

By: Perry

H.B. No. 1673

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 and the other applicant is not presently
7 married.";

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

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

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

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

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

19 (E) a current or former stepchild or stepparent;
20 or

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

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

27 (9) [~~8~~] a printed oath reading: "I SOLEMNLY SWEAR

1 (OR AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS
2 CORRECT.";

3 (10) [~~(9)~~] spaces immediately below the printed oath
4 for the applicants' signatures;

5 (11) [~~(10)~~] a certificate of the county clerk that:

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

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

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

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

15 SECTION 2. Section 2.009, Family Code, is amended by
16 amending Subsection (c) and adding Subsection (e) to read as
17 follows:

18 (c) On the proper execution of the application, the clerk
19 shall:

20 (1) prepare the license;

21 (2) enter on the license the names of the licensees,
22 the date that the license is issued, and, if applicable, the name of
23 the person appointed to act as proxy for an absent applicant, if
24 any;

25 (3) record the time at which the license was issued;

26 (4) distribute to each applicant printed materials
27 about acquired immune deficiency syndrome (AIDS) and human

1 immunodeficiency virus (HIV) and note on the license that the
2 distribution was made; ~~and~~

3 (5) distribute to each applicant a premarital
4 education handbook provided by the attorney general under Section
5 2.014; and

6 (6) distribute to each applicant the printed materials
7 about family violence created by the Department of Family and
8 Protective Services.

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

11 SECTION 3. Subchapter A, Chapter 2, Family Code, is amended
12 by adding Section 2.0105 to read as follows:

13 Sec. 2.0105. FAMILY VIOLENCE INFORMATION. The Department
14 of Family and Protective Services shall prepare and provide to each
15 county clerk in the state materials that provide information to
16 marriage license applicants about family violence. The materials
17 must:

18 (1) include the wheel of equality and the power and
19 control wheel developed by the Domestic Abuse Intervention Project
20 in Duluth, Minnesota; and

21 (2) inform the applicants about:

22 (A) how to identify family violence;

23 (B) how family violence starts;

24 (C) what to do if the applicant becomes a victim
25 of family violence; and

26 (D) the National Domestic Violence Hotline.

27 SECTION 4. Chapter 2, Family Code, is amended by adding

1 Subchapter G to read as follows:

2 SUBCHAPTER G. COVENANT MARRIAGE

3 Sec. 2.601. DESIGNATING EXISTING MARRIAGE AS COVENANT
4 MARRIAGE. (a) A married couple may designate their marriage as a
5 covenant marriage by filing:

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

8 (2) a copy of the couple's marriage license.

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

11 "We do solemnly declare that marriage is a covenant between a
12 man and a woman who agree to live together as husband and wife for so
13 long as they both may live. We understand the nature, purpose, and
14 responsibilities of marriage and have received counseling on the
15 obligations of a covenant marriage. We have read the pamphlet on
16 covenant marriage and understand that a covenant marriage is for
17 life. We understand that we can get divorced or separated only for a
18 reason stated in the pamphlet on covenant marriage. If we
19 experience marital difficulties, we commit ourselves to take all
20 reasonable efforts to preserve our marriage, including marital
21 counseling.

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

26 (c) The applicants must file the affidavit and marriage
27 license with:

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

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

5 (d) On receipt of the affidavit and marriage license under
6 Subsection (a), the county clerk shall:

7 (1) designate on the marriage license that the
8 marriage is a covenant marriage; and

9 (2) attach a copy of the affidavit to the marriage
10 license.

11 (e) A marriage becomes a covenant marriage when a couple
12 files the affidavit of intent to designate a marriage as a covenant
13 marriage with the county clerk.

14 Sec. 2.602. COUNSELING REQUIREMENT. (a) Before a couple
15 may enter into a covenant marriage or designate a marriage as a
16 covenant marriage, the couple must complete at least eight hours of
17 premarital counseling from a person legally authorized to engage in
18 marriage counseling. The counselor must use a science-based
19 counseling program.

20 (b) The counselor shall:

21 (1) ensure that the couple discusses important
22 personal issues, including financial issues and conflict
23 resolution;

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

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

27 (4) inform the couple of the obligation to seek

1 marital counseling in times of marital difficulties.

2 (c) The counselor may discuss any other topic the counselor
3 considers important to the couple's understanding of the marital
4 commitment.

5 Sec. 2.603. PAMPHLET ON COVENANT MARRIAGE. (a) The
6 attorney general shall select a not-for-profit organization to
7 prepare and publish a pamphlet consistent with the requirements of
8 this subchapter providing a full explanation of the terms and
9 conditions of a covenant marriage. To be eligible for selection, an
10 organization must agree to prepare and publish the pamphlet
11 completely at the expense of the organization. The pamphlet must
12 list the grounds for dissolution of a covenant marriage under
13 Section 6.903 and the grounds for legal separation under Section
14 6.905. The attorney general shall prepare and publish the pamphlet
15 if a not-for-profit organization is not available.

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. Except as
27 provided by Section 6.904, this subchapter does not apply to a

1 covenant marriage.

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

4 SUBCHAPTER K. DISSOLUTION OF COVENANT MARRIAGE AND LEGAL
5 SEPARATION

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

- 9 (1) dissolution of the covenant marriage; or
10 (2) legal separation.

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

14 Sec. 6.902. COUNSELING REQUIREMENT BEFORE DISSOLUTION. (a)
15 Except as provided by Section 6.904, a spouse in a covenant marriage
16 may not file a suit to dissolve a covenant marriage unless the
17 parties to the marriage have received counseling from a licensed
18 marriage and family therapist or other licensed mental health
19 professional described by Subsection (b) in an attempt to reconcile
20 the marriage. The couple must participate in the counseling until
21 the counselor or both spouses determine that the marriage is not
22 salvageable.

23 (b) A licensed mental health professional may perform the
24 counseling required by this section if the license holder has
25 completed at least six hours of continuing education in subjects
26 related to counseling married couples during each licensing period.

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

1 (a) The court may grant a divorce in a covenant marriage in favor of
2 a spouse 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 two years;

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

17 (5) an order of legal separation has been issued to one
18 of the spouses under Section 6.905 and the spouses have lived apart
19 without reconciliation for at least:

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

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

25 (6) the spouses have completed the counseling required
26 by Section 6.902 and:

27 (A) the spouses agree to dissolve the marriage;

1 or

2 (B) the counselor determines that, in the
3 counselor's professional opinion, it is in the best interest of
4 both spouses to dissolve the marriage.

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

8 Sec. 6.904. DISSOLUTION OF MARRIAGE: FAMILY VIOLENCE. A
9 spouse who files with the petition in a suit for dissolution of a
10 covenant marriage an affidavit stating that the other spouse
11 committed family violence against the spouse may file the suit
12 under Subchapter A.

13 Sec. 6.905. LEGAL SEPARATION. (a) A spouse in a covenant
14 marriage may file a suit to obtain from the court an order of legal
15 separation if:

16 (1) the other spouse has committed adultery;

17 (2) the other spouse has:

18 (A) been convicted of a felony;

19 (B) been imprisoned for at least one year in a
20 state penitentiary, a federal penitentiary, or a penitentiary of
21 another state; and

22 (C) not been pardoned;

23 (3) the other spouse:

24 (A) left the complaining spouse with the
25 intention of abandonment; and

26 (B) remained away from the complaining spouse for
27 at least one year;

1 (4) the other spouse committed family violence as
2 defined by Section 71.004 and the spouse reported the family
3 violence to a law enforcement agency and has filed for a protective
4 order;

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

7 (6) the other spouse habitually abuses illegal drugs
8 or alcohol.

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

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

14 Sec. 8.0511. TEMPORARY MAINTENANCE IN CERTAIN PROCEEDINGS
15 INVOLVING COVENANT MARRIAGE. Notwithstanding any other provision
16 of this subchapter, the court shall render a temporary order for
17 maintenance in favor of a spouse who files for:

18 (1) legal separation of a covenant marriage based on
19 abandonment under Section 6.905(a)(3); or

20 (2) dissolution of a covenant marriage.

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

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

1 declaration is executed.

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

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

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

13 (1) form used for the marriage license application;
14 and

15 (2) affidavit of intent to designate a marriage as a
16 covenant marriage.

17 (b) The bureau of vital statistics shall print and
18 distribute the forms and affidavits to each county clerk throughout
19 the state.

20 (c) The form and affidavit adopted by the executive
21 commissioner [~~board~~] shall replace locally adopted forms and
22 affidavits.

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

25 SECTION 10. Section 118.011, Local Government Code, is
26 amended by amending Subsection (a) and adding Subsection (g) to
27 read as follows:

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

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

7 (2) Real Property Records Filing (Sec. 118.013):
8 for the first page \$ 5.00
9 for each additional page or part of a page on which
10 there are visible marks of any kind \$ 4.00
11 for all or part of each 8-1/2" X 14" attachment
12 or rider \$ 4.00
13 for each name in excess of five names that has to
14 be indexed in all records in which the document must be
15 indexed \$ 0.25

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

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

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

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

25 (7) Noncovenant Marriage License
26 (Sec. 118.018) \$60.00

27 (8) Declaration of Informal Marriage (Sec.

- 1 118.019) \$25.00
- 2 (9) Brand Registration (Sec. 118.020) \$ 5.00
- 3 (10) Oath Administration (Sec. 118.021) \$ 1.00

4 (g) A county clerk may not charge a fee for issuing a
5 covenant marriage license or an affidavit of intent to designate a
6 marriage as a covenant marriage.

7 SECTION 11. The heading to Section 118.018, Local
8 Government Code, is amended to read as follows:

9 Sec. 118.018. NONCOVENANT MARRIAGE LICENSE.

10 SECTION 12. Sections 118.018(a) and (b-1), Local Government
11 Code, are amended to read as follows:

12 (a) The fee for a "Noncovenant Marriage License" under
13 Section 118.011 is for issuing a noncovenant marriage license. The
14 fee must be paid at the time the license is issued, except as
15 provided by Subsection (b-1).

16 (b-1) The county clerk shall issue a noncovenant marriage
17 license without collecting a noncovenant marriage license fee from
18 an applicant who:

19 (1) completes a premarital education course described
20 by Section 2.013, Family Code; and

21 (2) provides to the county clerk a premarital
22 education course completion certificate indicating completion of
23 the premarital education course not more than one year before the
24 date the noncovenant marriage license application is filed with the
25 clerk.

26 SECTION 13. This Act takes effect September 1, 2013.