

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 HOUSE BILL 2634

By: McCullough

4  
5  
6 AS INTRODUCED

7 An Act relating to marriage and family; amending 28  
8 O.S. 2001, Section 31, as last amended by Section 1,  
9 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  
12 licenses; amending 43 O.S. 2001, Sections 1, 5, as  
13 last amended by Section 1, Chapter 313, O.S.L. 2008,  
14 5.1, as amended by Section 1, Chapter 206, O.S.L.  
15 2006, 6, as amended by Section 3, Chapter 311, O.S.L.  
16 2006 and 101 (43 O.S. Supp. 2009, Sections 5, 5.1 and  
17 6), which relate to marriage; providing for covenant  
18 marriages; defining term; specifying conditions and  
19 process; requiring premarital counseling prior to  
20 covenant marriage; providing for designation of  
21 covenant marriages on marriage applications;  
22 providing for covenant marriage designation of  
23 existing marriages; requiring eight hours of  
24 premarital counseling prior to any marriage;  
providing for declarations of intent to contract a  
covenant marriage; requiring certificate of  
premarital counseling completion; specifying minimum  
time frame between counseling completion and  
application for covenant marriage; providing for fee  
reduction for completion of twenty 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 marriage laws not  
in conflict; providing for execution of a declaration  
of intent to designate an existing marriage as a  
covenant marriage; providing certain procedure;  
requiring certain clerks to report certain covenant  
marriage information; providing for declaration and

1 contents; specifying certain attachments; providing  
2 for development and printing of the "Guide for  
3 Covenant Marriages" by the Administrative Director of  
4 the Courts; providing for contents; clarifying and  
5 updating language; amending 43 O.S. 2001, Section  
6 107.2, which relates to court authority to require  
7 certain educational programs; making certain  
8 educational programs mandatory; requiring counseling  
9 and mediation prior to certain divorce proceedings;  
10 specifying grounds for divorce for covenant marriage;  
11 providing for circumstances involving children of  
12 covenant marriages; allowing certain hearings to be  
13 heard in judge's chambers; providing for  
14 codification; and providing effective dates.

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

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

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

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

1 Certifying to any instrument (each).....\$0.50

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

3 Receiving and paying out money in

4 pursuance of law or order of court.....1%

5 provided, however, that such charge

6 shall not exceed \$300.00.

7 Application, issuing, entering return and

8 recording marriage license if the

9 applicants submit a certificate that

10 states the applicants have completed ~~the~~

11 at least twenty (20) hours of an

12 approved premarital counseling program

13 pursuant to Section 5.1 of Title 43 of

14 the Oklahoma Statutes.....\$5.00

15 Application, issuing, entering return and

16 recording marriage license if the

17 applicants ~~do not~~ submit a certificate

18 that states the applicants have

19 completed ~~the~~ at least eight (8) hours

20 but less than twenty (20) hours of an

21 approved premarital counseling program

22 pursuant to Section 5.1 of Title 43 of

23 the Oklahoma Statutes.....\$50.00

24

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 6 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 7 of this act.

17 SECTION 3. AMENDATORY 43 O.S. 2001, Section 5, as last  
18 amended by Section 1, Chapter 313, O.S.L. 2008 (43 O.S. Supp. 2009,  
19 Section 5), is amended to read as follows:

20 Section 5. A. Persons desiring to be married in this state  
21 shall complete no less than eight (8) hours of an approved  
22 premarital counseling program and shall submit an application in  
23 writing signed and sworn to in person before the clerk of the  
24 district court by both of the parties setting forth:

1 1. The place of residence of each party;

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

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

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

15 5. ~~Whether~~ That the parties have successfully completed a  
16 premarital counseling program consisting of no less than eight (8)  
17 hours. The parties shall submit a certificate of completion to be  
18 filed with the application; 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: "We,  
22 (name of intended husband) and (name of intended wife), do hereby  
23 declare our intent to contract a covenant marriage and, accordingly,  
24 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 court clerk 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 clerk.

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~~ no less than twenty (20) hours of an approved premarital  
14 counseling program pursuant to Section 5.1 of this title shall be  
15 entitled to pay a reduced fee for a marriage license in an amount  
16 provided in Section 31 of Title 28 of the Oklahoma 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.

21        D. Any party seeking to obtain a marriage license for a  
22 covenant marriage shall be required to obtain the counseling  
23 required by Section 6 of this act at least fifteen (15) days prior  
24 to the application for a marriage license. The declaration of

1 intent to contract a covenant marriage shall comply with the  
2 provisions of Section 6 of this act.

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

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

8 SECTION 4. AMENDATORY 43 O.S. 2001, Section 5.1, as  
9 amended by Section 1, Chapter 206, O.S.L. 2006 (43 O.S. Supp. 2009,  
10 Section 5.1), is amended to read as follows:

11 Section 5.1 A. The clerk of the district court shall reduce  
12 the fee for a marriage license as prescribed by Section 31 of Title  
13 28 of the Oklahoma Statutes to persons who have successfully  
14 completed a twenty (20) hours of an approved premarital counseling  
15 program meeting the conditions specified by this section.

16 B. 1. A premarital counseling program shall be conducted by a  
17 health professional, an official representative of a religious  
18 institution, or a person trained by the principal authors or duly  
19 authorized agents of the principal authors of nationally recognized  
20 marriage education curriculum including, but not limited to,  
21 Prevention & Relationship Enhancement Program (PREP). Upon  
22 successful completion of the program, the counseling program  
23 provider shall issue to the persons a certificate signed by the  
24 instructor of the counseling program. The certificate shall state

1 that the named persons have successfully completed the premarital  
2 counseling requirements. A minimum of ~~four (4)~~ eight (8) hours of  
3 education or counseling shall be ~~necessary~~ required for successful  
4 completion of the marriage education curriculum. The certificate  
5 shall be provided to the clerk of the district court upon  
6 application for marriage.

7 2. For purposes of this subsection, the term "health  
8 professional" means a person licensed or certified by this state to  
9 practice psychiatry or psychology; a licensed social worker with  
10 experience in marriage counseling; a licensed marital and family  
11 therapist; or a licensed professional counselor.

12 SECTION 5. AMENDATORY 43 O.S. 2001, Section 6, as  
13 amended by Section 3, Chapter 311, O.S.L. 2006 (43 O.S. Supp. 2009,  
14 Section 6), is amended to read as follows:

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

17 1. The date of its issuance;

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

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

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



1 We do solemnly declare that marriage is a covenant between a man  
2 and woman who agree to live together as husband and wife for so long  
3 as they both may live. We have chosen each other carefully and  
4 disclosed to one another everything which could adversely affect the  
5 decision to enter into this marriage. We have received premarital  
6 counseling on the nature, purpose, and responsibilities of marriage.  
7 We have read "Guide for Covenant Marriages", developed and printed  
8 by the Administrative Director of the Courts, and we understand that  
9 a covenant marriage is for life. If we experience marital  
10 difficulties, we commit ourselves to take all reasonable efforts to  
11 preserve our 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 promise to love, honor, and care for one another  
15 as husband and wife for the remainder of our lives.";

16 2. An affidavit by the parties that they have received  
17 premarital counseling from a priest, minister, rabbi, or any clergy  
18 of any religious sect, or a qualified mental health provider at  
19 least fifteen (15) days prior to the application for a marriage  
20 license. The counseling shall include a discussion of the  
21 seriousness of covenant marriage, communication of the fact that a  
22 covenant marriage is a commitment for life, a discussion of the  
23 obligation to seek marital counseling in times of marital  
24

1 difficulties, and a discussion of the exclusive grounds for legally  
2 terminating a covenant marriage by divorce;

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

5 a. the parties were counseled as to the nature and  
6 purpose of the covenant marriage and the grounds for  
7 the termination thereof, and

8 b. the counselor provided to the parties the  
9 informational pamphlet "Guide for Covenant Marriages"  
10 developed and printed by the Administrative Director  
11 of the Courts, which provides a full explanation of  
12 the terms and conditions of a covenant marriage and  
13 grounds for termination thereof.

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

21 4. a. the notarized signature of both parties, and  
22 b. if one or both of the parties are minors, the written  
23 consent or authorization of those persons required by  
24

1 Section 3 of Title 43 of the Oklahoma Statutes to  
2 consent to or authorize the marriage of minors.

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

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

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

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

20 B. 1. This declaration of intent in the form and containing  
21 the contents required by subsection C of this section must be  
22 presented to the court clerk of the district court which issued the  
23 couple's marriage license and with whom the couple's marriage  
24 certificate is filed. If the couple was married outside of this

1 state, a copy of the foreign marriage certificate, with the  
2 declaration of intent attached thereto, shall be filed with the  
3 court clerk of the district court which issues marriage licenses in  
4 the county in which the couple is domiciled. The court clerk shall  
5 make a notation on the marriage certificate of the declaration of  
6 intent of a covenant marriage and attach a copy of the declaration  
7 to the certificate.

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

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

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

16 "A COVENANT MARRIAGE

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

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

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

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

22 (3) the notarized signature of both parties. The  
23 provisions of divisions (1) and (2) of this  
24 subparagraph shall not be construed to require any

1 person to provide counseling to a party for the  
2 termination of marriage if such counseling is contrary  
3 to the beliefs of such person, provided that such  
4 counselor furnishes to the party the "Guide for  
5 Covenant Marriages", developed by the Administrative  
6 Director of the Courts, and has informed the party to  
7 consider all aspects of the conditions for a covenant  
8 marriage; and

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

13 SECTION 8. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 6.3 of Title 43, unless there is  
15 created a duplication in numbering, reads as follows:

16 The Administrative Director of the Courts shall, prior to  
17 November 1, 2010, develop and print an information pamphlet entitled  
18 "Guide for Covenant Marriages", which shall outline in sufficient  
19 detail the legal effects of entering into a covenant marriage and  
20 grounds for termination thereof. The informational pamphlets shall  
21 be made available at cost to any counselor who provides marriage  
22 counseling as provided by Section 4 of this act.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 ~~Twelfth~~ 12. Insanity for a period of five (5) years, the insane  
21 person having been an inmate of a state institution for the insane  
22 in the State of Oklahoma, or inmate of a state institution for the  
23 insane in some other state for such period, or of a private  
24 sanitarium, and affected with a type of insanity with a poor

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

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

22 1. The other spouse has committed adultery;

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

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

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

10       5. Fraud in entering into the marriage contract or into a  
11 covenant marriage.

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

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

22       Section 107.2 A. In all actions for divorce, separate  
23 maintenance, guardianship, paternity, custody or visitation,  
24 including modifications or enforcements of a prior court order,

1 where the interest of a child under eighteen (18) years of age is  
2 involved, the court ~~may~~ shall require all adult parties to attend an  
3 educational program concerning, as appropriate, the impact of  
4 separate parenting and coparenting on children, the implications for  
5 visitation and conflict management, development of children,  
6 separate financial responsibility for children and such other  
7 instruction as deemed necessary by the court before any other issues  
8 are addressed in the action. The program shall be educational in  
9 nature and not designed for individual therapy.

10 B. Each judicial district may adopt its own local rules  
11 governing the program.

12 SECTION 11. Section 8 of this act shall become effective  
13 September 1, 2010.

14 SECTION 12. Sections 1 through 7 and Sections 9 and 10 of this  
15 act shall become effective November 1, 2010.

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