

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 677

By: Laughlin

AS INTRODUCED

An Act relating to marriage; amending 43 O.S. 2001, Sections 1, 5, 6 and 101, which relate to the marriage contract and license; defining term; specifying conditions and procedures for covenant marriage; providing for designation of covenant marriage under certain circumstances; specifying contents of certain application; clarifying and updating language; providing for declarations of intent to enter into a covenant marriage; requiring 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; requiring Administrative Director of the Courts to develop and print certain informational pamphlet and specifying contents; specifying grounds for termination of a covenant marriage; requiring certain information in certain petition; requiring hearing under certain circumstances; providing for codification; and providing effective dates.

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

SECTION 1. AMENDATORY 43 O.S. 2001, 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 understand and agree that the marriage between them is a lifelong relationship. Parties to a covenant marriage shall obtain 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 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 act.

SECTION 2. AMENDATORY 43 O.S. 2001, Section 5, is amended to read as follows:

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

1. Each party's place of residence;

2. Each party's full name and age as the same appear upon a certified copy of the birth certificate of each, a current motor vehicle operator's, chauffeur's, or commercial license, a current ~~voter's registration certificate~~ voter identification card, a current passport or visa, or 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 which is accepted as proof of identity and age;

3. That the parties are not disqualified from or incapable of entering into the marriage relation; ~~and~~

4. Whether the parties have successfully completed a premarital counseling program; and

5. 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, (name of intended husband) and (name of intended wife), do hereby declare our intent to enter into a covenant marriage and, accordingly, have executed a declaration of intent which is attached".

B. 1. Upon application pursuant to this section and the payment of fees as provided in Section 31 of Title 28 of the Oklahoma Statutes, if the judge or clerk of the district court is satisfied of the truth and sufficiency of the application and that there is no legal impediment to ~~such~~ the marriage, the judge or clerk shall issue the license authorizing the marriage.

2. Parties to be married and who present a certificate to the clerk of the district court that states the parties have completed the premarital counseling program pursuant to Section ~~2~~ 5.1 of this ~~act~~ title shall be entitled to pay a reduced fee for a marriage license in an amount provided in Section 31 of Title 28 of the Oklahoma Statutes.

C. In the event that one or both of the parties are under legal age and a parent or guardian of the underage party or other authorized person has not signed the waiver as provided for in Section 3 of this title, the application shall have been 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.

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 contract 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 state.

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

SECTION 3. AMENDATORY 43 O.S. 2001, Section 6, is amended to read as follows:

Section 6. ~~The~~ 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~~ the court is located~~,~~~~the~~;
4. The full names of the persons to be married ~~thereunder,~~
~~their~~;
5. Their ages~~,~~~~places~~;
6. Their places of residence~~,~~~~and social~~;
7. Their social security numbers, if any;
8. If applicable, a designation that the parties are entering into a covenant marriage; and
9. A designation regarding whether the parties received premarital counseling,

and 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 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 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, but not limited to, 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, clergyman, or a qualified mental health provider 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 subparagraph shall not be construed to require any person to provide counseling to a party for the termination of marriage if this counseling is contrary to the beliefs of the person; provided, that the 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; and

4. a. The notarized signature of both parties, or
- b. 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 to enter into a covenant marriage shall contain the recitation and the affidavit as directed by subsection A of this section. 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 Title 43 of the Oklahoma Statutes 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, 2005, 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 applicable law.

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 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, 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 to designate a marriage as a covenant marriage and shall 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 to designate a marriage as a covenant marriage filed with the State Registrar 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 to the following effect:

"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, 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 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, clergyman, or qualified mental health provider. The parties' discussion shall have included 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 priest, minister, rabbi, clergyman, or qualified mental health provider and included in or attached to the parties' affidavit, acknowledging that the parties were provided 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 priest, minister, rabbi, clergyman, or qualified mental health provider 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, and

(3) the notarized signature of both parties.

2. The declaration of intent to designate a marriage as a covenant marriage shall contain the recitation and the affidavit and 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. 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, 2005, develop and print an informational pamphlet entitled "Guide for Covenant Marriages", which shall outline in sufficient detail the legal effects of entering into a covenant marriage and grounds for termination thereof. The informational pamphlet shall be made available to any counselor who provides marriage counseling as provided by this act.

SECTION 7. AMENDATORY 43 O.S. 2001, 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-;

~~Second.~~ 2. Adultery-;

~~Third.~~ 3. Impotency-;

~~Fourth.~~ ~~When~~ 4. Pregnancy of the wife at the time of ~~her~~ marriage, ~~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 whom shall be a superintendent of the hospital or sanitarium for the insane, in which the insane defendant is confined, and the other two physicians to be appointed by the court before ~~whom~~ which the action is pending, ~~any.~~ Any two of ~~such~~ the physicians shall agree that ~~such~~ the insane person, at the time the petition in the divorce action is filed, has a poor prognosis for recovery; provided, 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 for a covenant marriage for any of the following causes:

1. The spouse not seeking the divorce has committed adultery;

2. The spouse not seeking the divorce has physically or mentally abused the spouse seeking the divorce or a child of one of the spouses;

3. The spouse not seeking the divorce has abandoned the matrimonial home for a period of one (1) year;

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

5. The spouse not seeking the divorce committed fraud in entering into the marriage contract or into a covenant marriage.

C. If there are minor children of the marriage or of either spouse, a petition for divorce of a covenant marriage shall set forth the names of the minor children but shall not allege specific grounds for divorce. Prior to the granting of a divorce in a covenant marriage with minor children of the marriage or of either spouse, the court shall hold a hearing to determine whether there exists any of the causes for divorce set out in paragraph B of this section. This hearing shall be held in camera upon the request of either spouse.

SECTION 8. Section 6 of this act shall become effective September 1, 2005.

SECTION 9. Sections 1 through 5, and 7 of this act shall become effective November 1, 2005.

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