

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 SENATE BILL 148

By: Laughlin

4
5
6 AS INTRODUCED

7 An Act relating to marriage; amending 43 O.S. 2001,
8 Sections 1, 5, as last amended by Section 2, Chapter
9 311, O.S.L. 2006, 6, as amended by Section 3, Chapter
10 311, O.S.L. 2006, and 101 (43 O.S. Supp. 2006,
11 Sections 5 and 6), which relate to the marriage
12 contract and license; defining term; specifying
13 conditions and procedures for covenant marriage;
14 providing for designation of covenant marriage under
15 certain circumstances; specifying contents of certain
16 application; clarifying and updating language;
17 providing for declarations of intent to enter into a
18 covenant marriage; requiring counseling; stating
19 construction; authorizing certain exemption; stating
20 statutory application; providing for execution of a
21 declaration of intent to designate a preexisting
22 marriage as a covenant marriage; providing
23 procedures; providing for declaration and contents;
24 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:

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 enter into a covenant
12 marriage by declaring their intent to do so on their application for
13 a marriage license and executing a declaration of intent to enter
14 into a 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 couple domiciled in this state 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. 2006,
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 judge or clerk of the district court by both of the
2 parties 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 of each, the current driver license or identification
7 card, the current passport or visa, or any other certificate,
8 license or document issued by or existing pursuant to the laws of
9 any nation or of any state, or political subdivision thereof, which
10 is accepted as proof of 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 enter into a covenant marriage and,

24

1 accordingly, have executed a declaration of intent which is
2 attached".

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

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

19 C. In the event that one or both of the parties are under legal
20 age, the application shall have been on file in the court clerk's
21 office for a period of not less than seventy-two (72) hours prior to
22 issuance of the marriage license.

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

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

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

7 ~~E.~~ F. The provisions hereof are mandatory and not directory
8 except under the circumstances set out in the provisions of Section
9 3 of this title.

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

13 Section 6. A. The marriage license provided for in this title
14 shall contain:

- 15 1. The date of its issuance;
- 16 2. The name of the court issuing the license, and the name of
17 the city or town and county in which the court is located;
- 18 3. The full legal names of the persons authorized to be married
19 by the license, the full legal names by which the persons will be
20 known after the marriage, their ages, and their places of residence;
- 21 4. Directions to any person authorized by law to perform and
22 solemnize the marriage ceremony;
- 23 5. The date by which the completed marriage certificate, along
24 with the marriage license, shall be returned to the judge or court,

1 which shall not be more than thirty (30) days from the date of its
2 issuance; and

3 6. A designation regarding whether the persons to be married
4 received premarital counseling;

5 7. A designation that the persons to be married are entering
6 into a covenant marriage, if applicable; and

7 8. Any other information, declarations, seals and signatures,
8 as required by law.

9 B. The marriage certificate provided for in this title shall
10 contain appropriate wording and blanks to be completed and endorsed,
11 as required by Section 8 of this title, by the person solemnizing or
12 performing the marriage ceremony, the witnesses, and the persons who
13 have been married.

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

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

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

21 "A COVENANT MARRIAGE

22 We do solemnly declare that marriage is a covenant between a man
23 and a woman who agree to live together as husband and wife for so
24 long as they both may live. We have chosen each other carefully and

1 disclosed to one another everything which could adversely affect the
2 decision to enter into this marriage. We have received premarital
3 counseling on the nature, purposes, and responsibilities of
4 marriage. We have read "Guide for Covenant Marriages", developed
5 and printed by the Administrative Director of the Courts, and we
6 understand that a covenant marriage is for life. If we experience
7 marital difficulties, we commit ourselves to take all reasonable
8 efforts to preserve our marriage, including, but not limited to,
9 marital counseling.

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

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

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

- 1 a. the parties were counseled as to the nature and
- 2 purpose of the 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 subparagraph shall not be construed to
11 require any person to provide counseling to a party for the
12 termination of marriage if this counseling is contrary to the
13 beliefs of the person; provided, that the counselor furnishes to the
14 party the "Guide for Covenant Marriages", developed by the
15 Administrative Director of the Courts, and has informed the party to
16 consider all aspects of the conditions for a covenant marriage; and

- 17 4. a. The notarized signature of both parties, or
- 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 to enter into a covenant marriage
23 shall contain the recitation and the affidavit as directed by
24 subsection A of this section. The declaration of intent shall be

1 prepared in duplicate originals, one of which shall be retained by
2 the parties and the other filed as provided in Sections 7 and 9 of
3 Title 43 of the Oklahoma Statutes.

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

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

12 A. On or after November 1, 2007, a married couple domiciled in
13 this state may execute a declaration of intent to designate their
14 marriage as a covenant marriage to be governed by applicable law.

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, shall be filed with the court clerk
22 of the district court which issues marriage licenses in the county
23 in which the couple is domiciled. The court clerk shall make a
24 notation on the marriage certificate of the declaration of intent to

1 designate a marriage as a covenant marriage and shall attach a copy
2 of the declaration 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 Records
5 each declaration of intent to designate a marriage as a covenant
6 marriage filed with the State Registrar during the preceding
7 calendar month pursuant to this 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, purposes, and
16 responsibilities of marriage. We have read "Guide for
17 Covenant Marriages", developed and printed by the
18 Administrative Director of the Courts, and we
19 understand that a covenant marriage is for life. If
20 we experience marital difficulties, we commit
21 ourselves to take all reasonable efforts to preserve
22 our marriage, including marital counseling.

23 With full knowledge of what this commitment means, we
24 do hereby declare that our marriage will be bound by

1 Oklahoma law on covenant marriages, and we renew our
2 promise to love, honor, and care for one another as
3 husband and wife for the remainder of our lives.", and

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

14 (2) a notarized affidavit, signed by the priest,
15 minister, rabbi, clergyman, or qualified mental
16 health provider and included in or attached to
17 the parties' affidavit, acknowledging that the
18 parties were provided the informational pamphlet
19 entitled "Guide for Covenant Marriages",
20 developed and printed by the Administrative
21 Director of the Courts, which provides a full
22 explanation of the terms and conditions of a
23 covenant marriage and grounds for termination
24 thereof. The provisions of this subparagraph

1 shall not be construed to require any person to
2 provide counseling to a party for the termination
3 of marriage if such counseling is contrary to the
4 beliefs of such person; provided, that such
5 priest, minister, rabbi, clergyman, or qualified
6 mental health provider furnishes to the party the
7 "Guide for Covenant Marriages", developed by the
8 Administrative Director of the Courts, and has
9 informed the party to consider all aspects of the
10 conditions for a covenant marriage, and

11 (3) the notarized signature of both parties.

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

17 SECTION 6. NEW LAW A new section of law to be codified in
18 the Oklahoma Statutes as Section 6.3 of Title 43, unless there is
19 created a duplication in numbering, reads as follows:

20 The Administrative Director of the Courts shall, prior to
21 November 1, 2007, develop and print an informational pamphlet
22 entitled "Guide for Covenant Marriages", which shall outline in
23 sufficient detail the legal effects of entering into a covenant
24 marriage and grounds for termination thereof. The informational

1 pamphlet shall be made available to any counselor who provides
2 marriage counseling as provided by this act.

3 SECTION 7. AMENDATORY 43 O.S. 2001, Section 101, is
4 amended to read as follows:

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

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

9 ~~Second.~~ 2. Adultery-; i

10 ~~Third.~~ 3. Impotency-; i

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

13 ~~Fifth.~~ 5. Extreme cruelty-; i

14 ~~Sixth.~~ 6. Fraudulent contract-; i

15 ~~Seventh.~~ 7. Incompatibility-; i

16 ~~Eighth.~~ 8. Habitual drunkenness-; i

17 ~~Ninth.~~ 9. Gross neglect of duty-; i

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

21 ~~Eleventh.~~ 11. The procurement of a final divorce decree ~~without~~
22 outside this state by a husband or wife which does not in this state
23 release the other party from the obligations of the marriage-; and
24

1 ~~Twelfth.~~ 12. Insanity for a period of five (5) years, the
2 insane person having been an inmate of a state institution for the
3 insane in the State of Oklahoma, or inmate of a state institution
4 for the insane in some other state for such period, or of a private
5 sanitarium, and affected with a type of insanity with a poor
6 prognosis for recovery; provided, that no divorce shall be granted
7 because of insanity until after a thorough examination of such
8 insane person by three physicians, one of ~~which physicians~~ whom
9 shall be a superintendent of the hospital or sanitarium for the
10 insane, in which the insane defendant is confined, and the other two
11 physicians to be appointed by the court before ~~whom~~ which the action
12 is pending, ~~any.~~ Any two of ~~such~~ the physicians shall agree that
13 ~~such~~ the insane person, at the time the petition in the divorce
14 action is filed, has a poor prognosis for recovery; provided,
15 further, however, that no divorce shall be granted on this ground to
16 any person whose husband or wife is an inmate of a state institution
17 in any other than the State of Oklahoma, unless the person applying
18 for such divorce shall have been a resident of the State of Oklahoma
19 for at least five (5) years prior to the commencement of an action;
20 and provided further, that a decree granted on this ground shall not
21 relieve the successful party from contributing to the support and
22 maintenance of the defendant. The court shall appoint a guardian ad
23 litem to represent the insane defendant, ~~which appointment shall be~~
24 ~~made~~ at least ten (10) days before any decree is entered.

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

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

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

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

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

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

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

23 SECTION 8. Section 6 of this act shall become effective
24 September 1, 2007.

1 SECTION 9. Sections 1 through 5, and 7 of this act shall become
2 effective November 1, 2007.

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