Marriage Licenses 101

The Application

Family Code 2.002

2.002 (1), (2), (3) Both applicants must appear before the clerk (Exception provided by Sec 2.006); provide proof of identity and age; provide information for which spaces are provided in the application,

2.002 (4) Mark appropriate boxes; and

2.002 (5) Take the oath printed on the application and sign the application before the county clerk.
Family Code 2.006

(a) If an applicant who is 18 years of age or older is unable to appear personally before the county clerk to apply for a marriage license, any adult person or the other applicant may apply on behalf of the absent applicant.

(b) The person applying on behalf of an absent applicant shall provide to the clerk:

(1) notwithstanding Section 132.001, Civil Practice and Remedies Code, the notarized affidavit of the absent applicant as provided by this subchapter; and

(2) proof of the identity and age of the absent applicant under Section 2.005 (b).

(c) Notwithstanding Subsection (a), the clerk may not issue 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 a member of the armed forces of the United States stationed in another country in support of combat or another military operation.

Family Code 2.003

(a) A person under 18 years of age may not marry unless the person has been granted by this state or another state a court order removing the disabilities of minority of the person for general purposes.

(b) In addition to the other requirements provided by this chapter, a person under 18 years of age applying for a license must provide to the county clerk:

(1) a court order granted by this state under Chapter 31 removing the disabilities of minority of the person for general purposes; or

(2) if the person is a nonresident minor, a certified copy of an order removing the disabilities of minority of the person for general purposes filed with this state under Section 31.007.

Family Code 2.101

A county clerk may not issue a marriage license if either applicant is under 18 years of age, unless each underage applicant shows that the applicant has been granted by this state or another state a court order removing the disabilities of minority of the applicant for general purposes.
Premarital Education

Family Code 2.013

(a) Each person applying for a marriage license is encouraged to attend a premarital education course of at least eight hours during the year preceding the date of the application for the license.

*Participation in the premarital education program allows the clerk to waive the 72 hour waiting period and the $60 state fee for the license.

Issuing the License

Family Code 2.009

(c) On the proper execution of the application, the clerk shall:

(1) prepare the license;

(2) enter on the license the names of the licensees, the date that the license is issued, and, if applicable, the name of the person appointed to act as proxy for an absent applicant, if any;

There is a 72 hour waiting period from the time the license is issued until the ceremony can be performed. Except as provided by Family Code 2.204
Family Code 2.009 (c)

(c) On the proper execution of the application, the clerk shall:

(1) prepare the license;

(2) enter on the license the names of the licensees, the date that the license is issued, and, if applicable, the name of the person appointed to act as proxy for an absent applicant, if any;

(3) record the time at which the license was issued;

72-Hour Waiting Period

Once a license is issued the couple must wait 72 hours before the ceremony can take place except as provided by Family Code 2.204

(b) The 72-hour waiting period after issuance of a marriage license does not apply to an applicant who:

(1) is a member of the armed forces of the United States and on active duty;

(2) is not a member of the armed forces of the United States but performs work for the United States Department of Defense as a department employee or under a contract with the department;

(3) obtains a written waiver under Subsection (c); or

(4) completes a premarital education course described by Section 2.013, and who provides to the county clerk a premarital education course completion certificate indicating completion of the premarital education course not more than one year before the date the marriage license application is filed with the clerk.

(c) An applicant may request a judge of a court with jurisdiction in family law cases, a justice of the supreme court, a judge of the court of criminal appeals, a county judge, or a judge of a court of appeals for a written waiver permitting the marriage ceremony to take place during the 72-hour period immediately following the issuance of the marriage license. If the judge finds that there is good cause for the marriage to take place during the period, the judge shall sign the waiver. Notwithstanding any other provision of law, a judge under this section has the authority to sign a waiver under this section.
Persons Authorized to Perform a Marriage Ceremony

(1) a licensed or ordained Christian minister or priest;

(2) a Jewish rabbi;

(3) a person who is an officer of a religious organization and who is authorized by the organization to conduct a marriage ceremony;

(4) a justice of the supreme court, judge of the court of criminal appeals, justice of the courts of appeals, judge of the district, county, and probate courts, judge of the county courts at law, judge of the courts of domestic relations, judge of the juvenile courts, retired justice or judge of those courts, justice of the peace, retired justice of the peace, judge of a municipal court, retired judge of a municipal court, associate judge of a statutory probate court, retired associate judge of a statutory probate court, associate judge of a county court at law, retired associate judge of a county court at law, or judge or magistrate of a federal court of this state; and

(5) a retired judge or magistrate of a federal court of this state.

(b) For the purposes of Subsection (a)(4), a retired judge or justice is a former judge or justice who is vested in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two or who has an aggregate of at least 12 years of service as judge or justice of any type listed in Subsection (a)(4).

(b-1) For the purposes of Subsection (a)(5), a retired judge or magistrate is a former judge or magistrate of a federal court of this state who is fully vested in the Federal Employees Retirement System under 28 U.S.C. Section 371 or 377.

When the License Comes Back for Recording

Family Code 2.202

(a) The county clerk shall record a returned marriage license and mail the license to the address indicated on the application. On request by the applicants, the county clerk may e-mail the marriage license to an e-mail address provided to the county clerk by the applicants in addition to mailing the license.

(b) On the application form the county clerk shall record:

(1) the date of the marriage ceremony;

(2) the county in which the ceremony was conducted; and

(3) the name of the person who conducted the ceremony.
When the License Comes Back for Recording

Affidavit for Correction of a Marriage License

(c) If one or both parties to a marriage license discover an error on the recorded marriage license, both parties to the marriage shall execute a notarized affidavit stating the error. The county clerk shall file and record the affidavit as an amendment to the marriage license, and the affidavit is considered part of the marriage license. The clerk shall include a copy of the affidavit with any future certified copy of the marriage license issued by the clerk.
Family Code 2.402

(1) a heading entitled "Declaration and Registration of Informal Marriage, __________ County, Texas";

(2) spaces for each party's full name, including the woman's maiden surname, address, date of birth, place of birth, including city, county, and state, and social security number, if any;

(3) a space for indicating the type of document tendered by each party as proof of age and identity;

(4) Mark appropriate boxes; and

(5) Take the oath printed on the application and sign the application before the county clerk.

(6) spaces immediately below the printed declaration and oath for the parties' signatures; and

(7) a certificate of the county clerk that the parties made the declaration and oath and the place and date it was made.

*Once all requirements have been met, the clerk will record the document and issue a certificate of informal marriage. The couple is then considered legally married. If they decide to dissolve the relationship, they must file for divorce.

Family Code Ch. 2

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