

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 105

By: Brecheen of the Senate

and

Newell of the House

7  
8  
9  
10                                   COMMITTEE SUBSTITUTE

11                   [ covenant marriage - specifying conditions and  
12                                   process - codification - effective date ]

13  
14  
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16                   SECTION 1.           AMENDATORY           43 O.S. 2011, Section 1, is  
17 amended to read as follows:

18                   Section 1. A. Marriage is a personal relation arising out of a  
19 civil contract to which the consent of parties legally competent of  
20 contracting and of entering into it is necessary, and the marriage  
21 relation shall only be entered into, maintained or abrogated as  
22 provided by law.

23                   B. 1. A covenant marriage is a marriage entered into by a man  
24 and woman who understand and agree that the marriage between them is

1 a lifelong relationship. Parties to a covenant marriage shall  
2 obtain counseling emphasizing the nature and purposes of marriages  
3 and the responsibilities thereof.

4 2. An unmarried man and woman may contract a covenant marriage  
5 by declaring their intent to do so on their application for a  
6 marriage license and executing a declaration of intent to contract a  
7 covenant marriage, as provided in Section 4 of this act. The  
8 application for a marriage license and the declaration of intent  
9 shall be filed with the official who issues the marriage license.

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

13 SECTION 2. AMENDATORY 43 O.S. 2011, Section 5, is  
14 amended to read as follows:

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

- 19 1. The place of residence of each party;
- 20 2. The full legal name and the age of each party as they appear  
21 upon or are calculable from a certified copy of the birth  
22 certificate, the current driver license or identification card, the  
23 current passport or visa, or any other certificate, license or  
24 document issued by or existing pursuant to the laws of any nation or

1 of any state, or political subdivision thereof, accepted as proof of  
2 identity and age;

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

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

9 5. Whether the parties have successfully completed a premarital  
10 counseling program; and

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

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

1 immediately following the marriage, and the marriage license and  
2 certificate shall be returned to the court clerk.

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

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

13 D. Any party seeking to obtain a marriage license for a  
14 covenant marriage shall be required to obtain the counseling  
15 required by Section 4 of this act prior to the application for a  
16 marriage license. The declaration of intent to contract a covenant  
17 marriage shall comply with the provisions of Section 4 of this act.

18 E. The marriage license shall be valid in any county within the  
19 state.

20 ~~E.~~ F. The provisions hereof are mandatory and not directory  
21 except under the circumstances set out in the provisions of Section  
22 3 of this title.

23 SECTION 3. AMENDATORY 43 O.S. 2011, Section 6, is  
24 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  
24

1 performing the marriage ceremony, the witnesses, and the persons who  
2 have been married.

3 SECTION 4. 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 Section 9 of Title 43 of the  
23 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 5. 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, 2013, 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.

24

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

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

20 b. an affidavit by the parties that they have discussed  
21 their intent to designate their marriage as a covenant  
22 marriage with a qualified person as provided in  
23 Section 5.1 of Title 43 of the Oklahoma Statutes. The  
24 counseling included a discussion of the obligation to

1 seek marital counseling in times of marital  
2 difficulties and the grounds and conditions for  
3 legally terminating a covenant marriage by divorce.

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

8 SECTION 6. AMENDATORY 43 O.S. 2011, Section 101, is  
9 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

7 ~~Twelfth.~~ 12. Insanity for a period of five (5) years, the  
8 insane person having been an inmate of a state institution for the  
9 insane in the State of Oklahoma, or inmate of a state institution  
10 for the insane in some other state for such period, or of a private  
11 sanitarium, and affected with a type of insanity with a poor  
12 prognosis for recovery; provided, that no divorce shall be granted  
13 because of insanity until after a thorough examination of such  
14 insane person by three physicians, one of which physicians shall be  
15 a superintendent of the hospital or sanitarium for the insane, in  
16 which the insane defendant is confined, and the other two physicians  
17 to be appointed by the court before whom the action is pending, any  
18 two of such physicians shall agree that such insane person, at the  
19 time the petition in the divorce action is filed, has a poor  
20 prognosis for recovery; provided, further, however, that no divorce  
21 shall be granted on this ground to any person whose husband or wife  
22 is an inmate of a state institution in any other than the State of  
23 Oklahoma, unless the person applying for such divorce shall have  
24 been a resident of the State of Oklahoma for at least five (5) years

1 prior to the commencement of an action; and provided further, that a  
2 decree granted on this ground shall not relieve the successful party  
3 from contributing to the support and maintenance of the defendant.  
4 The court shall appoint a guardian ad litem to represent the insane  
5 defendant, which appointment shall be made at least ten (10) days  
6 before any decree is entered.

7 B. The district court may grant a divorce of a covenant  
8 marriage for any of the causes provided in subsection A of this  
9 section; provided, however, spouses seeking a divorce from a  
10 covenant marriage on the grounds of incompatibility shall be subject  
11 to the following procedures:

12 1. Upon the filing of a petition for divorce of a covenant  
13 marriage, the court shall order the parties to participate in a  
14 minimum of six (6) hours of counseling to be completed within three  
15 (3) months of filing the petition. The counseling shall follow the  
16 requirements of subsection B of Section 5.1 of this title. In the  
17 event the parties can agree on a counselor, the court shall order  
18 the counseling to proceed with the agreed counselor. In the event  
19 the parties are unable to agree on a counselor, then the court shall  
20 appoint one for them. The cost of the counseling shall be paid by  
21 the parties in the proportions set by the court;

22 2. During the pendency of the covenant marriage divorce  
23 proceedings, the court may take evidence and issue any temporary  
24 order or other order permitted by law pertaining to the divorce, the

1 property of the parties, the children of the marriage or any other  
2 issue before the court, except the court shall not issue a final  
3 decree of divorce except as set forth in this subsection;

4 3. A final decree of divorce shall not be entered until one (1)  
5 year from the date of the completion of the counseling requirement  
6 set forth in this subsection and certified by the individual  
7 providing the counseling; provided, however, the court may grant a  
8 decree of divorce after the passage of fifteen (15) months from the  
9 date of the filing of the petition, upon good cause shown to the  
10 court. For purposes of this section, "good cause shown" shall be in  
11 the discretion of the court, and shall include proof that the  
12 respondent is not complying with the counseling requirement; and

13 4. Upon application by either party to the divorce, and upon  
14 completion of the required six (6) hours of counseling, the court  
15 may waive the required waiting period and immediately enter a  
16 divorce decree if the court finds, after reviewing the  
17 recommendations of the individual providing the counseling, that the  
18 waiver of the required waiting period would be in the best interest  
19 of the parties.

20 SECTION 7. This act shall become effective November 1, 2013.

21  
22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/10/2013 - DO  
23 PASS, As Amended.  
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