

HOUSE BILL REPORT

HB 1711

As Reported By House Committee On:
Law & Justice

Title: An act relating to written marriage contracts.

Brief Description: Providing for written marriage contracts.

Sponsors: Representatives Padden, Backlund and McMahan.

Brief History:

Committee Activity:

Law & Justice: 2/15/95, 2/21/95 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 10 members: Representatives Padden, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Campbell; Carrell; Lambert; McMahan; Robertson; Sheahan and Smith.

Minority Report: Do not pass. Signed by 7 members: Representatives Appelwick, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Chappell; Cody; Morris; Thibaudeau and Veloria.

Staff: Pat Shelledy (786-7149).

Background: Marriage is a civil contract. In 1973, Washington adopted the Uniform Marriage and Divorce Act and became a "no-fault" divorce state. Either spouse may dissolve the marriage contract and obtain a divorce by alleging that the marriage is "irretrievably broken."

The court must dispose of the parties' property without regard to marital misconduct.

Prior to the adoption of the uniform act, Washington was a "fault" divorce state. Divorce could only be granted for one of several reasons.

Summary of Bill: When a couple enters into a marriage contract, the couple may contract to restrict the grounds upon which a divorce may be granted. If the couple agrees to restrict divorce, they may do so upon the following grounds:

- (a) Adultery;
- (b) Infection with a sexually transmitted disease when the spouse seeking the divorce did not know at the time of marriage that the other spouse was infected, or the other spouse acquired the disease after marriage from someone other than the spouse petitioning for divorce;
- (c) Infection with a fatal disease when the spouse seeking the divorce did not know at the time of marriage that the other spouse was infected with the disease;
- (d) Abandonment by the other spouse for one or more years preceding filing;
- (e) Habitual addiction to alcohol or drugs;
- (f) Failure to provide financially for the family upon terms established in the contract;
- (g) Imprisonment for two or more years;
- (h) Physical abuse, extreme mental cruelty, or sexual abuse;
- (i) Legal insanity; or
- (j) Mutual consent of both parties.

Common law equitable principles may be raised as defenses to the action.

The contract may provide for remedies for violation of the contract, including damages, specific enforcement, and divorce or separation.

A decree of dissolution that does not conform to the marriage contract will have no force or effect.

A marriage contract that limits the availability of divorce to only those reasonable grounds specified in the contract must contain an express waiver of the right to obtain a divorce because the marriage is "irretrievably broken."

When obtaining a divorce, the petitioner must allege the grounds for divorce under the contract. A divorce will be granted if the other party does not deny the alleged grounds or if the court finds that the alleged grounds exist.

The restrictions also apply to legal separations.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: No fault divorce has been a disaster for couples, particularly for children of divorcing parents. The state should not interfere with a couple's desire to enter into a contract to preserve a marriage in absence of specified grounds for divorce. The family unit requires support and protection.

Testimony Against: Requiring grounds to obtain a divorce will not stop parties who do not want to remain married. Instead, divorces will be more protracted and bitter, and attempts to establish grounds for divorce will increase.

Testified: Conrad Green, citizen (pro); and Charles Snyder, Superior Court Judges Association (con).