

1 SB143
2 174114-4
3 By Senator Albritton
4 RFD: Judiciary
5 First Read: 03-FEB-16

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 22-9A-17, 30-1-5, 30-1-12, and
12 30-1-16 of the Code of Alabama 1975, to abolish the
13 requirement that a marriage license be issued by the judge of
14 probate and replace existing state statutory marriage law with
15 a statutory contract for marriage; to provide that a marriage
16 would be entered into by two parties; to provide that the
17 judge of probate would record each marriage presented to the
18 probate court for recording and would forward the contract to
19 the Office of Vital Statistics; to provide for the content of
20 a properly formed marriage; and to repeal Sections 30-1-9,
21 30-1-10, 30-1-11, 30-1-13, and 30-1-14 of the Code of Alabama
22 1975.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 22-9A-17, 30-1-5, 30-1-12, and
25 30-1-16 of the Code of Alabama 1975, are amended to read as
26 follows:

27 "§22-9A-17.

1 ~~"(a) A record of each marriage performed in this~~
2 ~~state shall be filed with the Office of Vital Statistics and~~
3 ~~shall be registered if it has been completed and filed in~~
4 ~~accordance with this section.~~

5 ~~"(b) The judge of probate who issues the marriage~~
6 ~~license shall prepare the record on the form or in a format~~
7 ~~prescribed and furnished by the State Registrar upon the basis~~
8 ~~of information obtained from the parties to be married.~~

9 ~~"(c) Each person who performs a marriage shall~~
10 ~~certify the fact of marriage and return the record to the~~
11 ~~judge of probate who issued the license within 30 days after~~
12 ~~the ceremony.~~

13 ~~"(d) Every judge of probate issuing marriage~~
14 ~~licenses shall complete and forward to the Office of Vital~~
15 ~~Statistics on or before the fifth day of each calendar month~~
16 ~~the records of marriage returned to the judge of probate~~
17 ~~during the preceding calendar month.~~

18 "(a) Two persons desiring to unite in marriage may
19 do so by submitting the affidavits, forms, and data specified
20 in Section 30-1-5 and Section 2 of the act amending this
21 section for recording with the office of the judge of probate.
22 The recording of the affidavits, forms, and data establishes
23 legal recognition of the marriage as of the date the
24 affidavits and forms were properly signed by the two parties
25 so long as such documentation was provided to the probate
26 office within 30 days of the last party's signature. Each

1 marriage filed with the probate office shall be filed and
2 registered with the Office of Vital Statistics.

3 "(b) The office of the judge of probate shall
4 record, in a permanent record, each marriage presented to the
5 probate office for filing so long as the affidavits, forms,
6 and data are submitted as required by this act, and shall
7 forward each marriage filed with the probate office during the
8 preceding calendar month to the Office of Vital Statistics on
9 or before the fifth day of the following calendar month.

10 "§30-1-5.

11 "If the person intending to marry is at least 16
12 years of age and under 18 years of age and has not had a
13 former wife or husband, ~~the judge of probate shall require the~~
14 ~~consent of the parents or guardians of the minor to the~~
15 ~~marriage, to be given either personally or in writing, and, if~~
16 ~~the latter, the execution thereof shall be proved. The judge~~
17 ~~of probate shall also require a bond to be executed in the~~
18 ~~penal sum of two hundred dollars (\$200), payable to the State~~
19 ~~of Alabama, with condition to be void if there is no lawful~~
20 ~~cause why such marriage should not be celebrated~~ the consent
21 of the parents or guardians of the minor to the marriage shall
22 be required. Evidence of consent shall be in the form of an
23 affidavit signed by a parent or guardian, notarized, and filed
24 with the probate court.

25 "§30-1-12.

26 "The judge of probate must keep a book, in which
27 shall be registered all ~~licenses issued by him and which shall~~

1 ~~state whether the parties, or either of them, were of the age~~
2 ~~specified in Section 30-1-5. If not, he must also state~~
3 ~~whether either of them had been previously married, or if~~
4 ~~consent had been given to the marriage by the parent or~~
5 ~~guardian. If such consent was in writing, he must transcribe~~
6 ~~it on the same page on which he records the license, and the~~
7 ~~record so made, or a certified copy thereof, is presumptive~~
8 ~~evidence of the facts marriages filed in the office. The judge~~
9 ~~of probate shall record, in a permanent record, all marriages~~
10 ~~presented to the probate court and shall forward the original~~
11 ~~documentation to the Office of Vital Statistics in accordance~~
12 ~~with Section 22-9A-17.~~

13 "§30-1-16.

14 "(a) ~~In all instances where a marriage license has~~
15 ~~been issued and certificate returned and vital error has been~~
16 ~~made on the face of the application, license, or certificate,~~
17 ~~necessitating that a correction be made thereof, the judge of~~
18 ~~probate of the county in which the license was issued shall,~~
19 ~~upon proper petition being filed by either party to the~~
20 ~~marriage or someone delegated or authorized by him or her, in~~
21 ~~his or her name and behalf, giving the names and residences of~~
22 ~~the parties to the marriage, and if the residence is not~~
23 ~~known, an affidavit by petitioner or petitioner's attorney~~
24 ~~that the residence is not known and that diligent effort has~~
25 ~~been made to locate same, together with a clear statement~~
26 ~~setting up wherein the correction should be made in the~~
27 ~~application license or certificate, set a date for hearing the~~

1 ~~petition after first having given notice of the time and place~~
2 ~~of the hearing for at least six days by personal service~~
3 ~~thereof if the other resides in the State of Alabama, unless~~
4 ~~both parties join in the petition and in such case the~~
5 ~~petition may be set down for immediate hearing. If the other~~
6 ~~party to the marriage is a nonresident or has absented himself~~
7 ~~or herself from the state for six months or longer and his or~~
8 ~~her address is known, then service may be made by sending a~~
9 ~~copy of the petition by registered or certified mail, with~~
10 ~~return receipt requested, to the address of the other party.~~
11 ~~If the address is not known, service may be made by~~
12 ~~advertisement in a newspaper published in the county where the~~
13 ~~petition is filed by one weekly insertion therein.~~

14 ~~"(b) The judge of probate shall, after the filing of~~
15 ~~the petition and proof of service thereon made, hear any~~
16 ~~competent evidence that may be offered or such as may be~~
17 ~~required by him, and if he is satisfied from the proof made~~
18 ~~that the alleged error or mistake should be corrected,~~
19 ~~thereupon enter a decree correcting same.~~

20 ~~"(c) The decree made and entered as herein provided~~
21 ~~shall be recorded in a permanent record in the office of the~~
22 ~~judge of probate and a copy thereof sent to the Office of~~
23 ~~Vital Statistics of the State of Alabama, and a certified copy~~
24 ~~of the decree issued by the Office of Vital Statistics shall~~
25 ~~be admissible evidence and prima facie proof in any court of~~
26 ~~the correctness of the facts stated therein.~~

1 ~~"(d) The cost of the proceeding shall be paid as~~
2 ~~provided by law in proceedings in the probate court of the~~
3 ~~State of Alabama, same to be paid by the petitioner or~~
4 ~~petitioners.~~

5 "In all marriages where a vital error has been made,
6 the parties to the marriage may file amended affidavits,
7 forms, and data with the judge of probate. The fee for filing
8 amended affidavits, forms, and data shall be the same as for
9 an original filing. The amended affidavits, forms, and data
10 shall state that they are amended and shall reference the date
11 in which the original affidavits, forms, and data were filed.
12 The judge of probate shall record the amended affidavits,
13 forms, and data if agreed to by the parties and shall forward
14 the original amended affidavits, forms, and data to the Office
15 of Vital Statistics. If the parties cannot agree on the
16 amended affidavits, forms, and data, either party may file an
17 action in circuit court to correct the error."

18 Section 2. (a) On the effective date of this act and
19 thereafter, the only requirement for a marriage in this state
20 shall be for parties who are otherwise legally authorized to
21 be married to enter into a marriage as provided herein.

22 (b) The marriage document required to be executed by
23 the parties shall contain information to identify the parties
24 as set forth in Section 22-9A-6, Code of Alabama 1975, as well
25 as the following minimum information:

26 (1) The full legal names of both of the parties.

1 (2) A notarized affidavit from each party declaring
2 all of the following:

3 a. The affiant is not currently married.

4 b.1. The affiant is not a minor; or

5 2. The affiant is a minor and has the consent of a
6 parent or guardian.

7 c. The affiant is legally competent to enter into a
8 marriage.

9 d. The parties are not related by blood or adoption
10 such that the marriage would violate Section 13A-13-3, Code of
11 Alabama 1975.

12 e. The affiant is entering into the marriage
13 voluntarily and of his or her own free will and not under
14 duress or undue influence.

15 (3) The signatures of the parties.

16 (4) If one of the parties to the marriage is a
17 minor, a sworn affidavit of the parent or guardian of the
18 minor consenting to the marriage.

19 (c) A marriage conforming to the requirements of
20 this section shall be valid on the date the marriage is
21 executed by both parties, provided the affidavits, forms, and
22 data are recorded in the office of the judge of probate within
23 30 days of the date of the last party's signature in
24 accordance with Section 22-9A-17 of the Code of Alabama 1975.

25 (d) A civil and independent or religious ceremony of
26 marriage, celebration of marriage, solemnization of marriage,
27 or any other officiation, or administration of the vows of

1 marriage may be conducted or engaged in by the parties by an
2 officiant or other presiding person to be selected by the
3 persons entering into the marriage. The state shall have no
4 requirement for any such ceremony or proceeding which, if
5 performed or not performed, will have no legal effect upon the
6 validity of the marriage.

7 (e) The affidavits, forms, and data shall be filed
8 in the office of the judge of probate and shall constitute a
9 legal record of the marriage of the parties. A copy of the
10 form provided by the Office of Vital Statistics shall be
11 transmitted by the office of the judge of probate to the
12 Office of Vital Statistics and made a part of its record.

13 (f) A judge of probate shall accept for recording a
14 certificate of marriage for an out-of-state marriage. Such
15 recording with the office of the judge of probate shall be
16 prima facie evidence of the validity of the out-of-state
17 marriage. Certificates of marriage for out-of-state marriages
18 shall not be forwarded to the Office of Vital Statistics.

19 (g) This section shall not affect any other legal
20 aspects of marriage in this state, including, but not limited
21 to, divorce, spousal support, child custody, or child support.

22 (h) All requirements to obtain a marriage license by
23 the State of Alabama are hereby abolished and repealed. The
24 requirement of a ceremony of marriage to solemnized the
25 marriage is abolished.

26 (i) The Department of Public Health shall prepare a
27 form to meet the minimum requirements of this act.

1 Section 3. Sections 30-1-9, 30-1-10, 30-1-11,
2 30-1-13, and 30-1-14 of the Code of Alabama 1975, are
3 repealed.

4 Section 4. This act shall become effective 60 days
5 following its passage and approval by the Governor, or its
6 otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 03-FEB-16

Read for the second time and placed on the calen-
dar with 1 substitute and..... 03-MAR-16

Read for the third time and passed as amended 15-MAR-16

Yeas 23
Nays 3

Patrick Harris
Secretary