

By: Howard of Fort Bend

H.B. No. 2855

A BILL TO BE ENTITLED

AN ACT

relating to marriage education courses for certain couples filing for divorce on the grounds of insupportability.

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

SECTION 1. Subchapter E, Chapter 6, Family Code, is amended by adding Section 6.4025 to read as follows:

Sec. 6.4025. MARRIAGE EDUCATION REQUIRED IN CERTAIN SUITS.

(a) This section applies to a suit for dissolution of marriage filed on the grounds of insupportability and in which the household of one of the parties is the primary residence for a child under the age of 18.

(b) Except as provided by Subsection (d), a petition in a suit for dissolution of a marriage must be accompanied by:

(1) a completion certificate for a marriage education course under Section 6.412 completed by the petitioner not less than one year but not more than two years before the date the petition is filed; and

(2) a statement that after completing the marriage education course, but not less than one year before filing the petition, the petitioner gave the respondent written notice of:

(A) the intent to file for dissolution; and

(B) the availability of the marriage education course, if the respondent has not completed a marriage education course.

1 (c) Not later than the 14th day after the date the
2 respondent receives notice of the suit for dissolution of marriage,
3 the respondent may file with the court a completion certificate for
4 a marriage education course under Section 6.412 completed by the
5 respondent not more than two years before the date the petition is
6 filed.

7 (d) If a party submits evidence under Subsection (e), the
8 court may not:

9 (1) require a completion certificate for a marriage
10 education course to be submitted with the petition; or

11 (2) consider the completion of the marriage education
12 course as a factor in rendering an order affecting the rights or
13 responsibilities of the parties.

14 (e) Either party may submit to the court evidence that the
15 other party to the suit has committed family violence against the
16 party or mentally, emotionally, verbally, or psychologically
17 abused the party, including:

18 (1) a copy of a protective order issued under Title 4
19 against the other party because of family violence;

20 (2) a police record documenting family violence by the
21 other party against the party submitting the evidence;

22 (3) a statement by a physician or other medical
23 evidence that indicates that the party submitting the evidence was
24 a victim of family violence; or

25 (4) a sworn statement by a counselor or advocate in a
26 family violence program that indicates that the party submitting
27 the evidence was a victim of family violence or mental, emotional,

1 verbal, or psychological abuse.

2 SECTION 2. Subchapter E, Chapter 6, Family Code, is amended
3 by adding Section 6.412 to read as follows:

4 Sec. 6.412. MARRIAGE EDUCATION COURSES. (a) Each party to
5 a suit for dissolution of a marriage is encouraged to attend a
6 marriage education course of at least four hours, completed within
7 a 30-day period. The goal of the course, and the focus of each
8 component of the course, is marriage restoration.

9 (b) A marriage education course must, at a minimum, include
10 instruction in:

11 (1) the potential effects of divorce on a child,
12 including:

13 (A) the possible effects of divorce on
14 depression, suicidal thoughts, and increased suicide attempts;

15 (B) responses to divorce that may include
16 dropping out of school or the use of drugs or alcohol; and

17 (C) other symptoms of maladjustment to divorce;

18 (2) the potential effects of divorce on the parties to
19 the divorce, including:

20 (A) the financial consequences of divorce;

21 (B) the rates of divorce in second and third
22 marriages;

23 (C) the effect of divorce on a parent's
24 relationship with the parent's child; and

25 (D) time spent with a child by a possessory
26 conservator after a divorce;

27 (3) skills building, including:

- 1 (A) parenting skills;
- 2 (B) communication skills;
- 3 (C) conflict resolution skills;
- 4 (D) money management skills; and
- 5 (E) overcoming infidelity; and

6 (4) relevant information and referral services for:

- 7 (A) domestic violence; and
- 8 (B) substance abuse.

9 (c) The Health and Human Services Commission, in
10 consultation with domestic violence organizations and experts,
11 shall certify the curriculum of a course.

12 (d) The Health and Human Services Commission may approve an
13 online course for use in counties in which no marriage education
14 course is regularly offered.

15 (e) The Health and Human Services Commission shall approve
16 individuals and organizations, including community and faith-based
17 organizations, that are certified in a skills-based and
18 research-based marriage curriculum to provide courses under this
19 section.

20 (f) A person who takes a course under this section shall pay
21 any fee charged for the course.

22 (g) The Health and Human Services Commission may subsidize a
23 marriage education course approved under this section if funding is
24 available. The Health and Human Services Commission may apply for,
25 accept, and use any applicable federal grants.

26 (h) If a provider of a marriage education course receives a
27 subsidy under Subsection (g), the provider must adopt a procedure

1 for waiving or reducing the marriage education course fee for a
2 person who is indigent.

3 (i) A person who provides a marriage education course shall
4 provide a signed and dated completion certificate to each person
5 who completes the course. The certificate must include the name of
6 the course, the name of the course provider, and the completion
7 date.

8 (j) The Health and Human Services Commission shall maintain
9 an Internet website that lists the courses certified or approved
10 under Subsections (c) and (d). The executive commissioner shall
11 notify each county clerk and district clerk about the website. The
12 clerk of the court in which a petition for dissolution of a marriage
13 based on insupportability is filed shall give the person filing the
14 petition information about the website along with the location of
15 libraries or other resource centers that provide access to the
16 Internet.

17 SECTION 3. Section 7.002, Family Code, is amended by adding
18 Subsection (d) to read as follows:

19 (d) In ordering a division of the estate of parties subject
20 to Section 6.4025, the court shall consider whether a party has
21 filed with the court a completion certificate for a marriage
22 education course under Section 6.412 completed by the party not
23 more than two years before the date the petition for dissolution of
24 marriage is filed.

25 SECTION 4. Section 8.052, Family Code, is amended to read as
26 follows:

27 Sec. 8.052. FACTORS IN DETERMINING MAINTENANCE. A court

1 that determines that a spouse is eligible to receive maintenance
2 under this chapter shall determine the nature, amount, duration,
3 and manner of periodic payments by considering all relevant
4 factors, including:

5 (1) the financial resources of the spouse seeking
6 maintenance, including the community and separate property and
7 liabilities apportioned to that spouse in the dissolution
8 proceeding, and that spouse's ability to meet the spouse's needs
9 independently;

10 (2) the education and employment skills of the
11 spouses, the time necessary to acquire sufficient education or
12 training to enable the spouse seeking maintenance to find
13 appropriate employment, the availability of that education or
14 training, and the feasibility of that education or training;

15 (3) the duration of the marriage;

16 (4) the age, employment history, earning ability, and
17 physical and emotional condition of the spouse seeking maintenance;

18 (5) the ability of the spouse from whom maintenance is
19 requested to meet that spouse's personal needs and to provide
20 periodic child support payments, if applicable, while meeting the
21 personal needs of the spouse seeking maintenance;

22 (6) acts by either spouse resulting in excessive or
23 abnormal expenditures or destruction, concealment, or fraudulent
24 disposition of community property, joint tenancy, or other property
25 held in common;

26 (7) the comparative financial resources of the
27 spouses, including medical, retirement, insurance, or other

1 benefits, and the separate property of each spouse;

2 (8) the contribution by one spouse to the education,
3 training, or increased earning power of the other spouse;

4 (9) the property brought to the marriage by either
5 spouse;

6 (10) the contribution of a spouse as homemaker;

7 (11) marital misconduct of the spouse seeking
8 maintenance; ~~and~~

9 (12) the efforts of the spouse seeking maintenance to
10 pursue available employment counseling as provided by Chapter 304,
11 Labor Code; and

12 (13) if the suit for dissolution was subject to
13 Section 6.4025, whether either spouse has filed with the court a
14 completion certificate for a marriage education course under
15 Section 6.412 completed by the spouse not more than two years before
16 the date the petition for dissolution of marriage is filed.

17 SECTION 5. Subchapter A, Chapter 153, Family Code, is
18 amended by adding Section 153.0035 to read as follows:

19 Sec. 153.0035. CONSIDERATION OF COMPLETION OF MARRIAGE
20 EDUCATION COURSE. In determining whether to appoint a party as a
21 sole or joint managing conservator, the court shall consider
22 whether a party in a suit subject to Section 6.4025 has filed with
23 the court a completion certificate for a marriage education course
24 under Section 6.412 completed by the party not more than two years
25 before the date the petition for dissolution of marriage is filed.

26 SECTION 6. Section 154.123(b), Family Code, is amended to
27 read as follows:

1 (b) In determining whether application of the guidelines
2 would be unjust or inappropriate under the circumstances, the court
3 shall consider evidence of all relevant factors, including:

4 (1) the age and needs of the child;

5 (2) the ability of the parents to contribute to the
6 support of the child;

7 (3) any financial resources available for the support
8 of the child;

9 (4) the amount of time of possession of and access to a
10 child;

11 (5) the amount of the obligee's net resources,
12 including the earning potential of the obligee if the actual income
13 of the obligee is significantly less than what the obligee could
14 earn because the obligee is intentionally unemployed or
15 underemployed and including an increase or decrease in the income
16 of the obligee or income that may be attributed to the property and
17 assets of the obligee;

18 (6) child care expenses incurred by either party in
19 order to maintain gainful employment;

20 (7) whether either party has the managing
21 conservatorship or actual physical custody of another child;

22 (8) the amount of alimony or spousal maintenance
23 actually and currently being paid or received by a party;

24 (9) the expenses for a son or daughter for education
25 beyond secondary school;

26 (10) whether the obligor or obligee has an automobile,
27 housing, or other benefits furnished by his or her employer,

1 another person, or a business entity;

2 (11) the amount of other deductions from the wage or
3 salary income and from other compensation for personal services of
4 the parties;

5 (12) provision for health care insurance and payment
6 of uninsured medical expenses;

7 (13) special or extraordinary educational, health
8 care, or other expenses of the parties or of the child;

9 (14) the cost of travel in order to exercise
10 possession of and access to a child;

11 (15) positive or negative cash flow from any real and
12 personal property and assets, including a business and investments;

13 (16) debts or debt service assumed by either party;
14 [~~and~~]

15 (17) if the obligee and obligor were parties in a suit
16 subject to Section 6.4025, whether either party has filed with the
17 court a completion certificate for a marriage education course
18 under Section 6.412 completed by the party not more than two years
19 before the date the petition for dissolution of marriage is filed;
20 and

21 (18) any other reason consistent with the best
22 interest of the child, taking into consideration the circumstances
23 of the parents.

24 SECTION 7. The change in law made by this Act applies only
25 to a suit for dissolution of a marriage filed on or after the
26 effective date of this Act. A suit for dissolution of a marriage
27 filed before the effective date of this Act is governed by the law

H.B. No. 2855

1 in effect on the date the suit was filed, and the former law is
2 continued in effect for that purpose.

3 SECTION 8. This Act takes effect January 1, 2012.