

By: Representative Baker (74th)

To: Judiciary A

HOUSE BILL NO. 366

1 AN ACT TO AMEND SECTION 93-1-5, MISSISSIPPI CODE OF 1972, TO
2 REVISE AGE REQUIREMENTS FOR A MARRIAGE LICENSE; AND FOR RELATED
3 PURPOSES.

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

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

7 93-1-5. It shall be unlawful for the circuit court clerk to
8 issue a marriage license until the following conditions precedent
9 have been complied with:

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

24 (b) The application shall remain on file, open to the
25 public, in the office of the circuit court clerk for a period of
26 three (3) days before the clerk is authorized to issue the
27 marriage license. Provided, however, that if satisfactory proof

28 is furnished to the judge of any circuit, chancery or county court
29 that sufficient reasons exist, then the judge of any such court in
30 the judicial district where either of such parties resides if they
31 be over the age of eighteen (18) years, or where the female
32 resides if she be under the age of eighteen (18), may waive the
33 three-day waiting period and by written instrument authorize the
34 clerk of the court to issue the marriage license to the parties if
35 they are otherwise qualified by law. Authorization shall be a
36 part of the confidential files of the clerk of the court, subject
37 to inspection only by written permission of the judge. If either
38 of the applying parties appears from the evidence to be under
39 eighteen (18) years of age, the circuit court clerk, immediately
40 upon filing the application, shall cause notice of the filing of
41 said application to be sent by prepaid certified mail to the
42 father, mother, guardian or next of kin of both applying parties
43 at the address named in said application.

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

60 in his file with the application such document or a certified or
61 photostatic copy thereof.

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

77 (e) A medical certificate dated within thirty (30) days
78 prior to the application shall be presented to the circuit court
79 clerk showing that the applicant is free from syphilis, as nearly
80 as can be determined by a blood test performed in a laboratory
81 approved by the State Board of Health. The medical certificate
82 may be obtained through the local health department by the
83 applicant or applicants, or it may be obtained through any private
84 laboratory approved by the State Board of Health. Said medical
85 certificate shall be examined by the circuit court clerk and filed
86 in a permanent file kept by the clerk for this purpose.

87 (f) 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, insane or an
90 imbecile.

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

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

98 **SECTION 2.** This act shall take effect and be in force from
99 and after July 1, 2005.