

1 ENGROSSED HOUSE  
2 BILL NO. 2634

By: McCullough, Ritze, Kern,  
Wright (John) and Russ of  
the House

3  
4 and

Brown of the Senate

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8 An Act relating to marriage and family; amending 28  
9 O.S. 2001, Section 31, as last amended by Section 1,  
Chapter 288, O.S.L. 2004 (28 O.S. Supp. 2009, Section  
10 31), which relates to court clerk fees; modifying  
11 requirements for certain marriage applications and  
licenses; amending 43 O.S. 2001, Sections 1, 5, as  
12 last amended by Section 1, Chapter 313, O.S.L. 2008,  
5.1, as amended by Section 1, Chapter 206, O.S.L.  
13 2006, 6, as amended by Section 3, Chapter 311, O.S.L.  
2006 and 101 (43 O.S. Supp. 2009, Sections 5, 5.1 and  
14 6), which relate to marriage; providing for covenant  
15 marriages; defining term; specifying conditions and  
16 process; requiring premarital counseling prior to  
17 covenant marriage; providing for designation of  
18 covenant marriages on marriage applications;  
19 providing for covenant marriage designation of  
20 existing marriages; specifying that common law  
21 marriages shall no longer be recognized; providing  
22 that certain existing common law marriages shall  
23 continue to be recognized; providing certain  
24 exception; requiring two hours of premarital  
counseling prior to any marriage; providing for  
declarations of intent to contract a covenant  
marriage; requiring certificate of premarital  
counseling completion; specifying counseling shall be  
completed prior to application for covenant marriage;  
providing for fee reduction for completion of eight  
hours of premarital counseling; requiring certain  
counseling; providing contents and attachments of  
marriage licenses; providing content of covenant  
marriage declaration; requiring certain affidavits;  
providing content of affidavits; authorizing certain  
exemption; providing for compliance with other

1 marriage laws not in conflict; providing for  
2 execution of a declaration of intent to designate an  
3 existing marriage as a covenant marriage; providing  
4 certain procedure; providing for declaration and  
5 contents; specifying certain attachments; specifying  
6 requirements for divorce in covenant marriages;  
7 allowing certain hearings to be heard in judge's  
8 chambers; amending 43 O.S. 2001, Section 107.2, which  
9 relates to court authority to require certain  
10 educational programs; making certain educational  
11 programs mandatory; providing for codification; and  
12 providing effective dates.

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

14 SECTION 1. AMENDATORY 28 O.S. 2001, Section 31, as last  
15 amended by Section 1, Chapter 288, O.S.L. 2004 (28 O.S. Supp. 2009,  
16 Section 31), is amended to read as follows:

17 Section 31. Notwithstanding any other provision of law, the  
18 clerk of the district court, or the clerk of any other court of  
19 record, shall charge and collect the following fees for services by  
20 them respectively rendered and none others, except as otherwise  
21 provided by law:

22	Approving bond or undertaking, including	
23	certificate and seal.....	\$3.00
24	Making copy of an instrument of record or	
	on file, first page.....	\$1.00
	subsequent pages (each).....	\$0.50
	Certifying to any instrument (each).....	\$0.50

1 Authentication of court records.....\$5.00

2 Receiving and paying out money in  
3 pursuance of law or order of court.....1%  
4 provided, however, that such charge  
5 shall not exceed \$300.00.

6 Application, issuing, entering return and  
7 recording marriage license if the  
8 applicants submit a certificate that  
9 states the applicants have completed ~~the~~  
10 eight (8) hours or more of an approved  
11 premarital counseling program pursuant  
12 to Section 5.1 of Title 43 of the  
13 Oklahoma Statutes.....\$5.00

14 Application, issuing, entering return and  
15 recording marriage license if the  
16 applicants ~~do not~~ submit a certificate  
17 that states the applicants have  
18 completed ~~the~~ at least two (2) hours but  
19 less than eight (8) hours of an approved  
20 premarital counseling program pursuant  
21 to Section 5.1 of Title 43 of the  
22 Oklahoma Statutes.....\$50.00

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1       Conveyance of full-blood Indian heirs to  
2           interest in inherited lands, same to be  
3           accounted for as other fees.....\$5.00  
4       Posting notice outside the courthouse.....\$10.00  
5       Mailing, by any type of mail, writs,  
6           warrants, orders, process, command or  
7           notice for each person.....\$10.00, or  
8           actual expense, whichever is greater,  
9           except ordinary mailing of first-class  
10          mail in probate cases, for each case.....\$10.00, or  
11          actual expense, whichever is greater.  
12       For the actual cost of all postage in each  
13          case in excess of.....\$10.00, or  
14          actual expense, whichever is greater.  
15       For filing and indexing of disclaimers  
16          other than in pending probate or civil  
17          cases pursuant to the provisions of  
18          Section 751 et seq. of Title 60 of the  
19          Oklahoma Statutes.....\$5.00

20       SECTION 2.        AMENDATORY        43 O.S. 2001, Section 1, is  
21       amended to read as follows:

22       Section 1.   A.   Marriage is a personal relation arising out of a  
23       civil contract to which the consent of parties legally competent of  
24       contracting and of entering into it is necessary, and the marriage

1 relation shall only be entered into, maintained or abrogated as  
2 provided by law.

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

8 2. An unmarried man and woman may contract a covenant marriage  
9 by declaring their intent to do so on their application for a  
10 marriage license and executing a declaration of intent to contract a  
11 covenant marriage, as provided in Section 7 of this act. The  
12 application for a marriage license and the declaration of intent  
13 shall be filed with the official who issues the marriage license.

14 3. A married man and woman domiciled in Oklahoma may execute a  
15 declaration of intent to designate their marriage as a covenant  
16 marriage pursuant to Section 8 of this act.

17 SECTION 3. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 3.2 of Title 43, unless there is  
19 created a duplication in numbering, reads as follows:

20 A. Except as otherwise provided for in this section, on and  
21 after November 1, 2010, a common law marriage shall not be  
22 recognized as a valid form of marriage in Oklahoma.

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1 B. Any common law marriage recognized as valid by an Oklahoma  
2 court of competent jurisdiction in this state prior to November 1,  
3 2010, shall continue to be recognized as valid in this state.

4 SECTION 4. AMENDATORY 43 O.S. 2001, Section 5, as last  
5 amended by Section 1, Chapter 313, O.S.L. 2008 (43 O.S. Supp. 2009,  
6 Section 5), is amended to read as follows:

7 Section 5. A. Persons desiring to be married in this state  
8 shall complete no less than two (2) hours of an approved premarital  
9 counseling program and shall submit an application in writing signed  
10 and sworn to in person before the clerk of the district court by  
11 both of the parties setting forth:

12 1. The place of residence of each party;

13 2. The full legal name and the age of each party as they appear  
14 upon or are calculable from a certified copy of the birth  
15 certificate, the current driver license or identification card, the  
16 current passport or visa, or any other certificate, license or  
17 document issued by or existing pursuant to the laws of any nation or  
18 of any state, or political subdivision thereof, accepted as proof of  
19 identity and age;

20 3. For each party, the full name by which the party will be  
21 known after the marriage, which shall become the full legal name of  
22 the party upon the filing of the marriage license and certificate  
23 with the court, as required by law;

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

3 5. ~~Whether~~ That the parties have successfully completed a  
4 premarital counseling program consisting of no less than two (2)  
5 hours. The parties shall submit a certificate of completion to be  
6 filed with the application; and

7 6. Whether the application is for a covenant marriage. If the  
8 application is for a covenant marriage, the application for a  
9 marriage license must also include the following statement: "We,  
10 (name of intended husband) and (name of intended wife), do hereby  
11 declare our intent to contract a covenant marriage and, accordingly,  
12 have executed a declaration of intent attached hereto".

13 B. 1. Upon application pursuant to this section and the  
14 payment of fees as provided in Section 31 of Title 28 of the  
15 Oklahoma Statutes, if the clerk of the district court is satisfied  
16 of the truth and sufficiency of the application and that there is no  
17 legal impediment to such marriage, the court clerk shall issue the  
18 marriage license authorizing the marriage and a marriage  
19 certificate, which shall be incorporated as one document. As  
20 required by law, the marriage certificate shall be completed  
21 immediately following the marriage, and the marriage license and  
22 certificate shall be returned to the court clerk.

23 2. Parties to be married and who present a certificate to the  
24 clerk of the district court that states the parties have completed

1 ~~the~~ no less than eight (8) hours of an approved premarital  
2 counseling program pursuant to Section 5.1 of this title shall be  
3 entitled to pay a reduced fee for a marriage license in an amount  
4 provided in Section 31 of Title 28 of the Oklahoma Statutes.

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

9 D. Any party seeking to obtain a marriage license for a  
10 covenant marriage shall be required to obtain the counseling  
11 required by Section 7 of this act prior to the application for a  
12 marriage license. The declaration of intent to contract a covenant  
13 marriage shall comply with the provisions of Section 7 of this act.

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

16 ~~E-~~ F. The provisions hereof are mandatory and not directory  
17 except under the circumstances set out in the provisions of Section  
18 3 of this title.

19 SECTION 5. AMENDATORY 43 O.S. 2001, Section 5.1, as  
20 amended by Section 1, Chapter 206, O.S.L. 2006 (43 O.S. Supp. 2009,  
21 Section 5.1), is amended to read as follows:

22 Section 5.1 A. The clerk of the district court shall reduce  
23 the fee for a marriage license as prescribed by Section 31 of Title  
24 28 of the Oklahoma Statutes to persons who have successfully

1 completed a no less than eight (8) hours of an approved premarital  
2 counseling program meeting the conditions specified by this section.

3 B. 1. A premarital counseling program shall be conducted by a  
4 health professional, an official representative of a religious  
5 institution, or a person trained by the principal authors or duly  
6 authorized agents of the principal authors of nationally recognized  
7 marriage education curriculum including, but not limited to,  
8 Prevention & Relationship Enhancement Program (PREP). Upon  
9 successful completion of the program, the counseling program  
10 provider shall issue to the persons a certificate signed by the  
11 instructor of the counseling program. The certificate shall state  
12 that the named persons have successfully completed the premarital  
13 counseling requirements. ~~A minimum of four (4) hours of education~~  
14 ~~or counseling shall be necessary for successful completion of the~~  
15 ~~marriage education curriculum.~~ The certificate shall be provided to  
16 the clerk of the district court upon application for marriage.

17 2. For purposes of this subsection, the term "health  
18 professional" means a person licensed or certified by this state to  
19 practice psychiatry or psychology; a licensed social worker with  
20 experience in marriage counseling; a licensed marital and family  
21 therapist; or a licensed professional counselor.

22 SECTION 6. AMENDATORY 43 O.S. 2001, Section 6, as  
23 amended by Section 3, Chapter 311, O.S.L. 2006 (43 O.S. Supp. 2009,  
24 Section 6), is amended to read as follows:

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

- 3 1. The date of its issuance;
- 4 2. The name of the court issuing the license, and the name of  
5 the city or town and county in which the court is located;
- 6 3. The full legal names of the persons authorized to be married  
7 by the license, the full legal names by which the persons will be  
8 known after the marriage, their ages, and their places of residence;
- 9 4. Directions to any person authorized by law to perform and  
10 solemnize the marriage ceremony;
- 11 5. If applicable, a designation that the parties entered into a  
12 covenant marriage;
- 13 6. A designation specifying that the parties have received  
14 premarital counseling and the number of hours completed;
- 15 7. The date by which the completed marriage certificate, along  
16 with the marriage license, shall be returned to the judge or court,  
17 which shall not be more than thirty (30) days from the date of its  
18 issuance; and
- 19 ~~6-~~ 8. Any other information, declarations, seals and  
20 signatures, as required by law.

21 B. The marriage certificate provided for in this title shall  
22 contain appropriate wording and blanks to be completed and endorsed,  
23 as required by Section 8 of this title, by the person solemnizing or  
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1 performing the marriage ceremony, the witnesses, and the persons who  
2 have been married.

3 SECTION 7. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6.1 of Title 43, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. A declaration of intent to contract a covenant marriage  
7 shall contain all of the following:

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

10 "A COVENANT MARRIAGE

11 We do solemnly declare that marriage is a covenant between a man  
12 and woman who agree to live together as husband and wife for so long  
13 as they both may live. We have chosen each other carefully and  
14 disclosed to one another everything which could adversely affect the  
15 decision to enter into this marriage. We have received premarital  
16 counseling on the nature, purpose, and responsibilities of marriage.  
17 We understand that a covenant marriage is for life. If we  
18 experience marital difficulties, we commit ourselves to take all  
19 reasonable efforts to preserve our marriage, including marital  
20 counseling.

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

1           2. An affidavit by the parties that they have received  
2 premarital counseling pursuant to subsection B of Section 5.1 of  
3 Title 43 of the Oklahoma Statutes prior to the application for a  
4 marriage license. The counseling shall also include a discussion of  
5 the seriousness of covenant marriage, communication of the fact that  
6 a covenant marriage is a commitment for life, a discussion of the  
7 obligation to seek marital counseling in times of marital  
8 difficulties, and a discussion of the exclusive grounds for legally  
9 terminating a covenant marriage by divorce;

10           3. A notarized affidavit, signed by the counselor and attached  
11 to or included in the parties' affidavit, confirming that the  
12 parties were counseled as to the nature and purpose of the covenant  
13 marriage and the grounds for the termination thereof; and

- 14           4. a. the notarized signature of both parties, and  
15                b. if one or both of the parties are minors, the written  
16 consent or authorization of those persons required by  
17 Section 3 of Title 43 of the Oklahoma Statutes to  
18 consent to or authorize the marriage of minors.

19           B. The declaration of intent shall contain the recitation and  
20 the affidavit. The declaration of intent shall be prepared in  
21 duplicate originals, one of which shall be retained by the parties  
22 and the other filed as provided in Sections 7 and 9 of Title 43 of  
23 the Oklahoma Statutes.

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

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

9 A. On or after November 1, 2010, a married couple domiciled in  
10 Oklahoma may also execute a declaration of intent to designate their  
11 marriage as a covenant marriage to be governed by the laws related  
12 thereto.

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

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

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

4 "A COVENANT MARRIAGE

5 We do solemnly declare that marriage is a covenant between a  
6 man and a woman who agree to live together as husband and wife for  
7 so long as they both may live. We understand the nature, purpose,  
8 and responsibilities of marriage. We understand that covenant  
9 marriage is for life. If we experience marital difficulties, we  
10 commit ourselves to take all reasonable efforts to preserve our  
11 marriage, including marital counseling.

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

16 b. an affidavit by the parties that they have discussed  
17 their intent to designate their marriage as a covenant  
18 marriage with a qualified person as provided in  
19 Section 5.1 of Title 43 of the Oklahoma Statutes. The  
20 counseling included a discussion of the obligation to  
21 seek marital counseling in times of marital  
22 difficulties and the exclusive grounds for legally  
23 terminating a covenant marriage by divorce.

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

5           SECTION 9.           AMENDATORY           43 O.S. 2001, Section 101, is  
6 amended to read as follows:

7           Section 101. ~~The~~ A. Except as provided in subsection B of this  
8 section, the district court may grant a divorce for a marriage,  
9 other than a covenant marriage, for any of the following causes:

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

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

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

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

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

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

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

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

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

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

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

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

1 The court shall appoint a guardian ad litem to represent the insane  
2 defendant, which appointment shall be made at least ten (10) days  
3 before any decree is entered.

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

6 1. The other spouse has committed adultery;

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

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

12 4. The spouses have been living separate and apart continuously  
13 without successful reconciliation for a period of six (6) months.  
14 Written notification of the intent of a spouse to live apart sent by  
15 certified mail, return receipt requested, to the premarital  
16 counselor or any other marriage counselor agreed to by the husband  
17 and wife and to the other spouse shall initiate the period specified  
18 by this paragraph; or

19 5. Fraud in entering into the marriage contract or into a  
20 covenant marriage.

21 C. If there are children of the marriage or of either spouse, a  
22 petition for divorce of a covenant marriage shall set forth the  
23 names of the children, but shall not allege specific grounds for  
24 divorce. Prior to the granting of a divorce in a covenant marriage

1 with children of the marriage or of either spouse, the court shall  
2 hold a hearing to determine whether there exists any of the causes  
3 for divorce set out in subsection B of this section. This hearing  
4 shall be held in camera upon the request of either spouse.

5 SECTION 10. AMENDATORY 43 O.S. 2001, Section 107.2, is  
6 amended to read as follows:

7 Section 107.2 A. In all actions for divorce, separate  
8 maintenance, guardianship, paternity, custody or visitation,  
9 including modifications or enforcements of a prior court order,  
10 where the interest of a child under eighteen (18) years of age is  
11 involved, the court ~~may~~ shall require all adult parties to attend an  
12 educational program concerning, as appropriate, the impact of  
13 separate parenting and coparenting on children, the implications for  
14 visitation and conflict management, development of children,  
15 separate financial responsibility for children and such other  
16 instruction as deemed necessary by the court. The program shall be  
17 educational in nature and not designed for individual therapy.

18 B. Each judicial district may adopt its own local rules  
19 governing the program.

20 SECTION 11. Section 9 of this act shall become effective  
21 September 1, 2010.

22 SECTION 12. Sections 1 through 8 and Section 10 of this act  
23 shall become effective November 1, 2010.

24

1 Passed the House of Representatives the 10th day of March, 2010.

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4 Presiding Officer of the House of  
Representatives

5  
6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

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9 Presiding Officer of the Senate