

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2586

By: Wright

4
5 AS INTRODUCED

6 An Act relating to marriage and family; amending 43
7 O.S. 2001, Sections 1, 5, as last amended by Section
8 2, Chapter 311, O.S.L. 2006, 6, as amended by Section
9 3, Chapter 311, O.S.L. 2006 and 101 (43 O.S. Supp.
10 2007, Sections 5 and 6), which relate to marriage;
11 providing for covenant marriages; defining term;
12 specifying conditions and process; providing for
13 designation of covenant marriages on marriage
14 applications; specifying contents; clarifying and
15 updating language; providing for declarations of
16 intent to contract a covenant marriage; providing
17 contents and attachments; requiring certain
18 counseling; providing for construction of section;
19 authorizing certain exemption; providing for
20 compliance with other marriage laws not in conflict;
21 providing for execution of a declaration of intent to
22 designate an existing marriage as a covenant
23 marriage; providing for procedures; providing for
24 declaration and contents; specifying grounds for
25 termination of a covenant marriage; providing for
26 development and printing of the "Guide for Covenant
27 Marriages" by the Administrative Director of the
28 Courts; providing for contents; providing for
29 codification; and providing effective dates.

30
31 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

32 SECTION 1. AMENDATORY 43 O.S. 2001, Section 1, is
33 amended to read as follows:
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1 Section 1. A. Marriage is a personal relation arising out of a
2 civil contract to which the consent of parties legally competent of
3 contracting and of entering into it is necessary, and the marriage
4 relation shall only be entered into, maintained or abrogated as
5 provided by law.

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

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

17 3. A married man and woman domiciled in Oklahoma may execute a
18 declaration of intent to designate their marriage as a covenant
19 marriage pursuant to Section 5 of this act.

20 SECTION 2. AMENDATORY 43 O.S. 2001, Section 5, as last
21 amended by Section 2, Chapter 311, O.S.L. 2006 (43 O.S. Supp. 2007,
22 Section 5), is amended to read as follows:

23 Section 5. A. Persons desiring to be married in this state
24 shall submit an application in writing signed and sworn to in person

1 before the clerk of the district court by both of the parties
2 setting forth:

3 1. The place of residence of each party;

4 2. The full legal name and the age of each party as they appear
5 upon or are calculable from a certified copy of the birth
6 certificate, the current driver license or identification card, the
7 current passport or visa, or any other certificate, license or
8 document issued by or existing pursuant to the laws of any nation or
9 of any state, or political subdivision thereof, accepted as proof of
10 identity and age;

11 3. For each party, the full name by which the party will be
12 known after the marriage, which shall become the full legal name of
13 the party upon the filing of the marriage license and certificate
14 with the court, as required by law;

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

17 5. Whether the parties have successfully completed a premarital
18 counseling program; and

19 6. Whether the application is for a covenant marriage. If the
20 application is for a covenant marriage, the application for a
21 marriage license must also include the following statement:

22 "We, (name of intended husband) and (name of intended wife), do
23 hereby declare our intent to contract a covenant marriage and,
24 accordingly, have executed a declaration of intent attached hereto."

1 B. 1. Upon application pursuant to this section and the
2 payment of fees as provided in Section 31 of Title 28 of the
3 Oklahoma Statutes, if the clerk of the district court is satisfied
4 of the truth and sufficiency of the application and that there is no
5 legal impediment to such marriage, the judge shall issue the
6 marriage license authorizing the marriage and a marriage
7 certificate, which shall be incorporated as one document. As
8 required by law, the marriage certificate shall be completed
9 immediately following the marriage, and the marriage license and
10 certificate shall be returned to the court.

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

17 C. ~~In the event that one or both of the parties are under legal~~
18 ~~age, the application shall have been on file in the court clerk's~~
19 ~~office for a period of not less than seventy two (72) hours prior to~~
20 ~~issuance of the marriage license~~ Any party seeking to obtain a
21 marriage license for a covenant marriage shall be required to obtain
22 the counseling required by Section 4 of this act at least fifteen
23 (15) days prior to the application for a marriage license. The

24

1 declaration of intent to contract a covenant marriage shall comply
2 with the provisions of Section 4 of this act.

3 D. The marriage license shall be valid in any county within the
4 state.

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

8 SECTION 3. AMENDATORY 43 O.S. 2001, Section 6, as
9 amended by Section 3, Chapter 311, O.S.L. 2006 (43 O.S. Supp. 2007,
10 Section 6), is amended to read as follows:

11 Section 6. A. ~~The A~~ marriage license ~~provided for in this~~
12 ~~title~~ shall contain:

13 1. The date and time of its issuance;

14 2. The name of the court issuing the license, and the name of
15 the city or town and county in which the court is located;

16 3. The full legal names of the persons authorized to be married
17 by the license, the full legal names by which the persons will be
18 known after the marriage, their ages, and their places of residence;

19 4. Directions to any person authorized by law to perform and
20 solemnize the marriage ceremony;

21 5. If applicable, a designation that the parties entered into a
22 covenant marriage;

23 6. A designation regarding whether the parties received
24 premarital counseling;

1 counseling on the nature, purpose, and responsibilities of marriage.
2 We have read "Guide for Covenant Marriages", developed and printed
3 by the Administrative Director of the Courts, and we understand that
4 a covenant marriage is for life. If we experience marital
5 difficulties, we commit ourselves to take all reasonable efforts to
6 preserve our marriage, including marital counseling.

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

11 2. An affidavit by the parties that they have received
12 premarital counseling from a priest, minister, rabbi, or any
13 clergyman of any religious sect, or a qualified mental health
14 provider at least fifteen (15) days prior to the application for a
15 marriage license. The counseling shall include a discussion of the
16 seriousness of covenant marriage, communication of the fact that a
17 covenant marriage is a commitment for life, a discussion of the
18 obligation to seek marital counseling in times of marital
19 difficulties, and a discussion of the exclusive grounds for legally
20 terminating a covenant marriage by divorce;

21 3. A notarized affidavit, signed by the counselor and attached
22 to or included in the parties' affidavit, confirming that:
23
24

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

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

- 17 4. a. The notarized signature of both parties, and
- 18 b. If one or both of the parties are minors, the written
19 consent or authorization of those persons required by
20 Section 3 of Title 43 of the Oklahoma Statutes to
21 consent to or authorize the marriage of minors.

22 B. The declaration of intent shall contain the recitation and
23 the affidavit. The declaration of intent shall be prepared in
24 duplicate originals, one of which shall be retained by the parties

1 and the other filed as provided in Sections 7 and 9 of Title 43 of
2 the Oklahoma Statutes.

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

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

11 A. On or after November 1, 2008, a married couple domiciled in
12 Oklahoma may also execute a declaration of intent to designate their
13 marriage as a covenant marriage to be governed by the laws related
14 thereto.

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

1 intent of a covenant marriage and attach a copy of the declaration
2 to the certificate.

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

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

10 a. a recitation by the parties to the following effect:

11 "A COVENANT MARRIAGE

12 We do solemnly declare that marriage is a covenant
13 between a man and a woman who agree to live together
14 as husband and wife for so long as they both may live.
15 We understand the nature, purpose, and
16 responsibilities of marriage. We have read "Guide for
17 Covenant Marriages", and we understand that a covenant
18 marriage is for life. If we experience marital
19 difficulties, we commit ourselves to take all
20 reasonable efforts to preserve our marriage, including
21 marital counseling.

22 With full knowledge of what this commitment means, we
23 do hereby declare that our marriage will be bound by
24 Oklahoma law on covenant marriages, and we renew our

1 promise to love, honor, and care for one another as
2 husband and wife for the remainder of our lives.", and

3 b. (1) an affidavit by the parties that they have
4 discussed their intent to designate their
5 marriage as a covenant marriage with a priest,
6 minister, rabbi, or any clergyman of any
7 religious sect, or a qualified mental health
8 provider. The counseling included a discussion
9 of the obligation to seek marital counseling in
10 times of marital difficulties and the exclusive
11 grounds for legally terminating a covenant
12 marriage by divorce,

13 (2) a notarized affidavit, signed by the counselor
14 and included in or attached to the parties'
15 affidavit, acknowledging that the counselor
16 provided to the parties the informational
17 pamphlet entitled "Guide for Covenant Marriages",
18 developed and printed by the Administrative
19 Director of the Courts, which provides a full
20 explanation of the terms and conditions of a
21 covenant marriage and grounds for termination
22 thereof, and

23 (3) the notarized signature of both parties.
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1 The provisions of divisions (1) and (2) of this
2 subparagraph shall not be construed to require any
3 person to provide counseling to a party for the
4 termination of marriage if such counseling is contrary
5 to the beliefs of such person, provided that such
6 counselor furnishes to the party the "Guide for
7 Covenant Marriages", developed by the Administrative
8 Director of the Courts, and has informed the party to
9 consider all aspects of the conditions for a covenant
10 marriage.

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

15 SECTION 6. AMENDATORY 43 O.S. 2001, Section 101, is
16 amended to read as follows:

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

20 ~~First.~~ 1. Abandonment for one (1) year-;

21 ~~Second.~~ 2. Adultery-;

22 ~~Third.~~ 3. Impotency-;

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

1 ~~Fifth.~~ 5. Extreme cruelty-;

2 ~~Sixth.~~ 6. Fraudulent contract-;

3 ~~Seventh.~~ 7. Incompatibility-;

4 ~~Eighth.~~ 8. Habitual drunkenness-;

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

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

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

12 ~~Twelfth.~~ 12. Insanity for a period of five (5) years, the
13 insane person having been an inmate of a state institution for the
14 insane in the State of Oklahoma, or inmate of a state institution
15 for the insane in some other state for such period, or of a private
16 sanitarium, and affected with a type of insanity with a poor
17 prognosis for recovery; ~~provided, that no.~~

18 a. No divorce shall be granted because of insanity until
19 after a thorough examination of such insane person by
20 three physicians, ~~one.~~ One of ~~which~~ the physicians
21 shall be a superintendent of the hospital or
22 sanitarium for the insane, in which the insane
23 defendant is confined, and the ~~other~~ remaining two

1 physicians ~~to~~ shall be appointed by the court before
2 whom the action is pending, ~~any~~.

3 b. Any two of such physicians shall agree that such
4 insane person, at the time the petition in the divorce
5 action is filed, has a poor prognosis for recovery, ~~+~~
6 ~~provided, further, however, that no~~.

7 c. No divorce shall be granted on this ground to any
8 person whose husband or wife is an inmate of a state
9 institution in any other state than the State of
10 Oklahoma, unless the person applying for such divorce
11 ~~shall have~~ has been a resident of the State of
12 Oklahoma for at least five (5) years prior to the
13 commencement of an action, ~~and provided further, that~~
14 a.

15 d. A decree granted on this ground shall not relieve the
16 successful party from contributing to the support and
17 maintenance of the defendant.

18 e. The court shall appoint a guardian ad litem to
19 represent the insane defendant, which appointment
20 shall be made at least ten (10) days before any decree
21 is entered.

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

24 1. The other spouse has committed adultery;

1 2. The other spouse has physically abused the spouse seeking
2 the divorce, or a child of one or both of the spouses;

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

5 4. The spouses have been living separate and apart continuously
6 without successful reconciliation for a period of eighteen (18)
7 months. Written notification of the intent of a spouse to live
8 apart sent by certified mail, return receipt requested, to the
9 premarital counselor or any other marriage counselor agreed to by
10 the husband and wife and to the other spouse shall initiate the
11 eighteen-month period specified by this paragraph; or

12 5. Fraud in entering into the marriage contract or into a
13 covenant marriage.

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

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

1 The Administrative Director of the Courts shall, prior to
2 November 1, 2008, develop and print an informational pamphlet
3 entitled "Guide for Covenant Marriages", which shall outline in
4 sufficient detail the legal effects of entering into a covenant
5 marriage and grounds for termination thereof. The informational
6 pamphlet shall be made available at cost to any counselor who
7 provides marriage counseling as provided by this act.

8 SECTION 8. Section 7 of this act shall become effective
9 September 1, 2008.

10 SECTION 9. Sections 1 through 6 of this act shall become
11 effective November 1, 2008.

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