

BILL ANALYSIS

C.S.H.B. 4105
By: Bell
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties point out that the Texas Constitution provides that marriage in this state shall consist only of the union of one man and one woman and that it further provides that Texas or a political subdivision of Texas may not create or recognize any legal status identical or similar to marriage. The parties also assert that taxpayer dollars should not be used to license or support same sex marriage. C.S.H.B. 4105 seeks to address these issues.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4105 amends the Family Code to establish the Preservation of Sovereignty and Marriage Act for the purpose of affirming that the definition and regulation of marriage is within the sole authority and realm of the separate states and the people within those states by prohibiting the state or a political subdivision of the state from using any funds to issue, enforce, or recognize a marriage license or declaration of informal marriage for a union other than a union between one man and one woman. The bill prohibits an employee or official of the state or a political subdivision of the state from issuing, enforcing, or recognizing a marriage license or declaration of informal marriage for a union other than a union between one man and one woman. The bill prohibits the state or a political subdivision of the state from using any funds to enforce an order requiring the issuance, enforcement, or recognition of a marriage license or declaration of informal marriage for a union other than a union between one man and one woman.

C.S.H.B. 4105 amends the Health and Safety Code to prohibit a county clerk from filing, and to prohibit the vital statistics unit of the Department of State Health Services from entering into the vital statistics system, copies of certain marriage-related documents that are associated with a union other than a union between one man and one woman and, if the vital statistics unit determines that such a document copy is associated with a union other than a union between one man and one woman, to require the vital statistics unit to provide the document copy to the attorney general.

C.S.H.B. 4105 amends the Local Government Code to require a county clerk to remit \$30 or \$12.50 to the comptroller of public accounts if a state agency determines that a marriage license fee or declaration of informal marriage fee, respectively, was collected for a marriage license or

declaration of informal marriage that is associated with a union other than a union between one man and one woman. The bill requires the comptroller to deposit these remitted funds into the general revenue fund.

C.S.H.B. 4105 specifies that its provisions amending the Health and Safety Code and Local Government Code do not apply to a marriage license issued or declaration of informal marriage recorded before June 1, 2015, if the bill takes effect before that date.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 4105 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. This Act may be cited as the Preservation of Sovereignty and Marriage Act.

No equivalent provision.

SECTION 2. Section 2.001, Family Code, is amended to read as follows:

(c) State or local funds may not be used for an activity that includes the licensing or support of a same-sex marriage.

(d) A state or local governmental employee may not recognize, grant, or enforce a same-sex marriage license.

(e) State or local funds may not be used to enforce an order requiring the issuance or recognition of a same-sex marriage license.

No equivalent provision. *(But see SECTION 2 above.)*

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. The purpose of this Act is to affirm that the definition and regulation of marriage is within the sole authority and realm of the separate states and the people within those states.

No equivalent provision. *(But see SECTION 3 below.)*

SECTION 3. Subchapter B, Chapter 1, Family Code, is amended by adding Section 1.109 to read as follows:

Sec. 1.109. CERTAIN MARRIAGE LICENSES AND DECLARATIONS OF INFORMAL MARRIAGE PROHIBITED.

(a) This state or a political subdivision of this state may not use any funds to issue, enforce, or recognize a marriage license or declaration of informal marriage for a union other than a union between one man and one woman.

(b) An employee or official of this state or a

political subdivision of this state may not issue, enforce, or recognize a marriage license or declaration of informal marriage for a union other than a union between one man and one woman.

(c) This state or a political subdivision of this state may not use any funds to enforce an order requiring the issuance, enforcement, or recognition of a marriage license or declaration of informal marriage for a union other than a union between one man and one woman.

No equivalent provision.

SECTION 4. Section 194.001, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) A county clerk may not file, and the vital statistics unit may not enter into the vital statistics system, a document copy described by Subsection (a) or (b) that is associated with a union other than a union between one man and one woman. If the vital statistics unit determines that the document copy is associated with a union other than a union between one man and one woman, the vital statistics unit shall provide the document copy to the attorney general.

No equivalent provision.

SECTION 5. Section 118.018, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) If a state agency determines that a marriage license fee was collected for a marriage license that is associated with a union other than a union between one man and one woman, the county clerk shall remit \$30 to the comptroller. The comptroller shall deposit funds remitted under this subsection into the general revenue fund.

No equivalent provision.

SECTION 6. Section 118.019, Local Government Code, is amended to read as follows:

Sec. 118.019. DECLARATION OF INFORMAL MARRIAGE. (a) The fee for "Declaration of Informal Marriage" under Section 118.011 is for all services rendered in connection with the execution of a declaration of informal marriage under Section 1.92, Family Code. The fee shall be collected at the time the service is rendered.

(b) If a state agency determines that a declaration of informal marriage fee was collected for a declaration of informal marriage that is associated with a union

other than a union between one man and one woman, the county clerk shall remit \$12.50 to the comptroller. The comptroller shall deposit funds remitted under this subsection into the general revenue fund.

No equivalent provision.

SECTION 3. Sec. 118.022, Local Government Code, is amended to read as follows:

(a) If the county clerk collects a fee for issuing a marriage license, the county clerk shall remit monthly to the Comptroller any amount collected for the application of a marriage license ~~deposit~~, as provided by Subchapter B, Chapter 133[:].

(1) \$20 of each fee collected for issuing a marriage license or \$12.50 of each fee for recording a declaration of informal marriage shall be ~~[to be sent to the comptroller and]~~ deposited as provided by Subsection (b);

(2) \$10 of each fee collected for issuing a marriage license shall be ~~[to be sent to the comptroller and]~~ deposited as provided by Subsection (c); and

(3) if applicable, the \$5 voluntary contribution collected to promote healthy early childhood by supporting the Texas Home Visiting Program administered by the Office of Early Childhood Coordination of the Health and Human Services Commission shall be ~~[to be sent to the comptroller and]~~ deposited as provided by Subsection (d).

(b) The comptroller shall deposit the money received under Subsection (a)(1) to the credit of the child abuse and neglect prevention trust fund account established under Section 40.105, Human Resources Code.

(c) The comptroller shall deposit the money received under Subsection (a)(2) to the credit of the family trust fund account established under Section 2.014, Family Code.

(d) The comptroller shall deposit the money received under Subsection (a)(3) in the Texas Home Visiting Program trust fund under Section 531.287, Government Code.

(e) The Comptroller shall return any remaining fees collected in compliance with Family Code 2.001(b). Any fees that cannot be returned shall be deposited to General Revenue.

No equivalent provision.

SECTION 7. Except as otherwise provided

by this section, Section 194.001(c), Health and Safety Code, and Sections 118.018(d) and 118.019(b), Local Government Code, as added by this Act, apply only to a marriage license issued or declaration of informal marriage recorded on or after the effective date of this Act. If this Act takes effect before June 1, 2015, Section 194.001(c), Health and Safety Code, and Sections 118.018(d) and 118.019(b), Local Government Code, as added by this Act, do not apply to a marriage license issued or declaration of informal marriage recorded before that date.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 8. Same as introduced version.