

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1668

By: West (Kevin)

4  
5 AS INTRODUCED

6 An Act relating to marriage; amending 43 O.S. 2011,  
7 Sections 1, 5, as amended by Section 1, Chapter 192,  
8 O.S.L. 2013 and 6 (43 O.S. Supp. 2020, Section 5),  
9 which relate to marriage; providing for covenant  
10 marriages; requiring specified type of counseling for  
11 covenant marriage; providing for designation of  
12 covenant marriage on marriage applications;  
13 permitting married couple to designate marriage as a  
14 covenant marriage; requiring statement for covenant  
15 marriage license application; mandating counseling  
16 prior to application; modifying contents of marriage  
17 license; prescribing contents of covenant marriage  
18 declaration; requiring affidavit verifying  
19 counseling; specifying issues to be discussed in  
20 counseling; prescribing notarized affidavit for  
21 counselor; providing contents of affidavits;  
22 providing exemption for minors; providing for  
23 compliance with other marriage laws not in conflict;  
24 providing for execution of a declaration of intent to  
designate an existing marriage as a covenant  
marriage; specifying procedure; providing for  
declaration of intent and contents; directing filing  
of declaration; requiring affidavit; amending 43 O.S.  
2011, Section 101, as amended by Section 1, Chapter  
428, O.S.L. 2014 (43 O.S. Supp. 2020, Section 101),  
which relates to grounds for divorce; providing  
grounds for divorce in covenant marriages; specifying  
grounds for a judgment of judicial separation;  
specifying judgment does not dissolve the covenant  
marriage; requiring spouses to retain certain status  
until reconciliation or divorce; providing for  
codification; and providing an effective date.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. AMENDATORY 43 O.S. 2011, Section 1, is  
3 amended to read as follows:

4 Section 1. A. Marriage is a personal relation arising out of a  
5 civil contract to which the consent of parties legally competent of  
6 contracting and of entering into it is necessary, and the marriage  
7 relation shall only be entered into, maintained or abrogated as  
8 provided by law.

9 B. 1. An unmarried couple who understands and agrees that the  
10 marriage between them is a lifelong commitment may contract a  
11 covenant marriage. Parties to a covenant marriage shall receive  
12 counseling emphasizing the nature, purposes and responsibilities of  
13 marriage.

14 2. An unmarried couple may contract a covenant marriage by  
15 declaring their intent to do so on their application for a marriage  
16 license and executing a declaration of intent to contract a covenant  
17 marriage, as provided in Section 4 of this act. The application for  
18 a marriage license and the declaration of intent shall be filed with  
19 the official who issues the marriage license.

20 3. A married couple domiciled in the state may execute a  
21 declaration of intent to designate their marriage as a covenant  
22 marriage pursuant to Section 5 of this act.

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1 SECTION 2. AMENDATORY 43 O.S. 2011, Section 5, as  
2 amended by Section 1, Chapter 192, O.S.L. 2013 (43 O.S. Supp. 2020,  
3 Section 5), is amended to read as follows:

4 Section 5. A. Persons desiring to be married in this state  
5 shall submit an application in writing signed and sworn to in person  
6 before the clerk of the district court by both of the parties  
7 setting forth:

8 1. The place of residence of each party;

9 2. The full legal name and the age of each party as they appear  
10 upon or are calculable from a certified copy of the birth  
11 certificate, the current driver license or identification card, the  
12 current passport or visa, or any other certificate, license or  
13 document issued by or existing pursuant to the laws of any nation or  
14 of any state, or political subdivision thereof, accepted as proof of  
15 identity and age;

16 3. For each party, the full name by which the party will be  
17 known after the marriage, which shall become the full legal name of  
18 the party upon the filing of the marriage license and certificate  
19 with the court, as required by law; provided, however, a marriage  
20 certificate issued prior to June 8, 2006, shall be reissued upon  
21 request by the certificate holder to include the information  
22 required by this paragraph. Such reissued certificate shall reflect  
23 the original marriage date and shall be signed by the court clerk.

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1 Signatures of the officiant and original witnesses shall not be  
2 required;

3 4. That the parties are not disqualified from or incapable of  
4 entering into the marriage relation; ~~and~~

5 5. Whether the parties have successfully completed a premarital  
6 counseling program; and

7 6. Whether the application is for a covenant marriage. If the  
8 application is for a covenant marriage, the application for a  
9 marriage license shall include the following statement: "We, [name  
10 of intended spouse] and [name of intended spouse], declare our  
11 intent to contract a covenant marriage and, accordingly, have  
12 executed the attached declaration of intent".

13 B. 1. Upon application pursuant to this section and the  
14 payment of fees as provided in Section 31 of Title 28 of the  
15 Oklahoma Statutes, if the clerk of the district court is satisfied  
16 of the truth and sufficiency of the application and that there is no  
17 legal impediment to such marriage, the court clerk shall issue the  
18 marriage license authorizing the marriage and a marriage  
19 certificate, which shall be incorporated as one document. As  
20 required by law, the marriage certificate shall be completed  
21 immediately following the marriage, and the marriage license and  
22 certificate shall be returned to the court clerk.

23 2. Parties to be married and who present a certificate to the  
24 clerk of the district court that states the parties have completed

1 the premarital counseling program pursuant to Section 5.1 of this  
2 title shall be entitled to pay a reduced fee for a marriage license  
3 in an amount provided in Section 31 of Title 28 of the Oklahoma  
4 Statutes.

5 C. In the event that one or both of the parties are under legal  
6 age, the application shall have been on file in the court clerk's  
7 office for a period of not less than seventy-two (72) hours prior to  
8 issuance of the marriage license.

9 D. Any party seeking to obtain a marriage license for a  
10 covenant marriage shall be required to obtain the counseling  
11 required by Section 4 of this act prior to the application for a  
12 marriage license. The declaration of intent to contract a covenant  
13 marriage shall comply with the provisions of Section 4 of this act.

14 E. The marriage license shall be valid in any county within the  
15 state.

16 ~~E.~~ F. The provisions hereof are mandatory and not directory  
17 except under the circumstances set out in the provisions of Section  
18 3 of this title.

19 SECTION 3. AMENDATORY 43 O.S. 2011, Section 6, is  
20 amended to read as follows:

21 Section 6. A. ~~The A~~ marriage license ~~provided for in this~~  
22 ~~title~~ shall contain:

23 1. The date of its issuance;

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1           2. The name of the court issuing the license, and the name of  
2 the city or town and county in which the court is located;

3           3. The full legal names of the persons authorized to be married  
4 by the license, the full legal names by which the persons will be  
5 known after the marriage, their ages, and their places of residence;

6           4. Directions to any person authorized by law to perform and  
7 solemnize the marriage ceremony;

8           5. If applicable, a designation that the parties entered into a  
9 covenant marriage;

10           6. A designation specifying that the parties received  
11 premarital counseling and the number of hours completed;

12           7. The date by which the completed marriage certificate, along  
13 with the marriage license, shall be returned to the judge or court,  
14 which shall not be more than thirty (30) days from the date of its  
15 issuance; and

16           ~~6.~~ 8. Any other information, declarations, seals and  
17 signatures, as required by law.

18           B. The marriage certificate provided for in this title shall  
19 contain appropriate wording and blanks to be completed and endorsed,  
20 as required by Section 8 of this title, by the person solemnizing or  
21 performing the marriage ceremony, the witnesses, and the persons who  
22 have been married.

1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 6.1 of Title 43, unless there is  
3 created a duplication in numbering, reads as follows:

4 A. A declaration of intent to contract a covenant marriage  
5 shall contain all of the following:

6 1. A recitation signed by each party in substantially the  
7 following form:

8 "A COVENANT MARRIAGE

9 We do solemnly declare that marriage is a covenant between two  
10 people who agree to live together as spouses for so long as they  
11 both may live. We have chosen each other carefully and disclosed to  
12 one another everything which could adversely affect the decision to  
13 enter into this marriage. We received premarital counseling on the  
14 nature, purposes, and responsibilities of marriage. We understand  
15 that a covenant marriage is for life. If we experience marital  
16 difficulties, we commit ourselves to take all reasonable efforts to  
17 preserve our marriage, including marital counseling.

18 With full knowledge of what this commitment means, we do hereby  
19 declare that our marriage will be bound by Oklahoma law on covenant  
20 marriages, and we promise to love, honor, and care for one another  
21 for the remainder of our lives.";

22 2. An affidavit by the parties that they received premarital  
23 counseling pursuant to subsection B of Section 5.1 of Title 43 of  
24 the Oklahoma Statutes prior to applying for a marriage license. The

1 counseling shall include a discussion of the seriousness of covenant  
2 marriage, communication of the fact that a covenant marriage is a  
3 commitment for life, a discussion of the obligation to seek marital  
4 counseling in times of marital difficulties, and a discussion of the  
5 exclusive grounds for legally terminating a covenant marriage by  
6 divorce;

7 3. A notarized affidavit, signed by the counselor and attached  
8 to or included in the parties' affidavit, confirming that the  
9 parties were counseled as to the nature and purpose of the covenant  
10 marriage and the grounds for the termination thereof; and

- 11 4. a. The notarized signature of both parties, and  
12 b. If one or both of the parties are minors, the written  
13 consent or authorization of those persons required by  
14 Section 3 of Title 43 of the Oklahoma Statutes to  
15 consent to or authorize the marriage of minors.

16 B. The declaration of intent shall contain the recitation  
17 provided in paragraph 1 of subsection A of this section and the  
18 affidavit provided in paragraph 3 of subsection A of this section.  
19 The declaration of intent shall be prepared in duplicate originals,  
20 one of which shall be retained by the parties and the other filed as  
21 provided in Section 9 of Title 43 of the Oklahoma Statutes.

22 C. A covenant marriage shall be governed by all of the  
23 provisions of Title 43 of the Oklahoma Statutes and any other  
24 provision of Oklahoma law relating to marriage and the marriage

1 contract which is not inconsistent with the provisions of Title 43  
2 of the Oklahoma Statutes pertaining to covenant marriages.

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 6.2 of Title 43, unless there is  
5 created a duplication in numbering, reads as follows:

6 A. On or after November 1, 2021, a married couple domiciled in  
7 Oklahoma may execute a declaration of intent to designate their  
8 marriage as a covenant marriage to be governed by the laws related  
9 thereto.

10 B. The declaration of intent in the form and containing the  
11 contents required by subsection C of this section shall be presented  
12 to the court clerk of the district court which issued the couple's  
13 marriage license and with whom the couple's marriage certificate is  
14 filed. If the couple was married outside of this state, a copy of  
15 the foreign marriage certificate, with the declaration of intent  
16 attached, shall be filed with the court clerk of the district court  
17 which issues marriage licenses in the county in which the couple is  
18 domiciled. The court clerk shall make a notation on the marriage  
19 certificate indicating receipt of the declaration of intent of a  
20 covenant marriage and attach a copy of the declaration to the  
21 certificate.

22 C. 1. A declaration of intent to designate a marriage as a  
23 covenant marriage shall contain the following:

24 a. a recitation by the parties to the following effect:

1 "A COVENANT MARRIAGE

2 We do solemnly declare that marriage is a covenant  
3 between two people who agree to live together as  
4 spouses for so long as they both may live. We  
5 understand the nature, purposes, and responsibilities  
6 of marriage. We understand that a covenant marriage  
7 is for life. If we experience marital difficulties,  
8 we commit ourselves to take all reasonable efforts to  
9 preserve our marriage, including marital counseling.

10 With full knowledge of what this commitment means,  
11 we do hereby declare that our marriage will be bound  
12 by Oklahoma law on covenant marriages, and we renew  
13 our promise to love, honor, and care for one another  
14 for the remainder of our lives.", and

- 15 b. an affidavit by the parties that they have discussed  
16 their intent to designate their marriage as a covenant  
17 marriage through counseling with a qualified person as  
18 provided in Section 5.1 of Title 43 of the Oklahoma  
19 Statutes. The counseling shall include a discussion  
20 of the obligation to seek marital counseling in times  
21 of marital difficulties and the grounds and conditions  
22 for legally terminating a covenant marriage by  
23 divorce.

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1           2. The declaration of intent shall contain the recitation and  
2 the affidavit as provided in paragraph 1 of this subsection. The  
3 declaration of intent shall be prepared in duplicate originals, one  
4 of which shall be retained by the parties and the other filed as  
5 provided in subsection B of this section.

6           SECTION 6.           AMENDATORY           43 O.S. 2011, Section 101, as  
7 amended by Section 1, Chapter 428, O.S.L. 2014 (43 O.S. Supp. 2020,  
8 Section 101), is amended to read as follows:

9           Section 101. ~~The~~ A. Except as provided in subsection B of this  
10 section, the district court may grant a divorce of a marriage, other  
11 than a covenant marriage, for any of the following causes:

12           ~~First.~~ 1. Abandonment for one (1) year-;i

13           ~~Second.~~ 2. Adultery-;i

14           ~~Third.~~ 3. Impotency-;i

15           ~~Fourth.~~ 4. When the wife at the time of her marriage was  
16 pregnant by ~~another~~ a person other than her husband-;i

17           ~~Fifth.~~ 5. Extreme cruelty-;i

18           ~~Sixth.~~ 6. Fraudulent contract-;i

19           ~~Seventh.~~ 7. Incompatibility. Provided, however, where the  
20 interest of a child under eighteen (18) years of age is involved,  
21 the adult parties shall attend an educational program concerning the  
22 impact of divorce on children as provided in subsection B of Section  
23 107.2 of this title-;i

24           ~~Eighth.~~ 8. Habitual drunkenness-;i

1 ~~Ninth.~~ 9. Gross neglect of duty-;

2 ~~Tenth.~~ 10. Imprisonment of the other party in a state or  
3 federal penal institution under sentence thereto for the commission  
4 of a felony at the time the petition is filed-;

5 ~~Eleventh.~~ 11. The procurement of a final divorce decree ~~without~~  
6 outside this state by a husband or wife which does not in this state  
7 release the other party from the obligations of the marriage-; or

8 ~~Twelfth.~~ 12. Insanity for a period of five (5) years, the  
9 insane person having been an inmate of a state institution for the  
10 insane in the State of Oklahoma, or inmate of a state institution  
11 for the insane in some other state for such period, or of a private  
12 sanitarium, and affected with a type of insanity with a poor  
13 prognosis for recovery; provided, that no divorce shall be granted  
14 because of insanity until after a thorough examination of such  
15 insane person by three physicians, one of whom shall be a  
16 superintendent of the hospital or sanitarium for the insane in which  
17 the insane defendant is confined, and the other two to be appointed  
18 by the court before whom the action is pending, and any two of such  
19 physicians shall agree that such insane person, at the time the  
20 petition in the divorce action is filed, has a poor prognosis for  
21 recovery; provided, further, however, that no divorce shall be  
22 granted on this ground to any person whose husband or wife is an  
23 inmate of a state institution in any other than the State of  
24 Oklahoma, unless the person applying for such divorce shall have

1 | been a resident of the State of Oklahoma for at least five (5) years  
2 | prior to the commencement of an action; and provided further, that a  
3 | decree granted on this ground shall not relieve the successful party  
4 | from contributing to the support and maintenance of the defendant.  
5 | The court shall appoint a guardian ad litem to represent the insane  
6 | defendant, which appointment shall be made at least ten (10) days  
7 | before any decree is entered.

8 | B. The district court may grant a divorce of a covenant  
9 | marriage upon proof of any of the following:

10 | 1. One spouse commits adultery and the parties have obtained  
11 | marital counseling;

12 | 2. One spouse commits a felony or other infamous crime,  
13 | including domestic abuse as defined in Section 644 of Title 21 of  
14 | the Oklahoma Statutes;

15 | 3. One spouse commits physical or sexual abuse of the other  
16 | spouse or a child of either spouse or both spouses;

17 | 4. The spouses have been living separate and apart continuously  
18 | without reconciliation for two (2) years or longer and have obtained  
19 | marital counseling; or

20 | 5. a. the spouses have been living separate and apart  
21 | continuously without reconciliation for two (2) years  
22 | after the date of judgment of judicial separation as  
23 | provided in subsection C of this section was signed,  
24 | or

1           b. if there is a minor child of the covenant marriage  
2           and:

3           (1) the spouses have been living separate and apart  
4           continuously without reconciliation for a period  
5           of two (2) years and six (6) months after the  
6           date the judgment of judicial separation was  
7           signed, or

8           (2) the child or spouse was a victim of the abuse  
9           described in paragraph 3 of this subsection and  
10           the judgment of judicial separation was obtained  
11           and if the spouses have been living separate and  
12           apart continuously without reconciliation for a  
13           period of one (1) year after the date the  
14           judgment of judicial separation was signed.

15           C. The district court may grant a judgment of judicial  
16           separation of a covenant marriage upon proof of any of the  
17           following:

18           1. One spouse commits adultery and the parties have obtained  
19           marital counseling;

20           2. One spouse commits a felony and has been sentenced to  
21           imprisonment or death;

22           3. One spouse commits physical or sexual abuse of the other  
23           spouse or a child of either spouse or both spouses;  
24

1       4. The spouses have been living separate and apart continuously  
2 without reconciliation for two (2) years or longer and have obtained  
3 marital counseling; or

4       5. The parties have obtained marital counseling and one spouse:

5           a. has been addicted to habitual drunkenness for at least  
6           one (1) year,

7           b. is guilty of cruel and barbarous treatment as to  
8           endanger the life of the other spouse, or

9           c. is offering indignities against the other spouse as  
10           shall render his or her condition intolerable.

11       D. A judgment of judicial separation as provided in subsection  
12 C of this section shall not dissolve the bond of matrimony, since  
13 the separated parties are not at liberty to marry again, but it puts  
14 an end to their conjugal cohabitation and to the common concerns  
15 which existed between them. Spouses who are judicially separated in  
16 a covenant marriage shall retain that status until either  
17 reconciliation or divorce.

18       SECTION 7. This act shall become effective November 1, 2021.

19  
20       58-1-6166           EK           01/13/21