

## **BILL ANALYSIS**

C.S.H.B. 180  
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State Affairs  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In the 1970s, Texas and several other states enacted a system of no-fault divorce which was followed by significant increases in the both the rate and number of divorces. The high rate of divorce in Texas impacts every part of our state.

In an effort to decrease the high rate of divorce and to encourage the development of strong marriages and healthy families, some states have adopted provisions for covenant marriage. Louisiana, Arizona, and Arkansas have all enacted covenant marriage laws and similar legislation is pending in Oklahoma. In all these states, choosing a covenant marriage is optional.

Covenant marriages provide greater protection for couples facing the inevitable challenges of married life. To enter a covenant marriage a couple must participate in scientifically based, pre-marital counseling to prepare for the commitment of marriage. Covenant marriage also requires couples to seek reconciliatory counseling prior to a divorce and provides specific grounds for dissolution and legal separation.

C.S.H.B. 180 would provide Texas couples with the same option available to couples in other states to choose a covenant marriage.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 9 of this bill.

### **ANALYSIS**

C.S.H.B. 180 amends the Family Code to provide for the creation of a covenant marriage and the collection of applicable fees. The bill provides that applicants for a marriage license select either a covenant or non-covenant marriage license. The bill requires the county clerk to indicate on the marriage license whether the license is for a covenant marriage.

The bill provides that if a couple is already married, those applicants are authorized to designate an existing marriage as a covenant marriage by filing a signed and notarized affidavit with the clerk of the county that issued the original marriage license, or with the clerk of the county in which the couple resides if the marriage was entered into outside the state. The bill requires the county clerk to designate on the marriage license that the marriage is a covenant marriage and attach a copy of the affidavit to the marriage license upon receipt of the affidavit and a copy of the original marriage license.

The bill provides that a couple receive counseling from a legally authorized marriage counselor before entering into or if designating a marriage as a covenant marriage. The bill authorizes the counselor to discuss other topics considered important to the couple's understanding of the marital commitment. The bill requires the counselor to:

- 1.) ensure that the couple discusses important personal issues, including financial issues and conflict resolution;
- 2.) discuss the seriousness of a covenant marriage;
- 3.) inform the couple that a covenant marriage is a lifetime commitment; and
- 4.) inform the couple of the obligation to seek marital counseling in times of marital difficulties.

The bill requires the attorney general to prepare a pamphlet with a full explanation of the terms and conditions of a covenant marriage, including grounds for dissolution and grounds for legal separation. The bill requires the attorney general to provide the pamphlet to county clerks in the state who are required to provide the pamphlet to each person applying for a covenant marriage. The bill requires the attorney general to develop material to educate county clerks about the requirements of a covenant marriage and its difference from a noncovenant marriage.

C.S.H.B. 180 removes the application of Subchapter A, "GROUNDS FOR DIVORCE AND DEFENSES," Chapter 6 of the Family Code, to covenant marriages, except as provided by Section 6.904. The bill provides grounds and procedures for a suit for dissolution of a covenant marriage or legal separation. The bill prohibits a spouse in a covenant marriage from filing a suit for the dissolution of the marriage unless the parties have received marriage counseling from a person legally authorized to engage in marriage counseling in an attempt to reconcile the marriage. The bill requires the couple to participate in the counseling until the counselor or both spouses determine that the marriage is not salvageable.

The bill authorizes the court to grant a divorce in a covenant marriage in favor of a spouse if:

- 1.) the other spouse has committed adultery;
- 2.) the other spouse has been convicted of a felony, has been imprisoned for at least one year and has not been pardoned;
- 3.) the other spouse left the complaining spouse with the intent of abandonment and remained away for at least 2 years;
- 4.) the other spouse has committed family violence;
- 5.) the spouses have lived apart for 3 years; or
- 6.) an order or legal separation has been issued and spouses have lived apart for at least 2 years if there are no minor children, or lived apart for 2 years and 6 months if there is a minor child of the marriage.

The bill provides that a spouse may file a suit to obtain an order of separation if:

- 1.) the other spouse has committed adultery;
- 2.) been convicted of a felony, been imprisoned for at least one year, and has not been pardoned;
- 3.) the other spouse left the complaining spouse with the intention of abandonment and remained away for at least one year;
- 4.) the other spouse committed family violence;
- 5.) the spouses have lived apart without cohabitation for at least 3 years; or
- 6.) the other spouse habitually abuses illegal drugs or alcohol.

C.S.H.B. 180 prohibits the court from granting a divorce or order of separation if the spouse convicted of the felony was convicted solely on the testimony of the other spouse. The bill requires also the court to render temporary maintenance in favor of a spouse who files for legal separation based on abandonment or for dissolution of a covenant marriage.

The bill amends the Health and Safety Code so to require the county clerk to file with the bureau of vital statistics a copy of each affidavit of intent to designate a marriage as a covenant marriage not later than the 90th day after the affidavit is executed.

The bill requires the executive commissioner of the Health and Human Services Commission to prescribe the format and content of the affidavit of intent to designate a marriage as a covenant marriage to be distributed to county clerks to replace locally adopted affidavits. The bill authorizes a county clerk to reproduce the affidavit locally.

The bill requires the fee for a covenant marriage license to be \$25.00 and the fee for an affidavit of intent to designate a marriage as a covenant marriage to be \$25.00.

C.S.H.B. 180 amends the Family Code to require the Department of Family and Protective Services to prepare and provide materials about family violence. The bill provides that the materials must include the wheel of equality and the power and control wheel developed by the Domestic Abuse Intervention Project in Duluth, Minnesota and inform applicants about identifying family violence, how family violence starts, what to do as a victim of family violence, and the National Domestic Violence Hotline. The bill requires the county clerk to

distribute the printed materials about family violence created by the Department of Family and Protective Services to each marriage license applicant.

**EFFECTIVE DATE**

September 1, 2007.

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute modifies the original by amending the Family Code to require the Department of Family and Protective Services to prepare and provide materials about family violence. The substitute adds new language to require county clerks to distribute printed materials about family violence created by the Department of Family and Protective Services to each marriage license applicant. The substitute corrects the fee information.