

By: Wohlgemuth

H.B. No. 1795

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the creation and dissolution of a covenant marriage.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 2.004(b), Family Code, is amended to  
5 read as follows:

6 (b) The application form must contain:

7 (1) a heading entitled "Application for Marriage  
8 License, \_\_\_\_\_ County, Texas";

9 (2) spaces for each applicant's full name, including  
10 the woman's maiden surname, address, social security number, if  
11 any, date of birth, and place of birth, including city, county, and  
12 state;

13 (3) a space for indicating the document tendered by  
14 each applicant as proof of identity and age;

15 (4) spaces for indicating whether each applicant has  
16 been divorced within the last 30 days;

17 (5) an instruction for the applicants to mark one of  
18 the boxes beside the following statements and to sign the statement  
19 in the space immediately below the printed statement:

20 (A) "We, (name of male applicant) and (name of  
21 female applicant), declare our intent to contract a covenant  
22 marriage. We do hereby declare that our marriage will be bound by  
23 Texas law on covenant marriage and we promise to love, honor, and  
24 care for one another as husband and wife for the rest of our

1 lives."; or

2 (B) "We, (name of male applicant) and (name of  
3 female applicant), do not wish to enter into a covenant marriage.";

4 (6) printed boxes for each applicant to check "true"  
5 or "false" in response to the following statement: "I am not  
6 presently married.";

7 (7) [~~6~~] printed boxes for each applicant to check  
8 "true" or "false" in response to the following statement: "The  
9 other applicant is not related to me as:

10 (A) an ancestor or descendant, by blood or  
11 adoption;

12 (B) a brother or sister, of the whole or half  
13 blood or by adoption;

14 (C) a parent's brother or sister, of the whole or  
15 half blood or by adoption; or

16 (D) a son or daughter of a brother or sister, of  
17 the whole or half blood or by adoption.";

18 (8) [~~7~~] printed boxes for each applicant to check  
19 "true" or "false" in response to the following statement: "I am not  
20 presently delinquent in the payment of court-ordered child  
21 support.";

22 (9) [~~8~~] a printed oath reading: "I SOLEMNLY SWEAR  
23 (OR AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS  
24 CORRECT.";

25 (10) [~~9~~] spaces immediately below the printed oath  
26 for the applicants' signatures;

27 (11) [~~10~~] a certificate of the county clerk that:

1 (A) each applicant made the oath and the date and  
2 place that it was made; or

3 (B) an applicant did not appear personally but  
4 the prerequisites for the license have been fulfilled as provided  
5 by this chapter;

6 (12) [~~(11)~~] spaces for indicating the date of the  
7 marriage and the county in which the marriage is performed; and

8 (13) [~~(12)~~] a space for the address to which the  
9 applicants desire the completed license to be mailed.

10 SECTION 2. Section 2.009, Family Code, is amended by adding  
11 Subsection (e) to read as follows:

12 (e) The county clerk shall indicate on the marriage license  
13 whether the license is for a covenant marriage.

14 SECTION 3. Chapter 2, Family Code, is amended by adding  
15 Subchapter G to read as follows:

16 SUBCHAPTER G. COVENANT MARRIAGE

17 Sec. 2.601. DESIGNATING EXISTING MARRIAGE AS COVENANT  
18 MARRIAGE. (a) A married couple may designate their marriage as a  
19 covenant marriage by filing a signed and notarized affidavit of  
20 intent to designate the marriage as a covenant marriage.

21 (b) The affidavit of intent to designate a marriage as a  
22 covenant marriage must contain the following statement:

23 "We do solemnly declare that marriage is a covenant between a  
24 man and a woman who agree to live together as husband and wife for so  
25 long as they both may live. We understand the nature, purpose, and  
26 responsibilities of marriage and have received counseling on the  
27 obligations of a covenant marriage. We have read the pamphlet on

1 covenant marriage and understand that a covenant marriage is for  
2 life. We understand that we can get divorced or separated only for a  
3 reason stated in the pamphlet on covenant marriage. If we  
4 experience marital difficulties, we commit ourselves to take all  
5 reasonable efforts to preserve our marriage, including marital  
6 counseling.

7 With full knowledge of what this commitment means, we do  
8 hereby declare that our marriage will be bound by Texas law on  
9 covenant marriage and we renew our promise to love, honor, and care  
10 for one another as husband and wife for the rest of our lives."

11 (c) The applicants must file the affidavit with:

12 (1) the clerk of the county that issued the marriage  
13 license under which the applicants were married; or

14 (2) if the marriage was entered into outside this  
15 state, the clerk of the county in which the couple resides.

16 (d) A marriage becomes a covenant marriage when a couple  
17 files the affidavit of intent to designate a marriage as a covenant  
18 marriage with the county clerk.

19 Sec. 2.602. COUNSELING REQUIREMENT. (a) Before a couple  
20 may enter into a covenant marriage or designate a marriage as a  
21 covenant marriage, the couple must receive counseling from a person  
22 legally authorized to engage in marriage counseling.

23 (b) The counselor shall:

24 (1) ensure that the couple discusses important  
25 personal issues, including financial issues and conflict  
26 resolution;

27 (2) discuss the seriousness of a covenant marriage;

1           (3) inform the couple that a covenant marriage is a  
2 commitment for life; and

3           (4) inform the couple of the obligation to seek  
4 marital counseling in times of marital difficulties.

5           (c) The counselor may discuss any other topic the counselor  
6 considers important to the couple's understanding of the marital  
7 commitment.

8           Sec. 2.603. PAMPHLET ON COVENANT MARRIAGE. (a) The  
9 attorney general shall prepare a pamphlet consistent with the  
10 requirements of this subchapter providing a full explanation of the  
11 terms and conditions of a covenant marriage. The pamphlet must list  
12 the grounds for dissolution of a covenant marriage under Section  
13 6.903 and the grounds for legal separation under Section 6.904.

14           (b) The attorney general shall provide the pamphlet to the  
15 county clerks in the state. A county clerk shall provide the  
16 pamphlet to each person applying for a license for a covenant  
17 marriage.

18           Sec. 2.604. MATERIAL FOR COUNTY CLERK. The attorney  
19 general shall develop material to educate county clerks about the  
20 requirements for issuing a covenant marriage license and the  
21 differences between a covenant marriage and a noncovenant marriage.

22           SECTION 4. Subchapter A, Chapter 6, Family Code, is amended  
23 by adding Section 6.009 to read as follows:

24           Sec. 6.009. APPLICATION TO COVENANT MARRIAGE. This  
25 subchapter does not apply to a covenant marriage.

26           SECTION 5. Chapter 6, Family Code, is amended by adding  
27 Subchapter J to read as follows:

1           SUBCHAPTER J. DISSOLUTION OF COVENANT MARRIAGE AND LEGAL

2                                   SEPARATION

3           Sec. 6.901. DISSOLUTION OR LEGAL SEPARATION. (a) A spouse  
4 in a covenant marriage who meets the requirements of this  
5 subchapter may file a suit for:

6                   (1) dissolution of the covenant marriage; or

7                   (2) legal separation.

8           (b) The procedures in this chapter for a suit for  
9 dissolution of a marriage apply to a suit for dissolution of a  
10 covenant marriage or for legal separation of a covenant marriage.

11           Sec. 6.902. COUNSELING REQUIREMENT BEFORE DISSOLUTION. A  
12 spouse in a covenant marriage may not file a suit to dissolve a  
13 covenant marriage unless the parties to the marriage have received  
14 counseling from a person legally authorized to engage in marriage  
15 counseling in an attempt to reconcile the marriage. The couple must  
16 participate in the counseling until the counselor or both spouses  
17 determine that the marriage is not salvageable.

18           Sec. 6.903. GROUNDS FOR DISSOLUTION OF COVENANT MARRIAGE.

19 (a) The court may grant a divorce in a covenant marriage in favor of  
20 a spouse if:

21                   (1) the other spouse has committed adultery;

22                   (2) the other spouse has:

23                                   (A) been convicted of a felony;

24                                   (B) been imprisoned for at least one year in a  
25 state penitentiary, a federal penitentiary, or a penitentiary of  
26 another state; and

27                                   (C) not been pardoned;

1           (3) the other spouse:

2                   (A) left the complaining spouse with the  
3 intention of abandonment; and

4                   (B) remained away from the complaining spouse for  
5 at least two years;

6           (4) the other spouse committed family violence as  
7 defined by Section 71.004 and the spouse reported the family  
8 violence to a law enforcement agency and has filed for a protective  
9 order;

10           (5) the spouses have lived apart without cohabitation  
11 for at least three years; or

12           (6) an order of legal separation has been issued to one  
13 of the spouses under Section 6.904 and the spouses have lived apart  
14 without reconciliation for at least:

15                   (A) two years after the date a separation order  
16 is rendered if there are no minor children from the marriage; or

17                   (B) two years and six months after the date a  
18 separation order is rendered if there is a minor child from the  
19 marriage.

20           (b) The court may not grant a divorce under Subsection  
21 (a)(2) if the spouse who was convicted of a felony was convicted  
22 solely on the testimony of the other spouse.

23           Sec. 6.904. LEGAL SEPARATION. (a) A spouse in a covenant  
24 marriage may file a suit to obtain from the court an order of legal  
25 separation if:

26                   (1) the other spouse has committed adultery;

27                   (2) the other spouse has:

1           (A) been convicted of a felony;

2           (B) been imprisoned for at least one year in a  
3 state penitentiary, a federal penitentiary, or a penitentiary of  
4 another state; and

5           (C) not been pardoned;

6           (3) the other spouse:

7           (A) left the complaining spouse with the  
8 intention of abandonment; and

9           (B) remained away from the complaining spouse for  
10 at least one year;

11           (4) the other spouse committed family violence as  
12 defined by Section 71.004 and the spouse reported the family  
13 violence to a law enforcement agency and has filed for a protective  
14 order;

15           (5) the spouses have lived apart without cohabitation  
16 for at least three years; or

17           (6) the other spouse habitually abuses illegal drugs  
18 or alcohol.

19           (b) The court may not render an order of legal separation  
20 under Subsection (a)(2) if the spouse who was convicted of a felony  
21 was convicted solely on the testimony of the other spouse.

22           SECTION 6. Subchapter B, Chapter 8, Family Code, is amended  
23 by adding Section 8.0511 to read as follows:

24           Sec. 8.0511. TEMPORARY MAINTENANCE IN CERTAIN PROCEEDINGS  
25 INVOLVING COVENANT MARRIAGE. The court shall render a temporary  
26 order for maintenance in favor of a spouse who files for:

27           (1) legal separation of a covenant marriage based on



1 abandonment under Section 6.904(a)(3); or

2 (2) dissolution of a covenant marriage.

3 SECTION 7. Section 118.011(a), Local Government Code, is  
4 amended to read as follows:

5 (a) A county clerk shall collect the following fees for  
6 services rendered to any person:

7 (1) Personal Property Records Filing (Sec.  
8 118.012) . . . . . \$ 2.00

9 (2) Real Property Records Filing (Sec. 118.013):  
10 for the first page . . . . . \$ 3.00  
11 for each additional page or part of a page on which  
12 there are visible marks of any kind . . . . . \$ 2.00

13 for all or part of each 8 1/2" X 14" attachment or  
14 rider . . . . . \$ 2.00  
15 for each name in excess of five names that has to be  
16 indexed in all records in which the document must be  
17 indexed . . . . . \$ 0.25

18 (3) Certified Papers (Sec. 118.014):  
19 for the clerk's certificate . . . . . \$ 5.00  
20 plus a fee for each page or part of a page . . . . \$ 1.00

21 (4) Noncertified Papers (Sec. 118.0145):  
22 for each page or part of a page . . . . . \$ 1.00

23 (5) Birth or Death Certificate (Sec.  
24 118.015) . . . . . same as state registrar

25 (6) Bond Approval (Sec. 118.016) . . . . . \$ 3.00

26 (7) Noncovenant Marriage License (Sec.  
27 118.018) . . . . . \$30.00

- 1           (8) Covenant Marriage License (Sec. 118.018) . . \$12.50
- 2           (9) Affidavit of Intent to Designate a Marriage as a
- 3 Covenant Marriage (Sec. 118.018) . . . . . \$12.50
- 4           (10) Declaration of Informal Marriage (Sec.
- 5 118.019) . . . . . \$25.00
- 6           (11) [~~(9)~~] Brand Registration (Sec. 118.020) . \$ 5.00
- 7           (12) [~~(10)~~] Oath Administration (Sec.
- 8 118.021) . . . . . \$ 1.00

9           SECTION 8. Section 118.018(a), Local Government Code, is  
10 amended to read as follows:

11           (a) The fee for a "Marriage License," "Covenant Marriage  
12 License," or "Affidavit of Intent to Designate a Marriage as a  
13 Covenant Marriage," under Section 118.011 is for issuing a marriage  
14 license. The fee must be paid at the time the license is issued.

15           SECTION 9. This Act takes effect September 1, 2003.