

**SUBJECT:** Revising marriage and election laws

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

**VOTE:** 6 ayes — Dutton, Goodman, Castro, Y. Davis, Nixon, Strama  
0 nays  
2 absent — Dunnam, J. Moreno, Thompson

**WITNESSES:** For — Mark Shurtleff, Utah Attorney General; Sam Brower; Jon Krakauer; Randy Mankin  
Against — None

**BACKGROUND:** **Marriage laws.** The offense of bigamy is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), and it is a defense to prosecution if the defendant believed the prior marriage to be void or dissolved by death, divorce, or annulment.

Under the Family Code, a person under the age of 14 may not obtain a marriage license without a court order. A person over age 14, but under age 18 must present parental consent, a court order, or proof of dissolution of a previous marriage.

Only licensed or ordained Christian ministers or priests, Jewish rabbis, officers of a religious organization who are authorized by the organization to conduct a marriage ceremony, and judges may conduct marriage ceremonies in Texas.

The Penal Code prohibits sexual contact between certain individuals, including parents and children, stepparents and stepchildren, and siblings. Such acts are third-degree felonies (two to 10 years in prison and an optional fine of up to \$10,000).

A person charged with sexual assault of a minor can use the minor's age as a defense to prosecution if the defendant is not more than three years' older than the minor, the minor is over age 14, and the defendant did not

have a prior conviction for sexual assault or requirement to register as a sex offender.

**Election code.** To be eligible for election to an office in Texas, a candidate must be a U.S. citizen, over 18 years of age, and have been a Texas resident for 12 months and a resident of the territory from which the office is elected for six months, among other qualifications.

DIGEST:

CSHB 3006 would make changes to Texas' marriage laws and election code.

**Marriage laws.** The offense of bigamy for an individual marrying, purporting to marry, or living under the appearance of being married would be a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the partner were over 16 years old and a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if younger. A person who already was married would be prohibited from entering into a declaration of informal marriage. The privilege of a spouse not to be called as a witness of the state in court proceedings would not apply to cases involving bigamy.

A defendant's belief, raised as a defense to prosecution, that the prior marriage was void or dissolved by death, divorce, or annulment, would be reasonable if substantiated by a certified copy of a death certificate or other signed document issued by the court.

An application for a marriage license or informal marriage would include statements affirming that neither party was married and that they did not have a familial relationship that would make their marriage illegal. Knowingly providing false information or identification would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), and stating false information about applicants' names or identifying information would be a class C misdemeanor (maximum fine of \$500).

The bill would raise the legal age of marriage without a court order to 16. Minors over age 16 but under age 18 would require a court order or parental consent. Falsely providing parental consent would be a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). Consenting to a marriage where the individual under the age of 18 already was married would be a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

If an unauthorized person knowingly conducted a marriage ceremony, it would be class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). If the marriage was prohibited by law, the offense would be punishable as a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000).

A court could declare void a marriage where either party was under 16 or if there was a stepchild-stepparent relationship.

CSHB 3006 would amend the Penal Code to make the definitions of who is prohibited from engaging in sexual contact gender-neutral and to add a prohibition against sexual acts between first cousins by blood or adoption, which would be a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000).

A sexual act with a person under 17 years of age by someone less than three years' older charged with sexual assault could not use the age of the victim as a defense to prosecution if the older person was prohibited from marrying, purporting to marry, or living under the appearance of marriage with the victim. Under those circumstances, the offense would be punishable as a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000).

**Election Code.** CSHB 3006 would amend the Election Code to require candidates to have resided in Texas for two years and in the territory from which the office is elected for 12 months to be an eligible candidate. Also, an eligible candidate could not have been convicted of providing false information on a ballot application in the previous 24 months. The bill also would lengthen residency requirements for home-rule city office holders and candidates from areas that recently underwent redistricting.

The bill would require candidates to sign an affidavit stating that they were not currently violating the constitution or laws of the United States or Texas and would make providing false information an offense punishable as a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

CSHB 3006 would take effect September 1, 2005, and changes made by the bill generally would apply to offenses, actions, and applications on or after the effective date.

**SUPPORTERS SAY:** CSHB 3006 would strengthen Texas' laws against polygamy and election laws to protect communities from being infiltrated by fringe religious groups. A group of Fundamentalist Church of Latter-Day Saints is building a compound south of San Angelo where local residents are concerned that members may be forcing young girls to marry, engage in polygamist activities, and possibly marry their relatives. Local residents also are concerned that members of the group will run for public office and will have moved a large enough group of voters into the area to take over local governance.

This bill would pick up elements of similar laws in Utah and Arizona, states that have faced similar concerns about the same group. The bill would not unfairly target any religious practice or philosophy. It simply would clarify Texas' laws on marriage and elections.

**OPPONENTS SAY:** There is no actual evidence that this group is doing any of the things accused by local residents. Texas should not endorse laws aimed at one specific group lawfully practicing its religious beliefs.

**OTHER OPPONENTS SAY:** The candidate affidavit required by this bill is overly broad and should be refined. As written, it would require candidates for office to sign an oath stating that they are not currently violating the constitution or laws of the United States or Texas. The implications of such an oath are very wide and could encompass many situations or circumstances not contemplated by this bill.

**NOTES:** The committee substitute removed changes to the Education Code.