

FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2634 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Mark McCullough

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 52nd Legislature (2010)

FLOOR SUBSTITUTE

FOR

HOUSE BILL NO. 2634

By: McCullough and Ritze

FLOOR SUBSTITUTE

An Act relating to marriage and family; amending 28 O.S. 2001, Section 31, as last amended by Section 1, Chapter 288, O.S.L. 2004 (28 O.S. Supp. 2009, Section 31), which relates to court clerk fees; modifying requirements for certain marriage applications and licenses; amending 43 O.S. 2001, Sections 1, 5, as last amended by Section 1, Chapter 313, O.S.L. 2008, 5.1, as amended by Section 1, Chapter 206, O.S.L. 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 6), which relate to marriage; providing for covenant marriages; defining term; specifying conditions and process; requiring premarital counseling prior to covenant marriage; providing for designation of covenant marriages on marriage applications; providing for covenant marriage designation of existing marriages; specifying that common law marriages shall no longer be recognized; providing that certain existing common law marriages shall continue to be recognized; providing certain 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

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

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

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

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

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
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

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.

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;

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
24

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.
24

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.

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.
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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

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.

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

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4 52-2-10250 SDR 03/08/10

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