

By: Representative Formby

To: Judiciary A

## HOUSE BILL NO. 1232

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT A MARRIAGE LICENSE WILL NOT BE ISSUED TO ANY PARTY  
3 UNDER TWENTY-ONE YEARS OF AGE, UNLESS THE APPROPRIATE PERSON  
4 CONSENTS TO THE APPLICATION FOR A MARRIAGE LICENSE AS EVIDENCED BY  
5 HIS OR HER NOTARIZED SIGNATURE ON THE NOTICE OF THE APPLICATION  
6 PROVIDED BY AND RETURNED TO THE CIRCUIT CLERK; AND FOR RELATED  
7 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. It shall be unlawful for the circuit court clerk to  
12 issue a marriage license until the following conditions precedent  
13 have been complied with:

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

29           (b) The application shall remain on file, open to the  
30 public, in the office of the circuit court clerk for a period of  
31 three (3) days before the clerk is authorized to issue the  
32 marriage license, unless either party is under twenty-one (21)  
33 years of age, in which case the application shall remain on file,  
34 open to the public, for ten (10) business days after notice is  
35 mailed by the clerk to the appropriate person as required by this  
36 paragraph. Provided, however, that if satisfactory proof is  
37 furnished to the judge of any circuit, chancery or county court  
38 that sufficient reasons exist, then the judge of any such court in  
39 the judicial district where either of such parties resides if they  
40 be over the age of twenty-one (21) years, or where the female  
41 resides if she be under the age of twenty-one (21), may waive the  
42 three-day or ten-day waiting period and by written instrument  
43 authorize the clerk of the court to issue the marriage license to  
44 the parties if they are otherwise qualified by law. Authorization  
45 shall be a part of the confidential files of the clerk of the  
46 court, subject to inspection only by written permission of the  
47 judge.

48           If either of the applying parties appears from the evidence  
49 to be under twenty-one (21) years of age, the circuit court clerk,  
50 immediately upon filing the application, shall cause notice of the  
51 filing of said application to be sent by prepaid certified mail to  
52 the father or mother, or if no father or mother, then the  
53 guardian, or if no guardian, then the next of kin of both applying  
54 parties at the address named in said application. The notice  
55 shall have a signature line and shall be returned to the clerk  
56 with the notarized signature of the father or mother, or if no  
57 father or mother, then the guardian, or if no guardian, then the  
58 next of kin of the party applying who is under twenty-one (21)  
59 years of age. The person must return the notice no later than  
60 seven (7) business days after the date that the clerk mailed the  
61 notice, as evidenced by the postmark. If the notice is returned

62 by mail, the notice must be postmarked no later than seven (7)  
63 business days after the date that the clerk mailed the notice, as  
64 evidenced by the postmark. If the time limit is not complied  
65 with, the marriage license may not be issued, but the parties may  
66 reapply for the license.

67 (c) An affidavit showing the age of both applying  
68 parties shall be made by either the father, mother, guardian or  
69 next of kin of each of the contracting parties and filed with the  
70 clerk of the circuit court along with the application; or in lieu  
71 thereof, said both applying parties shall appear in person before  
72 the circuit court clerk and make and subscribe an oath in person,  
73 which said affidavit shall be attached to and noted on the  
74 application for the marriage license. In addition to either of  
75 the previous conditions stated, further proof of age shall be  
76 presented to the circuit court clerk in the form of either a birth  
77 certificate, baptismal record, armed service discharge, armed  
78 service identification card, life insurance policy, insurance  
79 certificate, school record, driver's license, or other official  
80 document evidencing age. Said document substantiating age and  
81 date of birth shall be examined by the circuit court clerk before  
82 whom application is made, and the circuit court clerk shall retain  
83 in his file with the application such document or a certified or  
84 photostatic copy thereof.

85 (d) The clerk shall not issue a marriage license under  
86 the provisions of this section unless the male applicant is at  
87 least seventeen (17) years of age, and the female is at least  
88 fifteen (15) years of age, and only if the clerk receives the  
89 returned notice with the appropriate notarized signature by the  
90 required time as prescribed in paragraph (b) of this section.  
91 Provided, however, that if satisfactory proof is furnished to the  
92 judge of any circuit, chancery or county court that sufficient  
93 reasons exist and that said parties desire to be married to each  
94 other and that the father or mother, or if no father or mother,

95 then the guardian, or if no guardian, then the next of kin of the  
96 person or persons so under age consent with a notarized signature  
97 on the notice that has been timely returned as required by  
98 paragraph (b) of this section, then the judge of any such court in  
99 the county where either of such parties resides may waive the  
100 minimum age requirement and by written instrument authorize the  
101 clerk of the court to issue the marriage license to the parties if  
102 they are otherwise qualified by law. Authorization shall be a  
103 part of the confidential files of the clerk of the court, subject  
104 to inspection only by written permission of the judge.

105 (e) A medical certificate dated within thirty (30)  
106 days prior to the application shall be presented to the circuit  
107 court clerk showing that the applicant is free from syphilis, as  
108 nearly as can be determined by a blood test performed in a  
109 laboratory approved by the State Board of Health. The medical  
110 certificate may be obtained through the local health department by  
111 the applicant or applicants, or it may be obtained through any  
112 private laboratory approved by the State Board of Health. Said  
113 medical certificate shall be examined by the circuit court clerk  
114 and filed in a permanent file kept by the clerk for this purpose.

115 (f) In no event shall a license be issued by the  
116 circuit court clerk when it appears to the circuit court clerk  
117 that the applicants are, or either of them is, drunk, insane or an  
118 imbecile.

119 The clerk shall not issue a marriage license to any person  
120 unless all of the provisions of this section have been complied  
121 with. Any circuit clerk shall be liable under his official bond  
122 because of noncompliance with the provisions of this section.

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

128           **SECTION 2.** This act shall take effect and be in force from  
129 and after July 1, 2004.