

By: Representatives Cummings, Peranich,
Coleman (29th), Miles, Montgomery, Ward

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 886

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 twenty-one (21)
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 circuit court clerk shall issue the
27 marriage license at the time the application is submitted. If
28 either of the applying parties appears from the evidence to be

29 under twenty-one (21) years of age, the circuit court clerk must
30 require the consent of the mother or father or guardian of such
31 minor to the marriage, to be given either personally or in
32 writing, and, if the latter, the execution thereof must be proved.
33 In the event the parents are divorced or never married, consent of
34 the parent or legal guardian having legal custody in accordance
35 with an existing custody order is required.

36 (c) An affidavit showing the age of both applying
37 parties shall be made by either the father, mother, guardian or
38 next of kin of each of the contracting parties and filed with the
39 clerk of the circuit court along with the application; or in lieu
40 thereof, said both applying parties shall appear in person before
41 the circuit court clerk and make and subscribe an oath in person,
42 which said affidavit shall be attached to and noted on the
43 application for the marriage license. In addition to either of
44 the previous conditions stated, further proof of age shall be
45 presented to the circuit court clerk in the form of either a birth
46 certificate, baptismal record, armed service discharge, armed
47 service identification card, life insurance policy, insurance
48 certificate, school record, driver's license, or other official
49 document evidencing age. Said document substantiating age and
50 date of birth shall be examined by the circuit court clerk before
51 whom application is made, and the circuit court clerk shall retain
52 in his file with the application such document or a certified or
53 photostatic copy thereof for a period of one (1) year.

54 Documentation presented to the circuit clerk as proof of age must
55 be in an acceptable format that can be understood by the clerk.
56 In the cases where an interpreter must be retained, the cost of
57 the interpreter will be borne by the applicants. In lieu of a
58 personal appearance by an interpreter, a notarized statement may
59 be provided to the circuit clerk.

60 (d) The clerk shall not issue a marriage license under
61 the provisions of this section unless the male applicant is at

62 least seventeen (17) years of age, and the female is at least
63 fifteen (15) years of age; provided, however, that if satisfactory
64 proof is furnished to the judge of any circuit, chancery or county
65 court that sufficient reasons exist and that said parties desire
66 to be married to each other and that the parents or other person
67 in loco parentis of the person or persons so under age consent
68 thereto, then the judge of any such court in the county where
69 either of such parties resides may waive the minimum age
70 requirement and by written instrument authorize the clerk of the
71 court to issue the marriage license to the parties if they are
72 otherwise qualified by law. Authorization shall be a part of the
73 confidential files of the clerk of the court, subject to
74 inspection only by written permission of the judge.

75 * * *

76 (e) In no event shall a license be issued by the
77 circuit court clerk when it appears to the circuit court clerk
78 that the applicants are, or either of them is, drunk. If a person
79 appears to the circuit clerk to be either insane or an imbecile,
80 the clerk shall inquire of the father, mother, guardian or next of
81 kin of each of the contracting parties as to the applicants
82 condition and upon this verification of fact, the clerk will make
83 the decision as to the issuance of the license. If a verification
84 of applicant's mental status cannot be obtained, a license shall
85 not be issued.

86 (f) Any license issued under the provisions of this
87 section shall be invalid if the marriage for which it was issued
88 has not been solemnized within sixty (60) days from the date of
89 issuance. No person now or hereafter authorized by law to
90 solemnize marriages shall perform any ceremony or solemnize any
91 marriage if the license issued for such marriage has become
92 invalid. Said license shall be stamped or printed upon it the
93 words: "This license is void after sixty (60) days unless the
94 marriage is solemnized within said time."

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, which
103 provides for protest against issuance of a marriage license, is
104 repealed.

105 **SECTION 3.** This act shall take effect and be in force from
106 and after July 1, 2005.