

By: Representative Banks

To: Judiciary A

HOUSE BILL NO. 61

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT IF EITHER OF THE PARTIES APPLYING FOR A MARRIAGE
 3 LICENSE HAS BEEN MARRIED PREVIOUSLY AND THE FORMER SPOUSE OF THE
 4 PARTY IS STILL LIVING OR IT IS UNKNOWN WHETHER THE FORMER SPOUSE
 5 IS STILL LIVING, THE APPLICANT MUST PROVIDE A CERTIFIED COPY OF
 6 THE DECREE OF DIVORCE OR ANNULMENT OF THE PARTY ALONG WITH THE
 7 APPLICATION; AND FOR RELATED PURPOSES.

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

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

11 93-1-5. (1) Every male who is at least seventeen (17) years
 12 old and every female who is at least fifteen (15) years old shall
 13 be capable in law of contracting marriage. However, males and
 14 females under the age of twenty-one (21) years must furnish the
 15 circuit clerk satisfactory evidence of consent to the marriage by
 16 the parents or guardians of the parties. It shall be unlawful for
 17 the circuit court clerk to issue a marriage license until the
 18 following conditions precedent have been complied with:

19 (a) Application for the license is to be made in
 20 writing to the clerk of the circuit court of any county in the



21 State of Mississippi. If either of the parties has been married
22 previously and the former spouse or spouses of the party are still
23 living or it is unknown whether the former spouse or spouses are
24 still living, the applicant must provide a certified copy of the
25 decree or decrees of divorce or annulment along with the
26 application. The application shall be sworn to by both applicants
27 and shall include:

28 (i) The names, ages and addresses of the parties
29 applying;

30 (ii) The names and addresses of the parents of the
31 applicants, and, for applicants under the age of twenty-one (21),
32 if no parents, then names and addresses of the guardian or next of
33 kin;

34 (iii) The signatures of witnesses; and

35 (iv) Any other data that may be required by law or
36 the State Board of Health.

37 (b) Proof of age shall be presented to the circuit
38 court clerk in the form of either a birth certificate, baptismal
39 record, armed service discharge, armed service identification
40 card, life insurance policy, insurance certificate, school record,
41 driver's license, or other official document evidencing age. The
42 document substantiating age and date of birth shall be examined by
43 the circuit court clerk before whom application is made, and the
44 circuit court clerk shall retain in his file with the application
45 the document or a certified or photostatic copy of the document.



46 (c) Applicants under the age of twenty-one (21) must
47 submit affidavits showing the age of both applying parties made by
48 either the father, mother, guardian or next of kin of each of the
49 contracting parties and filed with the clerk of the circuit court
50 along with the application.

51 (d) If the male applicant is under seventeen (17) years
52 of age or the female is under fifteen (15) years of age, and
53 satisfactory proof is furnished to the judge of any circuit,
54 chancery or county court that sufficient reasons exist and that
55 the parties desire to be married to each other and that the
56 parents or other person in loco parentis of the person or persons
57 so under age consent to the marriage, then the judge of any such
58 court in the county where either of the parties resides may waive
59 the minimum age requirement and by written instrument authorize
60 the clerk of the court to issue the marriage license to the
61 parties if they are otherwise qualified by law. Authorization
62 shall be a part of the confidential files of the clerk of the
63 court, subject to inspection only by written permission of the
64 judge.

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

68 (i) Intoxicated; or

69 (ii) Suffering from a mental illness or an
70 intellectual disability to the extent that the clerk believes that



71 the person does not understand the nature and consequences of the
72 application for a marriage license.

73 (2) Any circuit clerk shall be liable under his official
74 bond because of noncompliance with the provisions of this section.

75 (3) Any circuit court clerk who issues a marriage license
76 without complying with the provisions of this section shall be
77 guilty of a misdemeanor and, upon conviction, shall be punished by
78 a fine of not less than Fifty Dollars (\$50.00) and not more than
79 Five Hundred Dollars (\$500.00).

80 **SECTION 2.** This act shall take effect and be in force from
81 and after July 1, 2019.

