

1
2 State of Arkansas
3 94th General Assembly
4 Regular Session, 2023

A Bill

SENATE BILL 527

5
6 By: Senator K. Hammer
7 By: Representative C. Cooper

8 Filed with: Senate Committee on Judiciary
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT TO AMEND THE COVENANT MARRIAGE ACT OF 2001; TO
12 REQUIRE CLERKS TO PROVIDE ADDITIONAL INFORMATION
13 REGARDING COVENANT MARRIAGES TO A MARRIAGE LICENSE
14 APPLICANT; TO IMPOSE ADDITIONAL REQUIREMENTS FOR
15 ENTERING INTO AND DISSOLVING A COVENANT MARRIAGE; AND
16 FOR OTHER PURPOSES.

Subtitle

17
18
19 TO IMPOSE ADDITIONAL REQUIREMENTS FOR
20 ENTERING INTO AND DISSOLVING A COVENANT
21 MARRIAGE.
22

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24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

26
27 SECTION 1. Arkansas Code § 9-11-203, concerning the issuance of
28 marriage licenses, is amended to add an additional subsection to read as
29 follows:

30 (e) A clerk who is required to furnish a marriage license under this
31 section shall provide:

32 (1) A current copy of the Covenant Marriage Act of 2001, § 9-11-
33 801 et seq., to a person who inquires about a covenant marriage license; and

34 (2) Information about a covenant marriage on the clerk's
35 website, if the clerk has a website.
36

1 SECTION 2. Arkansas Code § 9-11-802 is amended to read as follows:
2 9-11-802. Definitions.

3 As used in this subchapter:

4 (1) "Authorized ~~counseling~~ counselor" means a person providing
5 premarital or marital counseling provided by who is one (1) of the following:

6 (A) A priest;

7 (B) A minister;

8 (C) A rabbi;

9 (D) A clerk of the Religious Society of Friends;

10 (E) Any clergy member of any religious sect or a
11 designated representative;

12 (F) A marriage educator approved by the person who will
13 perform the marriage ceremony; ~~or~~

14 (G) As defined ~~by~~ in § 17-27-102:

15 (i) A licensed professional counselor;

16 (ii) A licensed associate counselor;

17 (iii) A licensed marriage and family therapist;

18 (iv) A licensed clinical psychologist; or

19 (v) A licensed associate marriage and family
20 therapist; ~~and~~ or

21 (H) A certified biblical counselor;

22 (2) "Certified biblical counselor" means a person who:

23 (A) Is certified by a biblical counseling association that
24 provides accreditation or certification services; and

25 (B) Uses only biblical scripture to provide counseling to
26 individuals or couples;

27 (3) "Judicial separation" means a judicial proceeding ~~pursuant~~
28 ~~to~~ under § 9-11-809 that results in a court determination that the parties to
29 a covenant marriage live separate and apart;

30 (4) "Marital counseling" means counseling provided by an
31 authorized counselor to a couple in a covenant marriage that serves to
32 describe, evaluate, and modify the couple's intrapersonal and interpersonal
33 behavior within the context of the couple's covenant marriage; and

34 (5) "Premarital counseling" means counseling provided by an
35 authorized counselor to a couple before a couple enters into a covenant

1 marriage that serves to develop an understanding of the nature, purposes, and
2 responsibilities associated with a covenant marriage.

3
4 SECTION 3. Arkansas Code § 9-11-803(a), concerning the description of
5 a covenant marriage, is amended to read as follows:

6 (a)(1) A covenant marriage is a marriage entered into by one (1) male
7 and one (1) female who understand and agree that the marriage between them is
8 a lifelong relationship.

9 (2) Parties to a covenant marriage will have received ~~authorized~~
10 ~~counseling emphasizing the nature, purposes, and responsibilities of marriage~~
11 premarital counseling as described under § 9-11-812 before entering into the
12 covenant marriage.

13 (3)(A) Only when there has been a complete and total breach of
14 the marital covenant commitment may a party seek a declaration that the
15 marriage is no longer legally recognized.

16 (B) If a party to a covenant marriage seeks a divorce or a
17 judicial separation, the party shall attach to his or her initial pleading an
18 attestation signed by the authorized counselor who provided premarital
19 counseling or the authorized counselor who provided marital counseling, or
20 both, that:

21 (i) The parties completed the number of premarital
22 counseling and marital counseling sessions required under § 9-11-812; and

23 (ii) The authorized counselor who provided
24 premarital counseling discussed the topics required under § 9-11-812 with the
25 parties in their premarital counseling sessions.

26
27 SECTION 4. Arkansas Code § 9-11-804 is amended to read as follows:
28 9-11-804. Content of declaration of intent.

29 (a) A declaration of intent to contract a covenant marriage shall
30 contain all of the following:

31 (1) A recitation signed by both parties to the following effect:
32 "A COVENANT MARRIAGE

33 We do solemnly declare that marriage is a covenant between a man
34 and a woman who agree to live together as husband and wife for so long as
35 they both may live. We have chosen each other carefully and disclosed to one
36 another everything which could adversely affect the decision to enter into

1 this marriage. We have received ~~authorized counseling~~ premarital counseling
2 on the nature, purposes, and responsibilities of marriage. We have read the
3 Covenant Marriage Act of 2001, and we understand that a covenant marriage is
4 for life. If we experience marital difficulties, we commit ourselves to take
5 all reasonable efforts to preserve our marriage, including marital
6 counseling.

7 With full knowledge of what this commitment means, we do hereby
8 declare that our marriage will be bound by Arkansas law on covenant
9 marriages, and we promise to love, honor, and care for one another as husband
10 and wife for the rest of our lives.”;

11 (2) An affidavit by the parties that they have received
12 ~~authorized~~ premarital counseling that shall include a discussion of the
13 seriousness of covenant marriage, communication of the fact that a covenant
14 marriage is a commitment for life, a discussion of the obligation to seek
15 marital counseling in times of marital difficulties, and a discussion of the
16 exclusive grounds for legally terminating a covenant marriage by divorce;

17 (3) An attestation, signed by the authorized counselor and
18 attached to or included in the parties’ affidavit, confirming that the
19 parties received ~~authorized~~ premarital counseling as to the nature and
20 purpose of the marriage and the grounds for termination of the marriage and
21 an acknowledgment that the authorized counselor:

22 (A) Provided to the parties the informational pamphlet
23 developed and promulgated by the Administrative Office of the Courts under
24 this subchapter that provides a full explanation of the terms and conditions
25 of a covenant marriage;

26 (B) Provided a minimum of four (4) premarital counseling
27 sessions to the couple; and

28 (C) Discussed the topics required under § 9-11-812 with
29 the parties in their premarital counseling sessions; and

30 (4)(A) The signature of both parties witnessed by a notary.

31 (B) If one (1) of the parties is a minor, or both are
32 minors, the written consent or authorization of those persons required under
33 this chapter to consent to or authorize the marriage of minors.

34 (b) The declaration shall consist of two (2) separate documents:

35 (1) The recitation as set out in subdivision (a)(1) of this
36 section; and

1 (2) The affidavit with the attestation either included within or
2 attached to the document.

3 (c) The recitation, affidavit, and attestation shall be filed as
4 provided in § 9-11-803(b).

5 (d) A clerk required to issue a marriage license under § 9-11-203
6 shall:

7 (1) Ask an applicant for a covenant marriage license for a copy
8 of the attestation described in subdivision (a)(3) of this section; and

9 (2) Keep a copy of the attestation described in subdivision
10 (a)(3) of this section that is provided by the applicant.

11
12 SECTION 5. Arkansas Code § 9-11-808 is amended to read as follows:
13 9-11-808. Divorce or separation.

14 (a) Notwithstanding any other law to the contrary and subsequent to
15 the parties' obtaining ~~authorized~~ marital counseling, a spouse to a covenant
16 marriage may obtain a judgment of divorce only upon proof of any of the
17 following:

18 (1) The other spouse has committed adultery;

19 (2) The other spouse has committed a felony or other infamous
20 crime;

21 (3) The other spouse has physically or sexually abused the
22 spouse seeking the divorce or a child of one (1) of the spouses;

23 (4) The spouses have been living separate and apart continuously
24 without reconciliation for a period of two (2) years; or

25 (5)(A) The spouses have been living separate and apart
26 continuously without reconciliation for a period of two (2) years from the
27 date the judgment of judicial separation was signed.

28 (B)(i) If there is a minor child or children of the
29 marriage, the spouses have been living separate and apart continuously
30 without reconciliation for a period of two (2) years and six (6) months from
31 the date the judgment of judicial separation was signed.

32 (ii) However, if abuse of a child of the marriage or
33 a child of one (1) of the spouses is the basis for which the judgment of
34 judicial separation was obtained, then a judgment of divorce may be obtained
35 if the spouses have been living separate and apart continuously without

1 reconciliation for a period of one (1) year from the date the judgment of
2 judicial separation was signed.

3 (b) Notwithstanding any other law to the contrary and subsequent to
4 the parties' obtaining ~~authorized~~ marital counseling, a spouse to a covenant
5 marriage may obtain a judgment of judicial separation only upon proof of any
6 of the following:

7 (1) The other spouse has committed adultery;

8 (2) The other spouse has committed a felony and has been
9 sentenced to death or imprisonment;

10 (3) The other spouse has physically or sexually abused the
11 spouse seeking the legal separation or divorce or a child of one (1) of the
12 spouses;

13 (4) The spouses have been living separate and apart continuously
14 without reconciliation for a period of two (2) years; or

15 (5) The other spouse ~~shall~~:

16 (A) ~~Be~~ Is addicted to habitual drunkenness or habitual
17 substance abuse for at least one (1) year;

18 (B) ~~Be~~ Is guilty of such cruel and barbarous treatment as
19 to endanger the life of the other; or

20 (C) ~~Offer~~ Offers such indignities to the person of the
21 other ~~as shall~~ sufficient to render his or her condition intolerable.

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23 SECTION 6. Arkansas Code § 9-11-811(b), concerning informational
24 pamphlets to be provided in accordance with the Covenant Marriage Act of
25 2001, is amended to read as follows:

26 (b) The informational pamphlet shall be made available to any
27 authorized counselor who provides ~~authorized~~ premarital or marital counseling
28 as provided for by this subchapter.

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30 SECTION 7. Arkansas Code Title 9, Chapter 11, Subchapter 8, is amended
31 to add an additional section to read as follows:

32 9-11-812. Premarital counseling and marital counseling -
33 Requirements.

34 (a) Premarital counseling shall:

35 (1) Be provided for a minimum of four (4) sessions; and

1 (2) Involve discussion between the authorized counselor and the
2 couple of topics related to covenant marriage, including without limitation:

3 (A) The description of covenant marriage as described in §
4 9-11-803;

5 (B) The significance of commitment to a covenant marriage;

6 (C) Each spouse's role in the covenant marriage; and

7 (D) The effects of a covenant marriage on the couple's
8 children and families, including its effects on future children if the couple
9 decides to conceive or adopt children together.

10 (b) If marital problems arise during a covenant marriage, the parties
11 to the covenant marriage shall seek marital counseling to attempt to resolve
12 the problems before seeking a divorce or a judicial separation.

13 (c) Marital counseling shall:

14 (1) Be provided for a minimum of four (4) sessions; and

15 (2) Serve to describe, evaluate, and modify the couple's
16 intrapersonal and interpersonal behavior within the context of the couple's
17 covenant marriage.

18 (d) If a party to a covenant marriage seeks a divorce or a judicial
19 separation, the party shall attach to his or her initial pleading an
20 attestation signed by the authorized counselor who provided premarital
21 counseling or the authorized counselor who provided marital counseling, or
22 both, that:

23 (1) The parties completed the number of premarital counseling
24 and marital counseling sessions required under this section; and

25 (2) The authorized counselor who provided premarital counseling
26 discussed the topics required under this section with the parties in their
27 premarital counseling sessions.

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30 Referred requested by the Arkansas Senate

31 Prepared by: LHR/SJA

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