

By: Representative Cummings

To: Judiciary A

HOUSE BILL NO. 928

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO
2 REVISE CONDITIONS PRECEDENT TO THE ISSUANCE OF A MARRIAGE LICENSE;
3 TO REPEAL SECTION 93-1-7, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
4 FOR PROTEST AGAINST ISSUANCE OF A MARRIAGE LICENSE; AND FOR
5 RELATED PURPOSES.

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

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

9 93-1-5. It shall be unlawful for the circuit court clerk to
10 issue a marriage license until the following conditions precedent
11 have been complied with:

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

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. Provided, however, that if satisfactory proof is
30 furnished to the judge of any circuit, chancery or county court
31 that sufficient reasons exist, then the judge of any such court in
32 the judicial district where either of such parties resides if they
33 be over the age of eighteen (18) years * * * may waive the one-day
34 waiting period and by written instrument authorize the clerk of
35 the court to issue the marriage license to the parties if they are
36 otherwise qualified by law. Authorization shall be a part of the
37 confidential files of the clerk of the court, subject to
38 inspection only by written permission of the judge. If either of
39 the applying parties appears from the evidence to be under
40 eighteen (18) years of age, the circuit court clerk must require
41 the consent of the mother or father or guardian of such minor to
42 the marriage, to be given either personally or in writing, and, if
43 the latter, the execution thereof must be proved. In the event
44 the parents are divorced, consent of the parent with whom the
45 minor is residing in accordance with an existing custody order is
46 required.

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 for a period of one (1) year.
65 Documentation presented to the circuit clerk as proof of age must
66 be in an acceptable format that can be understood by the clerk.
67 In the cases where an interpreter must be retained, the cost of
68 the interpreter will be borne by the applicants. In lieu of a
69 personal appearance by an interpreter, a notarized statement may
70 be provided to the circuit clerk.

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

86 * * *

87 (e) In no event shall a license be issued by the
88 circuit court clerk when it appears to the circuit court clerk
89 that the applicants are, or either of them is, drunk. If a person
90 appears to the circuit clerk to be either insane or an imbecile,
91 the clerk shall inquire of the father, mother, guardian or next of
92 kin of each of the contracting parties as to the applicants
93 condition and upon this verification of fact, the clerk will make
94 the decision as to the issuance of the license. If a verification

95 of applicant's mental status cannot be obtained, a license shall
96 not be issued.

97 (f) Any license issued under the provisions of this
98 section shall be invalid if the marriage for which it was issued
99 has not been solemnized within sixty (60) days from the date of
100 issuance. No person now or hereafter authorized by law to
101 solemnize marriages shall perform any ceremony or solemnize any
102 marriage if the license issued for such marriage has become
103 invalid. Said license shall be stamped or printed upon it the
104 words: "This license is void after sixty (60) days unless the
105 marriage is solemnized within said time."

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

108 Any circuit court clerk who issues a marriage license without
109 complying with the provisions of this section shall be guilty of a
110 misdemeanor, and upon conviction shall be punished by a fine of
111 not less than fifty dollars (\$50.00) and not more than five
112 hundred dollars (\$500.00).

113 **SECTION 2.** Section 93-1-7, Mississippi Code of 1972, which
114 provides for protest against issuance of a marriage license, is
115 repealed.

116 **SECTION 3.** This act shall take effect and be in force from
117 and after July 1, 2004.