

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2535

By: Graves

AS INTRODUCED

An Act relating to marriage and family; providing for certain marriage contracts; providing for parties; prohibiting dissolution except upon certain showing of evidence; providing method of dissolution of marriage; providing for contents of marriage contract; providing for venue; prohibiting certain forms of dissolution not in conformity with marriage contract; providing exceptions; providing procedures; providing for violations of marriage contract; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 20 of Title 43, unless there is created a duplication in numbering, reads as follows:

Two persons of the opposite sex may, either prior to or after a marriage is lawfully and duly solemnized, enter into a written marriage contract providing that the marital relationship will not be dissolved except on a showing by a preponderance of the evidence by one party of the fault of the other party which constitutes

grounds for the dissolution of the marriage, as specified in the marriage contract.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 21 of Title 43, unless there is created a duplication in numbering, reads as follows:

If the requirements for enforceability as defined in this act are met, a marriage contract shall be enforced by a court of competent jurisdiction and the marriage of the parties shall not be dissolved or modified except under the terms of the marriage contract.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 22 of Title 43, unless there is created a duplication in numbering, reads as follows:

A party to the marriage who believes that the marriage contract has been violated and that the grounds specified in the contract exist for dissolution of the marriage may institute a legal proceeding to dissolve the marriage, and if the grounds as specified in the contract are proven, that party shall be awarded a decree of dissolution of marriage.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 23 of Title 43, unless there is created a duplication in numbering, reads as follows:

The written marriage contract, to be enforceable, must contain the following agreements between the parties:

1. The written marriage contract contains the exclusive understanding and agreement between the parties regarding the terms of continuance of their legal marital relationship;

2. a. The marriage of the parties shall not be dissolved or otherwise modified except by mutual consent of the parties or upon a showing by a preponderance of the evidence by one party of the fault of the other party which constitutes grounds for the dissolution of the

marriage, as specified in the marriage contract, in a court of competent jurisdiction. Those acts that constitute fault must be set out in the marriage contract and must not be contrary to public policy in order to justify the dissolution of the marriage of the parties.

b. Those acts that constitute fault may include:

- (1) when consent to the marriage of the party to the petition for dissolution, legal separation, or declaration concerning validity was obtained by force or duress or fraud of the other party,
- (2) when the party filing the petition for dissolution, legal separation, or declaration concerning validity was incapable of consenting to the marriage because of physical or mental incompetence,
- (3) when a party commits adultery,
- (4) when a party is impotent and the party filing the petition for dissolution, legal separation, or declaration concerning validity was unaware at the time of the marriage that the other party was or was likely to become impotent,
- (5) when a party is infected with a sexually transmitted disease and the party filing the petition for dissolution, legal separation, or declaration concerning validity was unaware at the time of the marriage that the other party was so infected,
- (6) when a party has abandoned the relationship or has disappeared for one or more years,
- (7) when a party has a habitual and ongoing addiction to alcohol or drugs,

- (8) when the husband continually neglects or refuses to make reasonable provision for the basic needs of the family,
- (9) when a party has been imprisoned in a state, federal or foreign prison for at least two (2) years,
- (10) when a party is continually treating the other party, or any minor natural, adopted, step or foster child residing in the home of a party, with physical abuse or extreme mental cruelty, or any such child with sexual abuse,
- (11) when a party is determined to be legally insane, and
- (12) any such other actions or circumstances as shall be agreed by both parties at the time the marriage contract is signed;

3. Any legal proceeding involving the marriage contract shall be brought in a district court of the county in which either party to the marriage contract reside. The practice of civil actions in Oklahoma shall govern all proceedings. The State of Oklahoma shall retain jurisdiction over all actions involving the marriage and the laws of this state shall apply. A dissolution of marriage, divorce, legal separation, or declaration concerning the validity of the marriage that is not in conformity with the marriage contract and the laws of this state shall have no force or effect in Oklahoma;

4. The parties must acknowledge that each recognizes that, in the absence of a written marriage contract, either party may petition the court for a dissolution of marriage on the grounds that the marriage is irretrievably broken, and the petition shall be granted in accordance with Sections 101 through 137 of Title 43 of the Oklahoma Statutes. The parties must state in the written marriage contract that each, by executing the document, gives up

that right and agrees to be bound solely by the terms of the written marriage contract to determine the grounds that will enable a party to successfully petition for dissolution of the marriage; and

5. The written marriage contract shall not be enforceable until the marriage is duly and lawfully solemnized.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 24 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. When violation of a written marriage contract is alleged and the responding party contests the petition or denies the allegation of fault, the court shall submit the issue of whether the marriage contract has been violated to a jury at the request of either party.

B. If the jury finds that a violation of the written marriage contract has occurred, the court shall enter a decree of dissolution of marriage. The court shall determine issues of property division, child custody, child visitation and maintenance requests by either party without submission of those items to the jury.

SECTION 6. This act shall become effective September 1, 1994.

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