

BILL ANALYSIS

Senate Research Center
79R23 KSD-D

H.B. 858
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Jurisprudence
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Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Under current law, two individuals can receive a marriage license issued by a county clerk, even if neither individual appears in person. Because no one is required to be present when applying or receiving a marriage license, many county clerks are becoming concerned about the potential for fraud. Recently, the Texas Rangers assisted in the apprehension of a "marriage license ring" which used the current lack of oversight to obtain fraudulent marriage licenses. Additionally, it should be noted that Office of the Attorney General's Opinion No. GA-0024 confirms that a clerk may issue a marriage license to two absent applicants.

H.B. 858 replaces current language which allows two absent applicants be issued a marriage license. H.B. 858 requires that at least one of the two persons requesting the marriage be present to apply for the license, unless it can be proven that both applicants are on active duty in the military or confined in a correctional facility.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2.006, Family Code, by adding Subsection (c), to prohibit the county clerk from issuing a marriage license for which both applicants are absent unless the person applying on behalf of each absent applicant provides to the clerk an affidavit of the applicant declaring that the applicant is on active duty as a member of the armed forces of the United States or state military forces or confined in a correctional facility, as defined by Section 1.07 (Definitions), Penal Code.

SECTION 2. Effective date: September 1, 2005.

SECTION 3. Makes application of this Act prospective.