

SENATE BILL REPORT

SB 6135

As Reported By Senate Committee On:
Law & Justice, February 2, 1998

Title: An act relating to covenant marriages.

Brief Description: Establishing covenant marriages.

Sponsors: Senators Oke, Swecker, Hargrove, Rossi and Anderson.

Brief History:

Committee Activity: Law & Justice: 1/20/98, 2/2/98 [DPS, DNPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6135 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Hargrove, Long, McCaslin, Stevens and Zarelli.

Minority Report: Do not pass substitute.

Signed by Senators Fairley and Kline.

Staff: Aldo Melchiori (786-7439)

Background: Nationwide statistics show that four out of every ten marriages end in divorce and that about one-half of the nation's children live in a one-parent home at some point in their lives. Children of divorced parents are more likely to drop out of school, are more susceptible to delinquency, and more regularly become unwed parents.

In 1997, the Louisiana Legislature and the Governor signed into law amendments to their marriage laws providing for covenant marriages between a man and a woman. A similar bill has been introduced into the Ohio House of Representatives. Current Washington law provides for marriage between a man and a woman. *Marchioro v. Chaney*, 90 Wn.2d 298 (1978).

Before marriage, the parties must apply for a marriage license. After marriage, the parties are given a marriage certificate and certificates are also sent to the state Department of Vital Statistics and the county auditor.

A party to a marriage, who meets residency criteria, may petition for dissolution alleging that the marriage is irretrievably broken. It has been suggested that no-fault dissolution has contributed to the increase in the rate of divorce.

Summary of Substitute Bill: A covenant marriage is defined as a marriage entered into by one man and one woman who understand and agree that the marriage between them is a

lifelong relationship. The parties may contract a covenant marriage by declaring their intent to do so on their marriage license application and executing a declaration of intent. The declaration of intent contains the declaration and an affidavit by the parties that they have received premarital counseling which included a discussion of the exclusive grounds for terminating the covenant marriage with an attestation signed by the marriage counselor. The declaration is filed with the county auditor. Parties that are already married may convert their marriage to a covenant marriage by producing their marriage certificate and executing and filing a declaration of intent identical to that required for new covenant marriages. Covenant marriages are identified on the marriage license and marriage certificate.

Parties to a covenant marriage may not obtain a decree of dissolution until they have received counseling. A decree of dissolution can only be obtained upon proof: of adultery by the spouse; that the spouse has been sentenced to death or life in prison; that the spouse has abandoned the domicile for one year and has refused to return; that the spouse has physically or sexually abused the petitioner or a child of one of the spouses; that the spouses have been living separately and apart for two years without reconciliation; that the spouses, without children, have been living separately and apart for one year after a decree of legal separation; or if there are minor children, the spouses have been living separately and apart for one year and six months after a decree of legal separation unless the basis for legal separation was child abuse in which case a one year period is specified.

Legal separation subsequent to a covenant marriage can only be obtained subsequent to counseling and proof: of adultery by the spouse; that the spouse has been sentenced to death or life in prison; that the spouse has abandoned the domicile for one year and has refused to return; that the spouse has physically or sexually abused the petitioner or a child of one of the spouses; that the spouses have been living separately and apart for two years without reconciliation; or on account of habitual intemperance, excesses, cruel treatment, or outrages if such ill treatment makes living together insupportable.

Unless judicially separated, covenant marriage spouses may not sue each other except for restitution of separate property, legal separation, dissolution, declaration of marriage validity, or for causes relating to spousal maintenance or the support or custody of a child while living separate and apart.

Superior courts have jurisdiction over legal separation proceedings if: at least one spouse is a current domicile of this state and the grounds for dissolution occurred in this state or while the marital domicile was in the state or the grounds for dissolution occurred in another state while at least one spouse was domiciled there if the petitioner was domiciled in Washington before the time the cause of action accrued and at the time the action is filed. Proper venue is the county where either party is currently domiciled or in the county of the last marital domicile.

Judgments on the pleadings and summary judgments may not be granted in legal separation actions. The separation of goods and effects pursuant to a legal separation of a covenant marriage is retroactive to the date the petition was filed except the effect is without prejudice to attorneys' fees and costs incurred for the action and rights validly acquired before the decree is awarded.

The office of the Attorney General must prepare an informational pamphlet by August 15, 1998.

Substitute Bill Compared to Original Bill: The designation on the marriage certificate indicating a covenant marriage is given by the person solemnizing the marriage, where before there was no designation. When parties convert their marriage into a covenant marriage, the auditor indexes the declaration of intent back to the original marriage certificate. The parties may receive premarital counseling from clergy, a church counselor, or a registered counselor. This maintains the current registration exemption for clergy and church counselors.

Appropriation: None.

Fiscal Note: Requested on January 13, 1998.

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

Testimony For: This bill gives parties the choice between no-fault or a lifetime covenant. Marital counseling is an integral part of the marriage occurring before marriage and in the event of marital trouble. Twenty-five years of research has shown that divorce has an adverse effect on the children.

Testimony Against: Marital problems are caused by both parties. This will mean full employment for counselors, investigators, and attorneys. Parties need incentives to make wise choices. Domestic violence cases may end up in counseling. The bill doesn't necessarily protect children. There may be an administrative problem with recording covenant marriage conversions. Bankruptcy is the second largest contributor to the divorce problem.

Testified: Senator Oke, prime sponsor (pro); Judy Turpin, Northwest Women's Law Center (con); Bill Harrington, Grays Harbor Auditor (con).