

SENATE BILL REPORT

SB 5707

AS REPORTED BY COMMITTEE ON CHILDREN & FAMILY SERVICES,  
MARCH 6, 1991

**Brief Description:** Creating a written marriage contract that allows dissolution only on a showing of fault by one party.

**SPONSORS:** Senators Craswell, Rasmussen, L. Smith and Stratton.

**SENATE COMMITTEE ON CHILDREN & FAMILY SERVICES**

**Majority Report:** That Substitute Senate Bill No. 5707 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chairman; L. Smith, Vice Chairman; Craswell, and Stratton.

**Minority Report:** Do not pass.

Signed by Senator Talmadge.

**Staff:** Joanne Conrad (786-7190)

**Hearing Dates:** February 26, 1991; March 6, 1991

**BACKGROUND:**

Due to the significant negative effects and social costs of America's high divorce rate, social scientists and policymakers are seeking creative solutions. While the multiplicity of legal, sociological and economic studies confirm the complexity of the problem and the lack of simple solutions, one theory is that an unknown number of divorces may be caused by failure of the parties to understand and commit to marriage as a contractual arrangement, with rights, responsibilities and economic consequences.

**SUMMARY:**

Written marriage contracts are established by statute, as one approach to fault-based dissolution. Violation of the terms of the contract is intended to be judicially enforceable, and the questions of fault may be submitted to jury trial at the request of either party. Persons opting for the written marriage contract alternative agree that the terms of the contract shall govern all legal proceedings involving the marriage, including divorce, separation or declarations of validity.

**EFFECT OF PROPOSED SUBSTITUTE:**

Persons are required to make an election regarding the written marriage contract option at the time of marriage while allowing those already married to enter into such a contract at any time. The jury trial on issues of fault is eliminated.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested February 21, 1991

**TESTIMONY FOR:**

Divorce is extremely traumatic for children and has become a more "hostile" experience under the no-fault statute.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Conrad Green, lawyer (pro)