

BILL ANALYSIS

Senate Research Center
76R11463 MCK-D

C.S.S.B. 644
By: Haywood
State Affairs
5/3/1999
Committee Report (Substituted)

DIGEST

Currently, 80 percent of divorces end unilaterally. Unilateral divorces do not ensure that the power of law is on the side of the offended spouse who kept the marriage promises, rather than on the side of the offender. A covenant marriage involves more stringent premarital requirements and marital obligations, encourages the commitment to preserve the marriage union through difficulty, and clearly establishes the exclusive right to initiate divorce to the innocent spouse. C.S.S.B. 644 creates and validates a covenant marriage, and sets forth provisions for the dissolution and legal separation of a covenant marriage.

PURPOSE

As proposed, C.S.S.B. 644 creates and validates a covenant marriage, and sets forth provisions for the dissolution and legal separation of a covenant marriage.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2.002, Family Code, to require an applicant for a covenant marriage license to complete an affidavit of intent to contract a covenant marriage described by Section 2.601. Makes a conforming change.

SECTION 2. Amends Section 2.004, Family Code, by adding Subsection (c), to set forth required language of the covenant marriage application form.

SECTION 3. Amends Section 2.009, Family Code, by adding Subsection (e), to require the county clerk to indicate whether a marriage license is for a covenant marriage.

SECTION 4. Amends Chapter 2, Family Code, by adding Subchapter G, as follows:

SUBCHAPTER G. COVENANT MARRIAGE

Sec. 2.601. **AFFIDAVIT OF INTENT TO CONTRACT COVENANT MARRIAGE.** Requires covenant marriage applicants (fiancees) to submit an official affidavit of intent to enter a covenant marriage. Requires a certain statement to be included in the affidavit.

Sec. 2.602. **DESIGNATING EXISTING MARRIAGE TO COVENANT MARRIAGE.** Authorizes a married couple to designate their marriage as a covenant marriage by filing an affidavit of intent. Sets forth required language of the affidavit. Requires the married couple to file the affidavit with certain entities. Provides that when the affidavit is filed with the county clerk, the marriage becomes a covenant marriage.

Sec. 2.603. **COUNSELING REQUIREMENT.** Requires couples to receive counseling from a legally authorized marriage counselor prior to entering into a covenant marriage. Sets forth required actions of the counselor, and authorizes the counselor to discuss other pertinent non-required topics.

Sec. 2.604. **PAMPHLET ON COVENANT MARRIAGE.** Requires the attorney general to prepare a pamphlet which describes the terms and conditions of a covenant marriage. Requires

the pamphlet to list grounds for divorce and legal separation. Requires the attorney general to provide the pamphlet to Texas county clerks, and further requires those clerks to provide it to fiancées and couples.

SECTION 5. Amends Chapter 6A, Family Code, by adding Section 6.009, as follows:

Sec. 6.009. APPLICATION TO COVENANT MARRIAGE. Provides that this subchapter does not apply to a covenant marriage.

SECTION 6. Amends Chapter 6, Family Code, by adding Subchapter J, as follows:

SUBCHAPTER J. DISSOLUTION OF COVENANT MARRIAGE AND LEGAL SEPARATION

Sec. 6.901. DISSOLUTION OR LEGAL SEPARATION. Authorizes a spouse in a covenant marriage to file a suit to dissolve the marriage or begin legal separation.

Sec. 6.902. COUNSELING REQUIREMENT BEFORE DISSOLUTION. Prohibits the filing of a marriage dissolution suit prior to receipt of marriage counseling, with an exception. Requires the couple's participation in such counseling until both spouse or the counselor determine the marriage to be unsalvageable. Provides that a spouse is not subject to the counseling requirements of Subsection (a) if the spouse has obtained a protective order against the other spouse under Title 4.

Sec. 6.903. GROUNDS FOR DIVORCE OF COVENANT MARRIAGE. Authorizes the court to grant a covenant marriage divorce under certain conditions. Prohibits the grant of a divorce for reasons relating to a felony conviction based solely on spousal evidence. Authorizes the court to grant a divorce on the grounds of insupportability.

Sec. 6.904. PROCEDURES IN A SUIT FOR DISSOLUTION. Provides that the procedures in Subchapters D-H apply to a suit for dissolution of a covenant marriage.

Sec. 6.905. LEGAL SEPARATION. Authorizes a spouse in a covenant marriage to file a suit for legal separation under certain conditions. Prohibits issuance of an order of legal separation for reasons relating to a felony conviction based solely on spousal evidence. Provides that the procedures in Subchapters D-H apply to a suit for legal separation of a covenant marriage.

SECTION 7. Amends Section 8.002, Family Code, to authorize the court to order maintenance for a certain spouse for an act of family violence under Title 4, rather than Chapter 71, of the Family Code. Requires the court to issue a temporary order for maintenance in favor of a spouse in a covenant marriage filing for legal separation based on abandonment or dissolution of the marriage. Makes a nonsubstantive change.

SECTION 8. Amends Section 118.011(a), Local Government Code, to create license fees of \$12.50 for both a covenant marriage license and an affidavit of intent to designate a marriage as a covenant marriage. Makes conforming changes.

SECTION 9. Amends Section 118.018(a), Local Government Code, to make conforming and nonsubstantive changes.

SECTION 10. Effective date: September 1, 1999.

SECTION 11. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 4.

Amends Section 2.604(a), Family Code, to make a conforming change.

SECTION 6.

Amends Section 6.902, Family Code, to create an exception for a counseling requirement.

Amends Sections 6.903(a)(6) and (c), Family Code, to add text regarding a divorce and to make a conforming change.

Amends Section 6.904, Family Code, to add text regarding procedures in a suit for dissolution.

Redesignates proposed Section 6.904, Family Code, to Section 6.905, and makes a conforming change.

SECTION 7.

Amends Section 8.002(b)(1), Family Code, to make a conforming change.