

**SUBJECT:** Child support delinquency statement on marriage license applications

**COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended

**VOTE:** 6 ayes — Goodman, Staples, McClendon, McReynolds, Naishtat, A. Reyna  
0 nays  
3 absent — J. Jones, Smith, Williams

**WITNESSES:** For — Dana DeBeauvoir and Dianne Wilson, County Clerks Legislative Committee  
  
Against — Eric Anderson, Children’s Rights Coalition; Robert L. (Bob) Green, Texas Fathers Alliance and Primary Nurturing Fathers of Texas

**BACKGROUND :** In 1995, the 74th Legislature as part of the welfare reform law required applicants for a marriage license to submit to the county clerk a sworn affidavit witnessed by two credible persons stating that the applicant did not owe delinquent court-ordered child support. Under the law, a county clerk could not issue a marriage license if either applicant failed to provide such a statement. An attorney general’s opinion (DM-384) issued in April 1996 found these requirements to unconstitutionally impinge on the right to marry in violation of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. As a result, this requirement was eliminated in this session's recodification of Family Code marriage provisions, SB 334 by Harris, which took effect April 17.

**DIGEST:** CSHB 2069 would amend the Family Code to require marriage application forms to include printed boxes for each applicant to check “true” or “false” in response to the statement: “I am not presently delinquent in the payment of court-ordered child support.”  
  
The bill would take effect September 1, 1997.

**SUPPORTERS SAY:** CSHB 2069 would provide disclosure about child support delinquency to both applicants for a marriage license so that each could enter the marriage informed of any child support support delinquencies the other might have. In

addition, it would provide information to the state that the state would use for record-keeping purposes only.

OPPONENTS  
SAY:

CSHB 2069 would continue to raise a serious constitutional question because marriage license applicants who checked “false” in response to the statement regarding delinquent child support would be denied a license. Another section of the Family Code prohibits county clerks from issuing licenses if either applicant checks “false” in response to any statement in the application. This would raise the same constitutional problems addressed in the recent attorney general’s opinion.

OTHER  
OPPONENTS  
SAY:

Child support delinquency should not be used as a basis for determining whether a marriage license should be granted. The state has no justification for requiring applicants to make a statement on child support delinquency for mere “record-keeping” purposes. If the state has plans to use that information for some purpose, it should be revealed to marriage license applicants and the public. Furthermore, applicants are unlikely to reveal any new information about themselves at the time of applying for a marriage license.

NOTES:

The committee substitute revised the original version of the bill to reflect the recodification of the Family Code by SB 334.

Rep. Goodman plans to offer an amendment stipulating that child support delinquency would not be a basis for denying a marriage license.