

MARRIAGE FOR TEXANS

DISCLAIMER!!!

The Department of State Health Services Vital Statistics Unit does not have supervisory power over the marriage issuance process. We can only advise you of what the law states.

In some cases it is clear what the answer will be.

In cases where the law is vague, your office will have to make the decision on how to proceed.



SAME SEX MARRIAGE

- June 26, 2015 Supreme Court *Obergefell* decision recognizing same-sex marriage as well as the July 7, 2015 U. S. District Court *DeLeon* decision.

- New Application that is Gender Neutral.



APPLICATION FOR MARRIAGE LICENSE, _____ COUNTY, TEXAS

The form and content of this application is prescribed by section 2.004 of the Texas Family Code.

WARNING: IT IS A FELONY TO FALSIFY INFORMATION ON THIS DOCUMENT. THE PENALTY FOR KNOWINGLY MAKING A FALSE STATEMENT ON THIS FORM OR FOR SIGNING A FORM WHICH CONTAINS A FALSE STATEMENT IS 2 TO 10 YEARS IMPRISONMENT AND A FINE OF UP TO \$10,000. (HEALTH AND SAFETY CODE, CHAPTER 195, SEC. 195.003)

Applicant One	First Name		Middle Name		Current Last Name		Suffix
	Woman's Maiden Name (If Applicable)					Telephone Number	
	Street Address			City	State	Zip	
	Date of Birth	Place of Birth (including city, county and state)			Social Security Number		

I have not been divorced within the last 30 days. TRUE FALSE
 I am not related to the other applicant as: TRUE FALSE

I am not presently married. TRUE FALSE

 • an ancestor or descendant, by blood or adoption;
 • a brother or sister, of the whole or half blood or by adoption;
 • a parent's brother or sister, of the whole or half blood or by adoption;
 • a son or daughter of a brother or sister, of the whole or half blood or by adoption;
 • a current or former stepchild or stepparent; or
 • a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption;

I am not presently delinquent in the payment of court ordered child support.
 TRUE FALSE

The other applicant is not presently married TRUE FALSE

I wish to make a voluntary contribution of \$5.00 to promote healthy early childhood by supporting the Texas Home Visitation Program administered by the Office of Early Childhood Coordination of Health and Human Services [Texas Family Code 2.004(13)].

I solemnly swear (or affirm) that the information I have given in this application is correct _____
Applicant's Signature and Date Signed

Applicant Two	First Name		Middle Name		Current Last Name		Suffix
	Woman's Maiden Name (If Applicable)					Telephone Number	
	Street Address			City	State	Zip	
	Date of Birth	Place of Birth (including city, county and state)			Social Security Number		

I have not been divorced within the last 30 days. TRUE FALSE
 I am not related to the other applicant as: TRUE FALSE

I am not presently married. TRUE FALSE

 • an ancestor or descendant, by blood or adoption;
 • a brother or sister, of the whole or half blood or by adoption;

SAME SEX DECLARATION AND REGISTRATION OF INFORMAL MARRIAGE

- You will have to speak to your legal office regarding whether or not a Declaration and Registration of Informal Marriage can be backdated prior to the SCOTUS ruling.
- VSU Will accept the Declaration.
- We cannot speak to the validity of the Declaration. We are just the record keepers.

MARGINS ON MARRIAGE LICENSE APPLICATIONS

- VSU is receiving numerous marriage license applications that do not have the correct margins.
- This makes us unable to properly number the applications for filing
- Title 25 TAC 181.25 (c) When reproduced locally by the county clerk, the form shall be identical in content, format, and size as prescribed by the Vital Statistics Unit.
- As of 01/01/2015, any marriage license applications that are not identical in format and size will be rejected and sent back to the county clerk's office.

MARGINS ON MARRIAGE LICENSE APPLICATIONS

- From the top: it should have an approx. $\frac{3}{4}$ inch margin from the top of the page to the first line of the gray box.
- From the left side: an approximate $\frac{5}{8}$ inch margin from the edge of the paper to the border of the applicant information section.

3/4 Inch

5/8 Inch

M A N

 **APPLICATION FOR MARRIAGE LICENSE, _____ County, Texas**

Sec. 2.009 of the Texas Family Code requires the applicants for a marriage license to provide the information on this form, including their social security number. A county clerk may not issue a license unless all information is provided on this application.

Please **PRINT** your responses carefully and accurately. The information you provide on this application is used to create your marriage license.

First Name	MI	Last Name	Suffix	
Date of Birth (month/day/year)	Age	Place of Birth (city)	County	State/Foreign Country
Social Security Number	Telephone Number	E-mail Address		
Street Address (number & name)	City	State/Foreign Country	Zip Code	
Mail/Executed License to (street)	City	State/Foreign Country	Zip Code	

I have not been divorced within the last 30 days. TRUE FALSE

I am not presently married and the other applicant is not presently married. TRUE FALSE

I am not presently delinquent in the payment of court-ordered child support. TRUE FALSE

The other applicant is not related to me as:

- an ancestor or descendant, by blood or adoption;
- a brother or sister, of the whole or half blood or by adoption;
- a parent's brother or sister of the whole or half blood or by adoption;
- a son or daughter of a brother or sister of the whole or half blood or by adoption;
- a current or former stepchild or stepparent; or
- a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption.

TRUE FALSE

I solemnly swear (or affirm) that the information I have given in this application is correct. _____ Applicant/Spouse

WARNING: THE PENALTY FOR KNOWINGLY MAKING A FALSE STATEMENT CAN BE 2-10 YEARS IN PRISON AND A FINE OF UP TO \$10,000. (FISC, SEC. 195.003)

ABSENT APPLICANT REQUIREMENTS

(c) 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



ABSENT APPLICANT AFFIDAVIT REQUIREMENTS

(8) the appointment of any adult, other than the other applicant, to act as proxy for the purpose of participating in the ceremony, if the absent applicant is:

- (A) a member of the armed forces of the United States stationed in another country in support of combat or another military operation; and
 - (B) unable to attend the ceremony.
- 

ABSENT APPLICANT AFFIDAVIT REQUIREMENTS

What does all that mean?

- Anyone can still apply on behalf of an absent applicant.
 - Only someone who is in the military stationed overseas can appoint a proxy to stand in for them during the wedding.
 - If they are an absent applicant and not deployed overseas military personnel, they have to present for the ceremony.
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FILING OF ABSENT APPLICANT AFFIDAVIT

Health and Safety Code 194.001 (a) The county clerk shall file with the bureau of vital statistics a copy of each completed marriage license application and a copy of any affidavit of an absent applicant submitted with an application. The clerk shall file the copies not later than the 90th day after the date of the application. The clerk may not collect a fee for filing the copies .



WHICH OF THESE IS ACCEPTABLE AS AN ABSENT APPLICANT? ASSUME THEY HAVE ALL COMPLETED THE ABSENT APPLICANT AFFIDAVIT

1. Groom unable to appear to get the license because of work but will be there for the ceremony. Bride appears in person to apply for license.

YES

2. Bride unable to appear in person because she is out of state and will not be present for the ceremony. Groom appears in person to apply for license.

NO

3. Bride and Groom both unable to appear in person to get license but will be present for the ceremony. Another person applying on their behalf.

NO

4. Groom 1 in prison and cannot appear in person but will be able to be present for the ceremony. Groom 2 appears in person to apply for license.

YES

5. Bride 1 is deployed in another country in support of combat operations. Bride 2 in military stationed in another state. Another person applying on their behalf.

NO



**DOES THE ABSENT APPLICANT
AFFIDAVIT NEED TO BE
NOTARIZED?**

DOES THE ABSENT APPLICANT AFFIDAVIT NEED TO BE NOTARIZED?

The person applying on behalf of an absent applicant shall provide to the clerk [FC 2.006(b)]:

- (1) notwithstanding Section 132.001, Civil Practice and Remedies Code, the **notarized** affidavit of the absent applicant as provided by this subchapter;
 - (2) proof of the identity and age of the absent applicant under Section 2.005(b);
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DOES THE ABSENT APPLICANT AFFIDAVIT NEED TO BE NOTARIZED?

“Notwithstanding Section 132.001, Civil Practice and Remedies Code” means that the all absent applicant affidavits must be notarized, regardless of CPR 132.001.

Must also have proof of identity and age of the absent applicant.



PERSONS AUTHORIZED TO CONDUCT A MARRIAGE CEREMONY [FC 2.202]

- **a licensed or ordained Christian minister or priest;**
 - **a Jewish rabbi;**
 - **a person who is an officer of a religious organization and who is authorized by the organization to conduct a marriage ceremony;**
and
- 

PERSONS AUTHORIZED TO CONDUCT A MARRIAGE CEREMONY [FC 2.202]

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 or retired judge of a municipal court,

Judge or retired judge or magistrate of a federal court of this state.



DO OFFICIATES HAVE TO CHECK WITH THE STATE BEFORE THEY PERFORM A CEREMONY?

There is no official registration for persons authorized to conduct a marriage ceremony.

If they review the law and believe they can perform the marriage ceremony then they can perform the ceremony.

The validity of a marriage is not affected by the lack of authority of the person conducting the marriage ceremony if [FC 2.302]:

- (1) there was a reasonable appearance of authority by that person;
- (2) at least one party to the marriage participated in the ceremony in good faith and that party treats the marriage as valid

SCENARIO

- Couple purchases a marriage license in your office. They take it on a cruise and get married at sea with the captain of the ship officiating the marriage. The county clerk files the marriage license.
 - Can a captain of a ship officiate a marriage:
 - **Based on FC 2.202, no.**
 - Is the marriage valid:
 - **Unless a judge decides otherwise, yes.**

MARRIAGE LESS THAN 72 HOURS AFTER ISSUANCE OF LICENSE [FC §6.110].

(a) The court may grant an annulment of a marriage to a party to the marriage if the marriage ceremony took place in violation of Section 2.204 during the 72-hour period immediately following the issuance of the marriage license.

(b) A suit may not be brought under this section after the 30th day after the date of the marriage.

MARRIAGE LESS THAN 72 HOURS AFTER ISSUANCE OF LICENSE [FC §6.110].

If the 72 Hour waiting period has not been properly waived and the ceremony is conducted anyway, the county clerk should still file the marriage license.

The person who conducted the marriage ceremony is the person at fault not the county clerk.

**The county clerk shall record a returned marriage license and mail the license to the address indicated on the application.
[FC §2.208]**



WHY CAN'T THE COUNTY CLERK REJECT THE LICENSE?

There is nothing in state law that allows for a county clerk's office to reject a marriage license.

Difference between birth and death records and marriage licenses is that the law specifically allows for a birth or death record to be rejected. There is nothing in the Family code that allows the same for marriage licenses.

HSC §191.027. REVIEW OF CERTIFICATE BY LOCAL REGISTRAR

(a) The local registrar shall carefully examine each birth or death certificate when presented for registration to determine if it is completed as required by this title and by the state registrar's instructions.

(b) If a death certificate is incomplete or unsatisfactory, the local registrar shall call attention to the defects in the return.

(c) If a birth certificate is incomplete, the local registrar shall immediately notify the informant and require the informant to supply the missing information if it can be obtained.

AMENDMENT TO MARRIAGE LICENSE

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.

CAN THE CEREMONY TAKE PLACE OVER SKYPE?

- There is nothing in state law that indicates where or how the ceremony is to be conducted.
- The only information about the ceremony is in regards to the time periods referred to in FC 2.201 (expiration of license), FC 2.202 (person's authorized to conduct ceremony) and FC 2.204 (72-hour waiting period).

IS THE MARRIAGE STILL VALID?

FC 1.101 In order to promote the public health and welfare and to provide the necessary records, this code specifies detailed rules to be followed in establishing the marriage relationship. However, in order to provide stability for those entering into the marriage relationship in good faith and to provide for an orderly determination of parentage and security for the children of the relationship, it is the policy of this state to preserve and uphold each marriage against claims of invalidity unless a strong reason exists for holding the marriage void or voidable. Therefore, every marriage entered into in this state is presumed to be valid unless expressly made void by Chapter 6 or unless expressly made voidable by Chapter 6 and annulled as provided by that chapter.



CAN THE COUNTY CLERK PROVIDE THEM WITH A CERTIFICATE OF INFORMAL MARRIAGE?

Certificate of Informal Marriage 2.404 (a-1):

On the proper execution of the declaration, the clerk may:

- prepare a certificate of informal marriage;
 - enter on the certificate the names of the persons declaring their informal marriage and the date the certificate or declaration is issued; and
 - record the time at which the certificate or declaration is issued.
- 

SCENARIO

Jack was married to Dianne for 10 years. Dianne had an adult daughter, June, from a previous marriage. Jack and Dianne get divorced and Jack is now wanting to marry June.

Can you issue a marriage license to Jack and June?

NO

ISSUANCE OF THE MARRIAGE LICENSE [FC 2.009]

The County Clerk may not issue a license if either applicant

Checks false to “The other applicant is not related to me as:

- (A) an ancestor or descendant, by blood or adoption;
- (B) a brother or sister, of the whole or half blood or by adoption;
- (C) a parent's brother or sister, of the whole or half blood or by adoption;
- (D) a son or daughter of a brother or sister, of the whole or half blood or by adoption;
- (E) a current or former stepchild or stepparent; or
- (F) a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption;”

SCENARIO

David and Denise are first cousins. They want to get married to each other. They come into the County Clerks office and ask you if first cousins can get married to each other.

How should you handle the situation?



CAN FIRST COUSINS GET MARRIED?

You would inform them that you cannot answer that question. You are just the issuer of the license and that your ability to issue that license is based on how they answer the questions on the application.

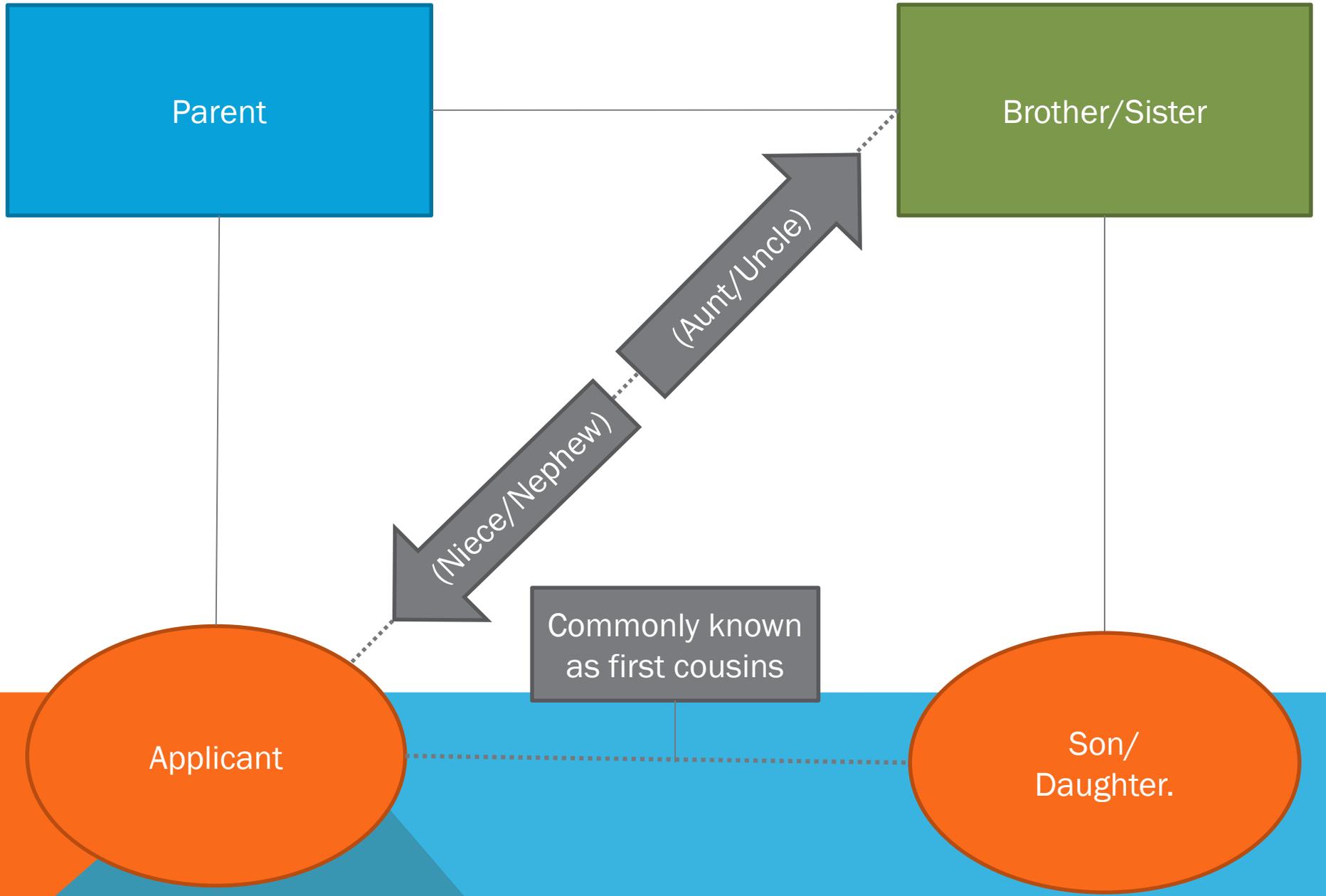


FAMILY CODE SEC. 2.009 (F)

The County Clerk may not issue a license if either applicant checks false to “the other applicant is not related to me as a son or daughter of a parent's brother or sister, of the whole or half blood or by adoption.”

It is up to each applicant to determine if they fall into this category.





DESTINATION WEDDINGS

- Can I file a marriage license in my office that was issued in another county, state or country?
 - No. There are no provisions in state law to allow a county clerk to file a marriage license in their marriage records that was not issued from their office.

DESTINATION WEDDINGS

- If I issue a marriage license can the couple take it to another country and get married there?

There are no references in state law that states that the marriage ceremony has to take place in Texas.

CERTIFIED COPIES VS. PLAIN COPIES

- FC 2.209 (a) On request, the county clerk shall issue a certified copy of a recorded marriage license.
 - Some offices interpret this to mean they can only issue certified copies.
 - Up to your office to determine whether or not you can issue plain copies.
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ISSUANCE OF THE MARRIAGE LICENSE [FC 2.009/FC 6.201]

FC 6.201. CONSANGUINITY. A marriage is void if one party to the marriage is related to the other as:

- (1) an ancestor or descendant, by blood or adoption;**
- (2) a brother or sister, of the whole or half blood or by adoption;**
- (3) a parent's brother or sister, of the whole or half blood or by adoption; or**
- (4) a son or daughter of a brother or sister, of the whole or half blood or by adoption.**

FEES: CERTIFIED COPIES OF MARRIAGE LICENSE & MARRIAGE VERIFICATION

- A county clerk shall collect the following fees for services rendered to any person [LGC 118.011(a)(3) & (b)]:
 - Certified Papers (Sec. 118.014): for the clerk's certificate \$ 5.00 plus a fee for each page or part of a page \$ 1.00

FEES: CERTIFIED COPIES OF MARRIAGE LICENSE & MARRIAGE VERIFICATION

If a county clerk is treating the marriage license “Certified paper”, a county clerk would be able to charge up to \$6.00 for a certified copy of a 2 page marriage license (not including the \$1.00 preservation fee as listed in Texas Health and Safety Code 191.0045 (d))



FEES: CERTIFIED COPIES OF MARRIAGE LICENSE & MARRIAGE VERIFICATION

- Many of the county clerks say they are issuing a “Marriage Verification” when issuing a certified copy of a marriage license.
- A county clerk must charge the same fee as the state when issuing a “Marriage Verification”.
- The fee for a search to verify a marriage record is \$20.00 [Title 25 TAC 181.22 (h) & (s)]

FEES: CERTIFIED COPIES OF MARRIAGE LICENSE & MARRIAGE VERIFICATION

- VSU does not have an opinion on how you should view the issuance of certified copies of marriage licenses.
- This fee is left up to the county clerks.
- However, if you are reviewing it as a marriage verification, you must charge the same fee as the state.

OUR WEBSITE:

- www.texasvsu.org
- www.dshs.texas.gov
- **FAQ Wiki:** wiki.texasvsu-ed.org
- **Email:**
 - fieldservices@dshs.texas.gov
 - field@texasvsu.org

**SEE YOU SUMMER OF 2016
ENJOY YOUR HOLIDAY!**