

1 SB69  
2 196024-3  
3 By Senator Albritton  
4 RFD: Judiciary  
5 First Read: 05-MAR-19

1 SB69

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4 ENROLLED, An Act,

5 To amend Sections 22-9A-17, 30-1-5, 30-1-12, and  
6 30-1-16 of the Code of Alabama 1975, to abolish the  
7 requirement that a marriage license be issued by the judge of  
8 probate and replace existing state statutory marriage law; to  
9 provide that a marriage would be entered into by two parties;  
10 to provide that the judge of probate would record each  
11 marriage presented to the probate court for recording and  
12 would forward the document to the Office of Vital Statistics;  
13 to provide for the content of a properly formed marriage; and  
14 to repeal Sections 30-1-9, 30-1-10, 30-1-11, 30-1-13, and  
15 30-1-14 of the Code of Alabama 1975.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 22-9A-17, 30-1-5, 30-1-12, and  
18 30-1-16 of the Code of Alabama 1975, are amended to read as  
19 follows:

20 "§22-9A-17.

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

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

5           ~~"(c) Each person who performs a marriage shall~~  
6 ~~certify the fact of marriage and return the record to the~~  
7 ~~judge of probate who issued the license within 30 days after~~  
8 ~~the ceremony.~~

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

14           "(a) Two persons desiring to unite in marriage may  
15 do so by submitting the affidavits, forms, and data specified  
16 in Section 30-1-5 and Section 2 of the act amending this  
17 section for recording with the office of the judge of probate.  
18 The recording of the affidavits, forms, and data establishes  
19 legal recognition of the marriage as of the date the  
20 affidavits and forms were properly signed by the two parties  
21 so long as such documentation was provided to the probate  
22 office within 30 days of the signatures of the parties. Each  
23 marriage filed with the probate office shall be filed and  
24 registered with the Office of Vital Statistics.

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

8           "§30-1-5.

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

23           "§30-1-12.

24           "The judge of probate must keep a book, in which  
25 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~~

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

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

22 ~~"(c) The decree made and entered as herein provided~~  
23 ~~shall be recorded in a permanent record in the office of the~~  
24 ~~judge of probate and a copy thereof sent to the Office of~~  
25 ~~Vital Statistics of the State of Alabama, and a certified copy~~

1 ~~of the decree issued by the Office of Vital Statistics shall~~  
2 ~~be admissible evidence and prima facie proof in any court of~~  
3 ~~the correctness of the facts stated therein.~~

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

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

21 Section 2. (a) On the effective date of this act and  
22 thereafter, the only requirement for a marriage in this state  
23 shall be for parties who are otherwise legally authorized to  
24 be married to enter into a marriage as provided in this  
25 section. However, the judge of probate shall continue to

1 collect the recording fee provided for in subdivision (32) of  
2 subsection (b) of Section 12-19-90 for each marriage recorded  
3 with the judge of probate. Furthermore, at the time the  
4 marriage is recorded, the judge of probate shall also collect  
5 the fee provided for in Section 30-6-11 to be distributed as  
6 provided in that section.

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

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

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

14 a. The affiant is not currently married.

15 b.1. The affiant is at least 18 years of age; or

16 2. The affiant is at least 16 and under 18 years of  
17 age and has the consent of a parent or guardian.

18 c. The affiant is legally competent to enter into a  
19 marriage.

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

23 e. The affiant is entering into the marriage  
24 voluntarily and of his or her own free will and not under  
25 duress or undue influence.



1           (3) The signatures of the parties.

2           (c) A marriage conforming to the requirements of  
3 this section shall be valid on the date the marriage is  
4 executed by both parties, provided the affidavits, forms, and  
5 data are recorded in the office of the judge of probate within  
6 30 days of the date of the last party's signature in  
7 accordance with Section 22-9A-17 of the Code of Alabama 1975.

8           (d) A civil and independent or religious ceremony of  
9 marriage, celebration of marriage, solemnization of marriage,  
10 or any other officiation, or administration of the vows of  
11 marriage may be conducted or engaged in by the parties by an  
12 officiant or other presiding person to be selected by the  
13 persons entering into the marriage. The state shall have no  
14 requirement for any ceremony or proceeding and whether or not  
15 a ceremony proceeding is performed or not performed shall have  
16 no legal effect on the validity of the marriage.

17           (e) The affidavits, forms, and data shall be filed  
18 in the office of the judge of probate and shall constitute a  
19 legal record of the marriage of the parties. A copy of the  
20 form provided by the Office of Vital Statistics shall be  
21 transmitted by the office of the judge of probate to the  
22 Office of Vital Statistics and made a part of its record.

23           (f) This section shall not affect any other legal  
24 aspects of marriage in this state, including, but not limited  
25 to, divorce, spousal support, child custody, or child support.

1           (g) All requirements to obtain a marriage license by  
2 the State of Alabama are hereby abolished and repealed. The  
3 requirement of a ceremony of marriage to solemnize the  
4 marriage is abolished.

5           (h) The Alabama Law Institute, a division of the  
6 Legislative Services Agency, in collaboration with the  
7 Department of Public Health, shall prepare a form to meet the  
8 minimum requirements of this act.

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

12           Section 4. This act shall become effective 90 days  
13 following its passage and approval by the Governor, or its  
14 otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB69  
Senate 21-MAR-19  
I hereby certify that the within Act originated in and passed  
the Senate.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 23-MAY-19

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By: Senator Albritton