

1 SB377  
2 168596-4  
3 By Senators Albritton, Allen, Waggoner, Pittman and Singleton  
4 RFD: Judiciary  
5 First Read: 14-APR-15

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 12-19-90, 22-9A-17, 30-1-5,  
12 30-1-12, 30-1-13, 30-1-14, 30-1-16, and 30-6-11 of the Code of  
13 Alabama 1975, to abolish the requirement that a marriage  
14 license be issued by the judge of probate; to provide that a  
15 marriage would be entered into by contract; to provide that  
16 the judge of probate would record each contract of marriage  
17 presented to the probate office for recording and would  
18 forward the contract to the Office of Vital Statistics; to  
19 provide for the content of a properly executed contract of  
20 marriage; to provide fees for recording; and to repeal  
21 Sections 30-1-9, 30-1-10, and 30-1-11 of the Code of Alabama  
22 1975.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. (a) Effective July 1, 2015, the only  
25 requirement to be married in this state shall be for parties  
26 who are otherwise legally authorized to be married to enter  
27 into a contract of marriage as provided herein.

1 (b) A contract to be married shall contain the  
2 following minimum information:

3 (1) The names of the parties.

4 (2) A statement that the parties are legally  
5 authorized to be married.

6 (3) A statement that the parties voluntarily and  
7 based on each parties' own freewill enter into a marriage.

8 (4) The signatures of the parties.

9 The marriage contract shall be witnessed by two  
10 adult witnesses.

11 (c) A marriage contract meeting the requirements of  
12 this section shall be valid upon recording.

13 (d) A civil or religious ceremony may be required to  
14 be married.

15 (e) The contract shall be filed in the office of the  
16 judge of probate in each county and shall constitute a legal  
17 record of the marriage. A copy of the contract shall be  
18 transmitted to the Office of Vital Statistics of the  
19 Department of Public Health and made a part of its record.

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

24 (g) A recording fee of twenty-five dollars (\$25)  
25 pursuant to Section 12-19-90, Code of Alabama 1975, an  
26 additional fee of thirty dollars (\$30) pursuant to Section  
27 30-6-11, Code of Alabama 1975, and an additional fee of twenty

1 dollars (\$20) pursuant to Section 3 shall be paid to the judge  
2 of probate upon filing of a marriage contract pursuant to this  
3 act. If the parties elect to file a longer contract, the  
4 parties shall pay an additional fee of two dollars (\$2) for  
5 each additional page over two pages in the contract filed. The  
6 judge of probate shall disburse the fees as required by law.

7 (h) Effective July 1, 2015, any requirement to  
8 obtain a marriage license issued by the judge of probate is  
9 abolished and repealed.

10 (i) The circuit court of a county may correct an  
11 error in marriage contract pursuant to a civil action in the  
12 circuit court.

13 (j) The Office of the Attorney General shall prepare  
14 a form to meet the minimum requirements.

15 Section 2. Sections 12-19-90, 22-9A-17, 30-1-5,  
16 30-1-12, 30-1-13, 30-1-14, 30-1-16, and 30-6-11 of the Code of  
17 Alabama 1975, are amended to read as follows:

18 "§12-19-90.

19 "(a) The following fees for service provided by the  
20 probate offices shall be charged and paid into the county  
21 treasury or to the judge of probate as may be authorized or  
22 required by law:

23 "(1) Probate of will of not more than five pages,  
24 whether contested or not, with three certified copies of  
25 letters and including final settlement when not more than 10  
26 pages. An additional charge of \$3.00 per page for wills over

1 five pages in length and for final settlements in excess of 10  
2 pages in length shall be made ..... \$45.00

3 "(2) Grant of letters of administration with three  
4 certified copies of letters of administration and including  
5 final settlement when not more than 10 pages (when over 10  
6 pages an additional charge of \$3.00 per page) ..... 45.00

7 "(3) Grant of letters of guardianship or  
8 conservatorship, three certified copies ..... 20.00

9 "(4) Partial or final settlement of guardianship or  
10 conservatorship ..... 15.00

11 "(5) Each additional certified copy of letters  
12 testamentary, letters of administration, or letters of  
13 guardianship or conservatorship ..... 3.00

14 "(6) Proceedings in filing and granting petition of  
15 adoption, including one certified copy of decree for  
16 petitioner, one certified copy for the Department of Human  
17 Resources, and one copy to the State Bureau of Vital  
18 Statistics. (Fee shall apply to each child adopted) .....  
19 75.00

20 "(7) Proceedings in legitimations, fee to apply to  
21 each child ..... 15.00

22 "(8) Proceedings in change of name ..... 15.00

23 "(9) Proceedings to set aside exemptions pursuant to  
24 Sections 43-8-110, 43-8-111, 43-8-112, and 43-8-113 .....  
25 35.00

26 "(b) Fees for services other than those specified in  
27 subsection (a) shall be:

1                   "(1) Filing petitions and other papers, each ....  
2                   3.00  
3                   "(2) Docketing cause ..... 10.00  
4                   "(3) Issuing each citation, summons, writ, execution  
5                   for cost or other notice required by law ..... 3.00  
6                   "(4) Issuing subpoenas to witnesses, each ..... 3.00  
7                   "(5) Witnesses certificate ..... 3.00  
8                   "(6) Order of publication ..... 3.00  
9                   "(7) Posting order of publication, each ..... 3.00  
10                  "(8) Notice by mail to creditor and heirs, each  
11                  ..... 3.00  
12                  "(9) Each notice not otherwise provided for .....  
13                  3.00  
14                  "(10) Issuing commission to take testimony .....  
15                  10.00  
16                  "(11) Entering returns of sheriff, printer, or  
17                  commissioner, each ..... 3.00  
18                  "(12) Appointment of guardian ad litem, special  
19                  attorney, or administrator ad litem ..... 5.00  
20                  "(13) Approving bonds ..... 10.00  
21                  "(14) Presiding in noncontested cause or examining  
22                  papers, pleadings, taking testimony, etc. .... 10.00  
23                  "(15) Presiding in contested cause, per day .....  
24                  25.00  
25                  "(16) Examining vouchers, each ..... 1.00  
26                  "(17) Examining and entering decree or other order  
27                  ..... 3.00

1           "(18) Drafting decree ..... 10.00  
2           "(19) Each certificate with seal 3.00  
3           "(20) Each certificate without seal ..... 3.00  
4           "(21) Filing and docketing each claim ..... 3.00  
5           "(22) Filing and recording, including recording  
6 documents filed for record, irrespective of size type, per  
7 page ..... 3.00  
8           "(23) Filing and recording all oil, gas, mineral  
9 and/or coal leases, per page ..... 3.00  
10           "(24) If the instrument conveys any interest in real  
11 or personal property within this state and recites more than  
12 two grantors or grantees, mortgagors or mortgagees, lessors or  
13 lessees, transferors or transferees, assignors or assignees,  
14 buyers or sellers, or vendors or vendees, an additional fee  
15 for indexing each name in excess of two entered in the direct  
16 index or two entered in the reverse index ..... 1.00  
17           "(25) Copy of an instrument, per page ..... 1.00  
18           "(26) Each entry of an estray, to be paid by taker  
19 ..... 3.00  
20           "(27) Each record of a mark or brand ..... 3.00  
21           "(28) Filing and recording certificate of  
22 incorporation organized as a profit-making organization .....  
23 50.00  
24           "(29) Filing and recording certificate of  
25 incorporation organized as a nonprofit corporation ..... 15.00

1           "(30) Each certificate given under Title 22 in  
2 relation to hospitals, diseases, infection, and quarantine  
3 ..... 3.00

4           "(31) Each satisfaction of a mortgage ..... 3.00

5           "~~(32) Issuing and recording~~ Recording contract of  
6 marriage license ..... ~~10.00~~ 25.00 for the first two pages and  
7 \$2.00 per page for each additional page

8           "~~(33) Celebrating rites of matrimony~~ ..... ~~15.00~~

9           "~~(34) Proceedings to correct record of marriage~~  
10 ~~..... 15.00~~

11           "~~(35)~~ (33) Recording certificates of judgment .....  
12 3.00

13           "~~(36)~~ (34) Administering oath for affidavit .....  
14 3.00

15           "~~(37)~~ (35) Issuing writs of ad quod damnum for the  
16 erection of dams or public mills ..... 15.00

17           "~~(38)~~ (36) Establishing facts of birth ..... 15.00

18           "~~(39)~~ (37) Proceedings appointing notary public and  
19 recording ..... 15.00

20           "~~(40)~~ (38) Hearing pertaining to mental illness .....  
21 25.00

22           "~~(41)~~ (39) Restoration to capacity ..... 15.00

23           "~~(42)~~ (40) Taking questions and answers and recording  
24 the same in proceedings to perpetuate testimony, per page  
25 ..... 5.00



1           "~~(43)~~(41) Trying and sealing weights and measures,  
2 for each weight and measure sealed, to be paid by the person  
3 for whom the service is performed ..... .50

4           "~~(44)~~(42) Fees on all sums paid to the probate judge  
5 as escheats, two percent of total amount.

6           "~~(45)~~(43) Recording or copying plats, for each lot  
7 contained therein, \$1.00 per lot, but in no case more than  
8 \$200.00 for one map, nor less than \$15.00 for one map.

9           "~~(46)~~(44) Presiding over the county commission and  
10 keeping minutes of the county commission, for each day .....  
11 10.00

12           "~~(47)~~(45) For recording minutes and proceedings of  
13 the county commission, for each page or fraction thereof .....  
14 2.00

15           "~~(48)~~(46) Discharging his or her duties in relation  
16 to public roads, on proof to the county commission that he or  
17 she had discharged such duties, annually, to be paid out of  
18 the county treasury or, in the discretion of the county  
19 commission, to be paid out of the county gasoline tax fund,  
20 not exceeding ..... 400.00

21           "~~(49)~~(47) For certifying record on appeal under  
22 either Rule 10 (d) or (e) of the Alabama Rules of Appellate  
23 Procedure ..... 15.00

24           "~~(50)~~(48) All other official duties, for the  
25 compensation of which no express provision is made by law,  
26 such sum as may be allowed by the county commission to be paid  
27 out of the county treasury, not exceeding \$500.00 per annum.

1           "~~(51)~~(49) Commissions on state and county licenses  
2 issued in the probate office, five percent on the amount  
3 collected and paid over.

4           "(c) For any proceeding in the probate court or for  
5 receiving, keeping and paying out money or distributing money  
6 where there is no fee now allowed by law, the same fees shall  
7 be charged as are now allowed to the register in the circuit  
8 court as provided for in subdivision (3) of Section 12-19-71.  
9 Provided, however, for any proceeding under the equity power  
10 of the probate court the same fees shall be charged as are  
11 provided in this section.

12           "(d) This section shall not repeal, amend nor affect  
13 any local law or general law of local application prescribing  
14 fees for judges of probate.

15           "(e) The increases provided in subsections (a) and  
16 (b) by Act 2000-108 shall not apply to counties in Category 2  
17 as defined in Section 11-2A-1 or to Cullman County.

18           "§22-9A-17.

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

23           "~~(b) (a) The judge of probate who issues the marriage~~  
24 ~~license shall prepare the record on the form or in a format~~  
25 ~~prescribed and furnished by the State Registrar upon the basis~~  
26 ~~of information obtained from the parties to be married shall~~  
27 ~~record each contract of marriage presented to the probate~~

1 court for filing and shall forward a copy to the Office of  
2 Vital Statistics.

3 ~~"(c)(b)~~ Each person who performs a marriage shall  
4 certify the fact of marriage ~~and return the record~~ by signing  
5 the contract of marriage. The contract of marriage shall be  
6 submitted to the judge of probate ~~who issued the license~~  
7 ~~within 30 days after the ceremony~~ for recording.

8 ~~"(d)(c)~~ Every judge of probate ~~issuing marriage~~  
9 ~~licenses shall complete and~~ shall forward a copy of each  
10 contract of marriage recorded with the judge of probate during  
11 the preceding calendar month along with any supporting  
12 documentation to the Office of Vital Statistics on or before  
13 the fifth day of ~~each~~ the following calendar month ~~the records~~  
14 ~~of marriage returned to the judge of probate during the~~  
15 ~~preceding calendar month.~~

16 "§30-1-5.

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

1 affidavit signed by a parent or guardian and filed with the  
2 probate court.

3 "§30-1-12.

4 "The judge of probate must keep a book, in which  
5 shall be registered all ~~licenses issued by him and which shall~~  
6 ~~state whether the parties, or either of them, were of the age~~  
7 ~~specified in Section 30-1-5. If not, he must also state~~  
8 ~~whether either of them had been previously married, or if~~  
9 ~~consent had been given to the marriage by the parent or~~  
10 ~~guardian. If such consent was in writing, he must transcribe~~  
11 ~~it on the same page on which he records the license, and the~~  
12 ~~record so made, or a certified copy thereof, is presumptive~~  
13 ~~evidence of the facts~~ contracts of marriage recorded in the  
14 office. The judge of probate shall record all contracts of  
15 marriage presented to the probate office and shall forward a  
16 copy to the Office of Vital Statistics.

17 "§30-1-13.

18 "All persons or religious societies solemnizing  
19 marriage by virtue of a license or according to their peculiar  
20 forms must, within one month thereafter, certify the fact in  
21 writing to the judge of probate, by filing the contract of  
22 marriage setting forth the names of the parties and the time  
23 and place of the celebration thereof, which ~~certificate~~ must  
24 be recorded in the book kept for the registry of ~~licenses~~  
25 contracts of marriage. A certified copy thereof is presumptive  
26 evidence of the fact.

27 "§30-1-14.

1           "Any judge, minister of the gospel, or other person  
2 uniting persons in matrimony or any clerk or keeper of the  
3 minutes of a religious society celebrating marriage by the  
4 consent of the parties before the congregation, who fails to  
5 ~~return a certificate thereof to~~ file the contract of marriage  
6 with the judge of probate, as required by law, is guilty of a  
7 misdemeanor.

8           "§30-1-16.

9           "~~(a) In all instances where a marriage license has  
10 been issued and certificate returned and vital error has been  
11 made on the face of the application, license, or certificate,  
12 necessitating that a correction be made thereof, the judge of  
13 probate of the county in which the license was issued shall,  
14 upon proper petition being filed by either party to the  
15 marriage or someone delegated or authorized by him or her, in  
16 his or her name and behalf, giving the names and residences of  
17 the parties to the marriage, and if the residence is not  
18 known, an affidavit by petitioner or petitioner's attorney  
19 that the residence is not known and that diligent effort has  
20 been made to locate same, together with a clear statement  
21 setting up wherein the correction should be made in the  
22 application license or certificate, set a date for hearing the  
23 petition after first having given notice of the time and place  
24 of the hearing for at least six days by personal service  
25 thereof if the other resides in the State of Alabama, unless  
26 both parties join in the petition and in such case the  
27 petition may be set down for immediate hearing. If the other~~

1 party to the marriage is a nonresident or has absented himself  
2 or herself from the state for six months or longer and his or  
3 her address is known, then service may be made by sending a  
4 copy of the petition by registered or certified mail, with  
5 return receipt requested, to the address of the other party.  
6 If the address is not known, service may be made by  
7 advertisement in a newspaper published in the county where the  
8 petition is filed by one weekly insertion therein.

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

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

22 "(d) The cost of the proceeding shall be paid as  
23 provided by law in proceedings in the probate court of the  
24 State of Alabama, same to be paid by the petitioner or  
25 petitioners.

26 "In all instances where a vital error has been made  
27 in the contract of marriage, the parties to the contract of

1 marriage may file an amended contract with the judge of  
2 probate. The fee for an amended contract shall be the same as  
3 for an original contract of marriage. The amended contract of  
4 marriage shall state that it is an amended contract and shall  
5 reference the date in which the original contract was filed.  
6 The judge of probate shall record the amended contract of  
7 marriage and shall forward a copy of the amended contract to  
8 the Office of Vital Statistics. If the parties can not agree  
9 on the amended contract, either party to the contract may file  
10 an action in circuit court to correct the error.

11 "§30-6-11.

12 "Commencing October 1, 1999, and thereafter, in  
13 addition to any and all other fees collected for any contract  
14 of marriage license, the probate judge shall collect thirty  
15 dollars (\$30) which shall be forwarded to the district  
16 attorney of the judicial circuit of his or her county. The  
17 funds shall be designated only for the purposes of this  
18 chapter, and forwarded monthly to the office for distribution  
19 on a formula, pursuant to Section 30-6-7 and this chapter.  
20 Provided, however, no unspent and unencumbered funds generated  
21 by this chapter shall revert to the General Fund of the State  
22 Treasury at the end of the fiscal year. Any such unspent and  
23 unencumbered funds shall be returned to the respective  
24 judicial circuits from which they were generated. The district  
25 attorney shall use the funds exclusively for the purposes of  
26 establishing, maintaining, or funding, or any combination  
27 thereof, of domestic violence shelters. The funds shall be

1 used for the establishment or maintenance of a domestic  
2 violence shelter within 12 months of the end of the fiscal  
3 year during which they were collected. If funds collected  
4 pursuant to this chapter have not been expended for the  
5 purposes of establishing or maintaining a domestic violence  
6 shelter within the time period designated in this section,  
7 those funds shall revert to the office for distribution to  
8 certified domestic violence facilities according to the  
9 formula established by the office pursuant to Section 30-6-7  
10 and this chapter."

11 Section 3. In addition to all other fees collected  
12 by the judge of probate for recording a contract of marriage,  
13 the judge of probate shall collect an additional twenty  
14 dollars (\$20) which shall be forwarded to the State Treasurer  
15 and deposited into the General Fund.

16 Section 4. Sections 30-1-9, 30-1-10, and 30-1-11 of  
17 the Code of Alabama 1975, are repealed.

18 Section 5. This act shall become effective on July  
19 1, 2015.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
  
11  
12  
13  
14  
15  
16  
17  
18

Senate

Read for the first time and referred to the Senate  
committee on Judiciary..... 14-APR-15

Read for the second time and placed on the calen-  
dar with 1 substitute and..... 30-APR-15

Read for the third time and passed as amended .... 19-MAY-15

Yeas 22  
Nays 3  
Abstaining 1

Patrick Harris  
Secretary