presented to the circuit court clerk in the form of either a birth
40 certificate, baptismal record, armed service discharge, armed
41 service identification card, life insurance policy, insurance
42 certificate, school record, driver's license, or other official
43 document evidencing age. Said document substantiating age and
44 date of birth shall be examined by the circuit court clerk before
45 whom application is made, and the circuit court clerk shall retain
46 in his file with the application such document or a certified or
47 photostatic copy thereof.

48 (d) The clerk shall not issue a marriage license under
49 the provisions of this section unless the male applicant is at
50 least seventeen (17) years of age, and the female is at least
51 fifteen (15) years of age; provided, however, that if satisfactory
52 proof is furnished to the judge of any circuit, chancery or county
53 court that sufficient reasons exist and that said parties desire
54 to be married to each other and that the parents or other person
55 in loco parentis of the person or persons so under age consent
56 thereto, then the judge of any such court in the county where
57 either of such parties resides may waive the minimum age
58 requirement and by written instrument authorize the clerk of the
59 court to issue the marriage license to the parties if they are
60 otherwise qualified by law. Authorization shall be a part of the



61 confidential files of the clerk of the court, subject to
62 inspection only by written permission of the judge.

63 * * *

64 (e) In no event shall a license be issued by the
65 circuit court clerk when it appears to the circuit court clerk
66 that the applicants are, or either of them is, drunk, insane or an
67 imbecile.

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

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

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

