

By: Hamilton

H.B. No. 1821

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 and, accordingly, have executed a declaration of intent
23 attached hereto."; or

24 (B) "We, (name of male applicant) and (name of

1 female applicant), do not wish to enter into a covenant marriage.;

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

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

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

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

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

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

17 (E) a current or former stepchild or stepparent;
18 or

19 (F) a son or daughter of a parent's brother or
20 sister, of the whole or half blood or by adoption.";

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

25 (9) [~~(8)~~] a printed oath reading: "I SOLEMNLY SWEAR
26 (OR AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS
27 CORRECT.";

1 (10) [~~(9)~~] spaces immediately below the printed oath
2 for the applicants' signatures;

3 (11) [~~(10)~~] a certificate of the county clerk that:

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

6 (B) an applicant did not appear personally but
7 the prerequisites for the license have been fulfilled as provided
8 by this chapter;

9 (12) [~~(11)~~] spaces for indicating the date of the
10 marriage and the county in which the marriage is performed; and

11 (13) [~~(12)~~] a space for the address to which the
12 applicants desire the completed license to be mailed.

13 SECTION 2. Subchapter A, Chapter 2, Family Code, is amended
14 by adding Sections 2.0045 and 2.0046 to read as follows:

15 Sec. 2.0045. DECLARATION OF INTENT TO CONTRACT COVENANT
16 MARRIAGE. An application for a covenant marriage must contain the
17 following declaration signed by both applicants for the marriage
18 license:

19 "We, (name of male applicant) and (name of female applicant),
20 do solemnly declare that marriage is a covenant between a man and a
21 woman who agree to live together as husband and wife for so long as
22 they both may live. We have chosen each other carefully and
23 disclosed to one another everything that could adversely affect the
24 decision to enter into this marriage. We have received premarital
25 counseling on the nature, purpose, and responsibilities of
26 marriage. We have read the pamphlet on covenant marriage and
27 understand that a covenant marriage is for life. If we experience

1 marital difficulties, we commit ourselves to take all reasonable
2 efforts to preserve our marriage, including marital counseling.

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

7 Sec. 2.0046. ADDITIONAL REQUIREMENTS FOR COVENANT MARRIAGE
8 APPLICATION. (a) An application for a covenant marriage must
9 include an affidavit signed by both applicants for a marriage
10 license stating that the applicants have received the premarital
11 counseling required by Section 2.602.

12 (b) The affidavit must be accompanied by a notarized
13 statement by the counselor who provided the counseling to the
14 applicants that:

15 (1) the couple received suitable premarital
16 counseling; and

17 (2) the counselor provided the pamphlet on covenant
18 marriage to each of the applicants.

19 SECTION 3. Section 2.009, Family Code, is amended by adding
20 Subsection (e) to read as follows:

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

23 SECTION 4. Chapter 2, Family Code, is amended by adding
24 Subchapter G to read as follows:

25 SUBCHAPTER G. COVENANT MARRIAGE

26 Sec. 2.601. DESIGNATING EXISTING MARRIAGE AS COVENANT
27 MARRIAGE. (a) A married couple may designate their marriage as a

1 covenant marriage by filing:

2 (1) a signed and notarized affidavit of intent to
3 designate a marriage as a covenant marriage;

4 (2) a notarized statement from the counselor providing
5 counseling to the married couple; and

6 (3) a copy of the couple's marriage license.

7 (b) The affidavit of intent to designate a marriage as a
8 covenant marriage must contain:

9 (1) the following declaration:

10 "We do solemnly declare that marriage is a covenant between a
11 man and a woman who agree to live together as husband and wife for so
12 long as they both may live. We have chosen each other carefully and
13 disclosed to one another everything that could adversely affect the
14 decision to enter into this marriage. We have received counseling
15 on the nature, purposes, and responsibilities of marriage. We have
16 read the pamphlet on covenant marriage and understand that a
17 covenant marriage is for life. If we experience marital
18 difficulties, we commit ourselves to take all reasonable efforts to
19 preserve our marriage, including marital counseling.

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

24 (2) a statement that the married couple has received
25 the counseling required by Section 2.602.

26 (c) The affidavit must be accompanied by a notarized
27 statement by the counselor who provided the counseling to the

1 married couple that:

2 (1) the couple received suitable marital counseling;

3 and

4 (2) the counselor provided the pamphlet on covenant
5 marriage to each of the applicants.

6 (d) The applicants must file the affidavit and marriage
7 license with:

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

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

12 (e) On receipt of the affidavit and marriage license under
13 Subsection (a), the county clerk shall:

14 (1) designate on the marriage license that the
15 marriage is a covenant marriage; and

16 (2) attach a copy of the affidavit to the marriage
17 license.

18 (f) A marriage becomes a covenant marriage when a couple
19 files the affidavit of intent to designate a marriage as a covenant
20 marriage with the county clerk.

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

25 (b) The counselor shall:

26 (1) ensure that the couple discusses important
27 personal issues, including financial issues and conflict

1 resolution;

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

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

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

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

10 Sec. 2.603. PAMPHLET ON COVENANT MARRIAGE. (a) The
11 attorney general shall prepare a pamphlet consistent with the
12 requirements of this subchapter providing a full explanation of the
13 terms and conditions of a covenant marriage. The pamphlet must list
14 the grounds for dissolution of a covenant marriage under Section
15 6.903 and the grounds for legal separation under Section 6.904.

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

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

24 SECTION 5. Subchapter A, Chapter 6, Family Code, is amended
25 by adding Section 6.009 to read as follows:

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

1 SECTION 6. Chapter 6, Family Code, is amended by adding
2 Subchapter J to read as follows:

3 SUBCHAPTER J. DISSOLUTION OF COVENANT MARRIAGE AND LEGAL
4 SEPARATION

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

8 (1) dissolution of the covenant marriage; or

9 (2) legal separation.

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

13 Sec. 6.902. COUNSELING REQUIREMENT BEFORE DISSOLUTION. (a)
14 Except as provided by Subsection (b), a spouse in a covenant
15 marriage may not file a suit to dissolve a covenant marriage unless
16 the parties to the marriage have received counseling from a person
17 legally authorized to engage in marriage counseling in an attempt
18 to reconcile the marriage. The couple must participate in the
19 counseling until the counselor or both spouses determine that the
20 marriage is not salvageable.

21 (b) A spouse in a covenant marriage may file a suit to
22 dissolve the covenant marriage under Section 6.903(a)(4) without
23 completing the counseling required by Subsection (a).

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

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

27 (1) the other spouse has committed adultery;

1 (2) the other spouse has:

2 (A) been convicted of a felony;

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

6 (C) not been pardoned;

7 (3) the other spouse:

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

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

12 (4) the other spouse committed family violence as
13 defined by Section 71.004;

14 (5) the spouses have lived apart without cohabitation
15 for at least one year; or

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

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

21 (B) two years and six months after the date a
22 separation order is rendered if there is a minor child from the
23 marriage.

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

27 Sec. 6.904. LEGAL SEPARATION. (a) A spouse in a covenant

1 marriage may file a suit to obtain from the court an order of legal
2 separation if:

3 (1) the other spouse has committed adultery;

4 (2) the other spouse has:

5 (A) been convicted of a felony;

6 (B) been imprisoned for at least one year in a
7 state penitentiary, a federal penitentiary, or a penitentiary of
8 another state; and

9 (C) not been pardoned;

10 (3) the other spouse:

11 (A) left the complaining spouse with the
12 intention of abandonment; and

13 (B) remained away from the complaining spouse for
14 at least one year;

15 (4) the other spouse committed family violence as
16 defined by Section 71.004;

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

19 (6) the marriage has become insupportable because the
20 other spouse:

21 (A) habitually abuses illegal drugs or alcohol;

22 or

23 (B) engages in a continued pattern of verbal
24 abuse, cruel treatment, or other outrageous behavior.

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

1 SECTION 7. Subchapter B, Chapter 8, Family Code, is amended
2 by adding Section 8.0511 to read as follows:

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

6 (1) legal separation of a covenant marriage based on
7 abandonment under Section 6.904(a)(3); or

8 (2) dissolution of a covenant marriage.

9 SECTION 8. Section 194.001, Health and Safety Code, is
10 amended by amending Subsection (b) and adding Subsection (c) to
11 read as follows:

12 (b) The county clerk shall file with the bureau of vital
13 statistics a copy of each declaration of informal marriage executed
14 under Section 2.402 [~~1.92~~], Family Code. The clerk shall file the
15 copy not later than the 90th day after the date on which the
16 declaration is executed.

17 (c) The county clerk shall file with the bureau of vital
18 statistics a copy of each affidavit of intent to designate a
19 marriage as a covenant marriage executed under Section 2.601,
20 Family Code. The clerk shall file the copy not later than the 90th
21 day after the date on which the affidavit is executed.

22 SECTION 9. Section 194.0011, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 194.0011. MARRIAGE LICENSE APPLICATIONS; DESIGNATING
25 MARRIAGE AS COVENANT MARRIAGE. (a) The executive commissioner of
26 the Health and Human Services Commission [~~board~~] by rule shall
27 prescribe the format and content of the:

1 (1) form used for the marriage license application;
 2 and
 3 (2) affidavit of intent to designate a marriage as a
 4 covenant marriage.

5 (b) The bureau of vital statistics shall print and
 6 distribute the forms and affidavits to each county clerk throughout
 7 the state.

8 (c) The form and affidavit adopted by the executive
 9 commissioner [~~board~~] shall replace locally adopted forms and
 10 affidavits.

11 (d) A county clerk may reproduce the executive
 12 commissioner's [~~board's~~] form and affidavit locally.

13 SECTION 10. Section 118.011(a), Local Government Code, is
 14 amended to read as follows:

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

17 (1) Personal Property Records Filing (Sec. 118.012):
 18 for the first page \$ 5.00
 19 for each additional page or part of a page on which
 20 there are visible marks of any kind \$ 4.00

21 (2) Real Property Records Filing (Sec. 118.013):
 22 for the first page \$ 5.00
 23 for each additional page or part of a page on which
 24 there are visible marks of any kind \$ 4.00

25 for all or part of each 8-1/2" X 14" attachment
 26 or rider \$ 4.00
 27 for each name in excess of five names that has to

1 be indexed in all records in which the document must be
2 indexed \$ 0.25

3 (3) Certified Papers (Sec. 118.014):

4 for the clerk's certificate \$ 5.00

5 plus a fee for each page or part of a
6 page \$ 1.00

7 (4) Noncertified Papers (Sec. 118.0145):

8 for each page or part of a page \$ 1.00

9 (5) Birth or Death Certificate (Sec.
10 118.015) same as state registrar

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

12 (7) Noncovenant Marriage License
13 (Sec. 118.018) \$30.00

14 (8) Covenant Marriage License
15 (Sec. 118.018) \$20.00

16 (9) Affidavit of Intent to Designate a Marriage as a
17 Covenant Marriage (Sec. 118.018) \$10.00

18 (10) Declaration of Informal Marriage (Sec.
19 118.019) \$25.00

20 (11) [~~9~~] Brand Registration (Sec.
21 118.020) \$ 5.00

22 (12) [~~10~~] Oath Administration (Sec.
23 118.021) \$ 1.00

24 SECTION 11. Section 118.018(a), Local Government Code, is
25 amended to read as follows:

26 (a) The fee for a "Marriage License," "Covenant Marriage
27 License," or "Affidavit of Intent to Designate a Marriage as a

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1 Covenant Marriage," under Section 118.011 is for issuing a marriage
2 license. The fee must be paid at the time the license is issued.

3 SECTION 12. This Act takes effect September 1, 2007.