

SHORT TITLE: Marriage; providing for covenant marriages;  
codification; effective date.

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

SENATE BILL NO. 1115

By: Martin

AS INTRODUCED

An Act relating to marriage; amending 43 O.S. 1991, Sections 1, 5, 6, as amended by Section 9, Chapter 402, O.S.L. 1997, and 101 (43 O.S. Supp. 1997, Section 6), which relate to the marriage contract and license; defining term; providing for covenant marriage; specifying conditions and process; providing for designation of covenant marriage on marriage applications; specifying contents; clarifying and updating language; providing for declarations of intent to enter into a covenant marriage; requiring certain counseling; stating construction; authorizing certain exemption; stating statutory application; providing for execution of a declaration of intent to designate a pre-existing marriage as a covenant marriage; providing procedures; providing for declaration and contents; specifying grounds for termination of a covenant marriage; requiring Administrative Director of the Courts to develop and print certain informational pamphlet; providing for contents; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 1991, Section 1, is amended to read as follows:

Section 1. A. Marriage is a personal relation arising out of a civil contract to which the consent of parties legally competent of contracting and of entering into it is necessary, and the marriage relation shall only be entered into, maintained or abrogated as provided by law.

B. 1. A covenant marriage is a marriage entered into by a man and a woman who agree that the marriage between them is a lifelong relationship. Parties to a covenant marriage shall receive counseling emphasizing the nature and purposes of marriage and the responsibilities thereof.

2. An unmarried man and woman may enter into a covenant marriage by declaring their intent to do so on their application for a marriage license and by executing a declaration of intent to enter into a covenant marriage, as provided in Section 4 of this act. The application for a marriage license and the declaration of intent shall be filed with the official who issues the marriage license.

3. A married couple domiciled in this state may execute a declaration of intent to designate their marriage as a covenant marriage pursuant to Section 5 of this title.

SECTION 2. AMENDATORY 43 O.S. 1991, Section 5, is amended to read as follows:

Section 5. ~~The judge or clerk of the district court, upon~~ A. Persons desiring to be married in this state shall submit an application in writing signed and sworn to in person before ~~him~~ the judge or clerk of the district court by both of the parties ~~to be married~~ setting forth ~~their places~~:

1. Each party's place of residence ~~and setting forth their~~;

2. Each party's full ~~names~~ name and ~~ages~~ age as the same appear upon a certified copy of birth certificate, ~~or upon~~ a current motor vehicle operator's, chauffeur's, or commercial license, ~~or upon~~ a

current voter's registration certificate, ~~or upon~~ a current passport or visa, ~~or upon~~ any other certificate, license, or document issued by or existing pursuant to the laws of any nation or of any state or other governmental subdivision thereof, ~~when each such document accepted as proof of identity and age is described with reasonable particularity in the application shall also set forth that such persons to be married;~~

3. That the parties are not disqualified or incapable of entering into the marriage relation, ~~of~~ and that the relationship is not prohibited by law; ~~and being~~

4. Whether the application is for a covenant marriage. If the application is for a covenant marriage, the application for a marriage license must also include the following statement:

"We, (names of parties), do hereby declare our intent to enter into a covenant marriage and, accordingly, have executed a declaration of intent which is attached."

B. If, after the application for a marriage license has been completed, the judge or clerk of the district court is satisfied of the truth and sufficiency of such the application and that there is no legal impediment to such the marriage, and after application for such marriage license has issued, the judge or clerk shall issue under his hand and the seal of his court, the license authorizing such the marriage; provided that in.

C. In the event that one or both of the parties to be married are under legal age and a parent or guardian or other authorized person of each underage party under legal age or other authorized person has not signed the waiver as provided for in Section 3 of this title, such the application shall have been be on file in the court clerk's office for a period of not less than seventy-two (72) hours prior to issuance of the marriage license. Such

D. Any party seeking to obtain a marriage license for a covenant marriage shall be required to obtain the counseling

required by Section 4 of this act at least fifteen (15) days prior to the application for a marriage license. The declaration of intent to enter into a covenant marriage shall comply with the provisions of Section 4 of this act.

E. The marriage license shall be valid in any county within the this state.

F. The provisions hereof are mandatory and not directory except under the circumstances set out in the ~~proviso to~~ provisions of Section 3 of this title.

SECTION 3. AMENDATORY 43 O.S. 1991, Section 6, as amended by Section 9, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1997, Section 6), is amended to read as follows:

Section 6. ~~The~~ A. A marriage license herein provided for shall contain the:

1. The date and time of its issuance;
  2. The name of the court, ~~the~~;
  3. The name of the city or town and county in which it is located, ~~the~~;
  4. The full ~~names~~ name of the ~~persons~~ each party to be married ~~thereunder, their ages, places;~~
  5. The age of each party;
  6. The place of residence of each party, ~~and social;~~
  7. The social security ~~numbers~~ number of each party, if any;
- and
8. If applicable, a designation that the parties will enter into a covenant marriage.

B. A marriage license shall be directed to any person authorized by law to perform and solemnize the marriage ceremony ~~and~~. The marriage license shall fix the time ~~of~~ for the return thereof, which shall not be more than thirty (30) days from the date of its issuance, and shall contain a blank certificate to be made

out by the person solemnizing or performing the marriage ceremony ~~thereunder~~.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6.1 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. A declaration of intent to ~~contract~~ enter into a covenant marriage shall contain all of the following:

1. A recitation by the parties in substantially the following form:

#### A COVENANT MARRIAGE

We do solemnly declare that marriage is a covenant between a man and a woman who agree to live together as husband and wife for so long as they both may live. We have chosen each other carefully and disclosed to one another everything which could adversely affect the decision to enter into this marriage. We have received premarital counseling on the nature, purposes, and responsibilities of marriage. We have read "Guide for Covenant Marriages", developed and printed by the Administrative Director of the Courts, and we understand that a covenant marriage is for life. If we experience marital difficulties, we commit ourselves to take all reasonable efforts to preserve our marriage, including marital counseling.

With full knowledge of what this commitment means, we do hereby declare that our marriage will be bound by Oklahoma law on covenant marriages and we promise to love, honor, and care for one another as husband and wife for the remainder of our lives.;

2. An affidavit by the parties that they have received premarital counseling from a priest, minister, rabbi, or any clergyman of any religious sect, or a marital and family therapist licensed pursuant to the Marital and Family Therapist Licensure Act at least fifteen (15) days prior to the application for a marriage license. The counseling shall include a discussion of the seriousness of covenant marriage, communication of the fact that a

covenant marriage is a commitment for life, a discussion of the obligation to seek marital counseling in times of marital difficulties, and a discussion of the exclusive grounds for legally terminating a covenant marriage by divorce;

3. A notarized affidavit, signed by the counselor and attached to or included in the parties' affidavit, confirming that:

- a. the parties were counseled as to the nature and purpose of the marriage and the grounds for termination thereof, and
- b. the counselor provided to the parties the informational pamphlet "Guide for Covenant Marriages", developed and printed by the Administrative Director of the Courts, which provides a full explanation of the terms and conditions of a covenant marriage and grounds for termination thereof.

The provisions of this paragraph shall not be construed to require any person to provide counseling to a party for the termination of marriage if such counseling is contrary to the beliefs of such person; provided, that such counselor furnishes to the party the "Guide for Covenant Marriages", developed by the Administrative Director of the Courts, and has informed the party to consider all aspects of the conditions for a covenant marriage;

4. The notarized signature of both parties; and

5. If one or both of the parties are minors, the written consent or authorization of those persons required by Section 3 of Title 43 of the Oklahoma Statutes to consent to or authorize the marriage of minors.

B. The declaration of intent shall be prepared in duplicate originals, one of which shall be retained by the parties and the other filed as provided in Sections 7 and 9 of Title 43 of the Oklahoma Statutes.

C. A covenant marriage shall be governed by all of the provisions of Title 43 of the Oklahoma Statutes and any other provision of Oklahoma law relating to marriage and the marriage contract which is not inconsistent with the provisions of this act pertaining to covenant marriages.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6.2 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. On or after November 1, 1998, a married couple domiciled in this state may execute a declaration of intent to designate their marriage as a covenant marriage to be governed by the laws related thereto.

B. 1. This declaration of intent in the form and containing the contents required by subsection C of this section must be presented to the court clerk of the district court of this state which issued the couple's marriage license and with whom the couple's marriage certificate is filed. If the couple was married outside of this state, a copy of the foreign marriage certificate, with the declaration of intent attached thereto, shall be filed with the court clerk of the district court which issues marriage licenses in the county in which the couple is domiciled. The court clerk shall make a notation on the marriage certificate of the declaration of intent of a covenant marriage and attach a copy of the declaration to the certificate.

2. On or before the fifteenth day of each calendar month, the court clerk shall forward to the State Registrar of Vital Records each declaration of intent of a covenant marriage filed with the court clerk during the preceding calendar month pursuant to this section.

C. 1. A declaration of intent to designate a marriage as a covenant marriage shall contain all of the following:

- a. a recitation by the parties in substantially the following form:

A COVENANT MARRIAGE

We do solemnly declare that marriage is a covenant between a man and a woman who agree to live together as husband and wife for so long as they both may live. We understand the nature, purpose, and responsibilities of marriage. We have read "Guide for Covenant Marriages", developed and printed by the Administrative Office of the Courts, and we understand that a covenant marriage is for life. If we experience marital difficulties, we commit ourselves to take all reasonable efforts to preserve our marriage, including marital counseling. With full knowledge of what this commitment means, we do hereby declare that our marriage will be bound by Oklahoma law on covenant marriages, and we renew our promise to love, honor, and care for one another as husband and wife for the remainder of our lives., and

- b. (1) an affidavit by the parties that they have discussed their intent to designate their marriage as a covenant marriage with a priest, minister, rabbi, or any clergyman of any religious sect, or a marital and family therapist licensed pursuant to the Marital and Family Therapist Licensure Act. The counseling shall include a discussion of the obligation to seek marital counseling in times of marital difficulties and the exclusive grounds for legally terminating a covenant marriage by divorce,

- (2) a notarized affidavit, signed by the counselor and included in or attached to the parties' affidavit, acknowledging that the counselor provided to the parties the informational pamphlet entitled "Guide for Covenant Marriages", developed and printed by the Administrative Director of the Courts, which provides a full explanation of the terms and conditions of a covenant marriage and grounds for termination thereof. The provisions of this subparagraph shall not be construed to require any person to provide counseling to a party for the termination of marriage if such counseling is contrary to the beliefs of such person; provided, that such counselor furnishes to the party the "Guide for Covenant Marriages", developed and printed by the Administrative Director of the Courts, and has informed the party to consider all aspects of the conditions for a covenant marriage, and
- (3) the notarized signature of both parties.

2. The declaration of intent shall be prepared in duplicate originals, one of which shall be retained by the parties and the other filed as provided in subsection B of this section.

SECTION 6. AMENDATORY 43 O.S. 1991, Section 101, is amended to read as follows:

Section 101. A. The district court may grant a divorce for a marriage, other than a covenant marriage, for any of the following causes:

- ~~First.~~ 1. Abandonment for one (1) year-i
- ~~Second.~~ 2. Adultery-i
- ~~Third.~~ 3. Impotency-i

~~Fourth.~~ 4. When the wife at the time of her marriage~~7~~ was pregnant by ~~another~~ a person other than her husband~~;~~;

~~Fifth.~~ 5. Extreme cruelty~~;~~;

~~Sixth.~~ 6. Fraudulent contract~~;~~;

~~Seventh.~~ 7. Incompatibility~~;~~;

~~Eighth.~~ 8. Habitual drunkenness~~;~~;

~~Ninth.~~ 9. Gross neglect of duty~~;~~;

~~Tenth.~~ 10. Imprisonment of the other party in a state or federal penal institution under sentence thereto for the commission of a felony at the time the petition is filed~~;~~;

~~Eleventh.~~ 11. The procurement of a final divorce decree ~~without~~ outside this state by a husband or wife which does not in this state release the other party from the obligations of the marriage~~;~~; and

~~Twelfth.~~ 12. Insanity for a period of five (5) years, the insane person having been an inmate of a state institution for the insane in the State of Oklahoma, or inmate of a state institution for the insane in some other state for such period, or of a private sanitarium, and affected with a type of insanity with a poor prognosis for recovery; provided, that no divorce shall be granted because of insanity until after a thorough examination of such insane person by three physicians, one of which physicians shall be a superintendent of the hospital or sanitarium for the insane~~7~~ in which the insane defendant is confined, and the other two physicians to be appointed by the court before whom the action is pending~~7~~any. Any two of such physicians shall agree that such insane person, at the time the petition in the divorce action is filed, has a poor prognosis for recovery; provided~~7~~ further, however, that no divorce shall be granted on this ground to any person whose husband or wife is an inmate of a state institution in any other than the State of Oklahoma, unless the person applying for such divorce shall have been a resident of the State of Oklahoma for at least five (5) years prior to the commencement of an action; and provided further, that a

decree granted on this ground shall not relieve the successful party from contributing to the support and maintenance of the defendant. The court shall appoint a guardian ad litem to represent the insane defendant, which appointment shall be made at least ten (10) days before any decree is entered.

B. The district court may grant a divorce to a party of a covenant marriage for any of the following causes:

1. The other party has committed adultery;

2. The other party has physically, emotionally, or sexually abused the party seeking the divorce or a child of either party;

3. The other party has abandoned the matrimonial home for a period of one (1) year;

4. The parties have been living separate and apart continuously without reconciliation for a period of eighteen (18) months; or

5. Fraud by the other party when entering into a pre-existing marriage contract between the parties or into a covenant marriage.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6.3 of Title 43, unless there is created a duplication in numbering, reads as follows:

The Administrative Director of the Courts shall, prior to November 1, 1998, develop and print an informational pamphlet, entitled "Guide for Covenant Marriages", which shall outline in detail the legal effects of entering into a covenant marriage and grounds for termination thereof. The informational pamphlet shall be made available for purchase to any person who provides marriage counseling as provided by this act.

SECTION 8. This act shall become effective November 1, 1998.

46-2-2071

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