

SUBJECT: Marriage education and waiting period for couples seeking divorce

COMMITTEE: State Affairs — favorable, with amendment

VOTE: 6 ayes — Swinford, Paxton, Christian, B. Cook, Flynn, Parker

1 nay — Veasey

2 absent — Van Arsdale, Farrar

WITNESSES: For — Brent Connett, Texas Conservative Coalition; Danielle Hanneken, Retrouvaille International; Joe Hanneken, Retrouvaille International; Erin Kincaid, The Alliance for North Texas Healthy Effective Marriages; Paul D. Landrew; Pat Love; Roy Milam, Cornerstone Marriage and Family Ministries; Gloria Miranda-Cavazos, HARP- Hispanic Active Relationships Project of Cameron County; Robert Richardson, Family Life; Maggie Russell, Northside Family Ministries; Jonathan Saenz, Free Market Foundation; Chris Shields, Texas Association for Marriage and Family Therapy; Michael Smalley, Smalley Marriage & Family Center; Laura Wolf, Texas Council on Family Violence (on Amendment 1); Arlene Wohlgemuth; (*Registered, but did not testify*: Alfred Allen Sr.; Julie Drenner, Texans for Family Values PAC; Nathaniel Dugay; Merry Lynn Gerstenschlager, Texas Eagle Forum Education Liaison; Malcolm Hester)

Against — Jack W. Marr, Texas Family Law Foundation; Katie Tastrom, National Association of Social Workers-Texas; (*Registered, but did not testify*: Cynthia Castillo; Patti Edelman)

On — Jeff Johnson, Health and Human Services Commission

BACKGROUND: Under Family Code, sec. 6.001, a court may grant a divorce without regard to fault if the marriage has become insupportable because of conflict that destroys the legitimate ends of a marriage and prevents any reasonable expectation of reconciliation.

Sec. 6.702 states that a court may not grant a divorce until 60 days after suit was filed.

DIGEST:

HB 2683 would amend Family Code, sec. 6.702 to prohibit a court from granting a divorce on grounds of insupportability before two years after the date the suit was filed, or before 60 days when:

- a couple submitted a certification of completion of a crisis marriage education course to the court; or
- a party to the suit demonstrated the other party committed family violence against that person, including a copy of a protective order, a police record documenting the violence, or medical statement or other medical evidence that indicated the party was a victim of family violence.

HB 2683 also would add a provision to the Family Code encouraging couples filing for divorce to take a crisis marriage education course of at least 10 hours within a 48-hour period. The course would address conflict management, communication skills, and forgiveness skills. A course could be offered by marriage educators, clergy or their designees, licensed mental health professionals, faith-based organizations, or community-based organizations. The bill would require instructors to issue a signed and dated certificate to each couple that completed the course.

The Health and Human Services Commission (HHSC) would create a scholarship program with Temporary Assistance to Needy Families (TANF) block grant money to fund programs that supported the development of healthy marriages or strong families. In awarding scholarships, HHSC would give equal consideration to secular and faith-based programs. In addition, couples seeking to take a crisis marriage education course who could not afford to pay the course fee could apply for a scholarship through this initiative.

The bill would take effect September 1, 2007.

SUPPORTERS
SAY:

HB 2684 would encourage couples filing for divorce to attend crisis marriage education courses with the goal of marriage restoration. Healthy marriage initiatives aim to help couples who choose marriage to gain greater access, on a voluntary basis, to services that could help develop the skills and knowledge necessary to sustain healthy marriages. Research shows that what separates stable and healthy marriages from unstable and unhealthy ones is not the frequency of conflict but how couples manage conflict. Healthy conflict-resolution and communications skills gained

from a proven, skill-based crisis marriage education course could allow a marriage to be saved from divorce.

Permitting a unilateral dissolution of a marriage is not always equally fair to each spouse. A marriage treated as an economic partnership assumes each spouse invested and sacrificed equally. Splitting assets at the point of divorce does not provide adequate support to the spouse who sacrificed educational and career opportunities to devote time to family priorities. This spouse will have less earning potential than the spouse invested in a career and is likely to experience economic hardship after a divorce. A “slow-down” provision would allow for a more equitable dissolution.

Increasing the incidence of marriage and reducing the incidence of divorce are reasonable and necessary policy goals. The fate of Texas’ children depends on policymakers’ success in achieving these goals. Encouraging couples to take a crisis marriage education course before a divorce would afford them the opportunity to reflect on the enduring commitment of marriage and the seriousness of preserving marital vows and would keep them from making a hasty decision to end their marriage. Rather than continue exclusively to invest in programs that address the effects of family breakdown, the state also should take steps to invest in programs that could prevent family disintegration in the first place. It is estimated that a single divorce costs state and federal governments \$30,000 in direct and indirect costs. When a marriage ends, the costs affect everyone.

Government is most intrusive into family life when marriages end in divorce. The government is responsible for child-custody arrangements that determine when parents can see their children, whether they can pick them up after school and on what days, whether they can authorize medical care for their children, and how much money they must spend on their children. Preventing marital breakup in the first place — not by making divorce harder to get, but by increasing the odds of a stable marriage — would obviate the need for government interference in marriages.

The two-year wait period would affect only couples seeking to divorce because of insupportability. Other grounds that would retain the 60-day wait period would include cruelty, adultery, conviction of a felony or imprisonment, abandonment, an established period of separation, and confinement in a psychiatric hospital. Couples that considered their marriage unsalvageable due to irreconcilable differences could use the

crisis marriage education as a last effort for reconciliation. If the education course did not inspire a hope of reunification, the couple still would be eligible to finalize their divorce 60 days after suit was filed.

**OPPONENTS
SAY:**

HB 2684 effectively would impose a form of covenant marriage by establishing a two-year waiting period for divorce based on insupportability unless couples took the class established by the bill. Covenant marriages typically require counseling before marriage and before divorce, more limited grounds for divorce, and sometimes extended waiting periods before divorce. However, unlike covenant marriage, this bill would apply to all divorces on the ground of insupportability, with the parties given no advance choice about whether it should apply in their case.

The three states that now allow covenant marriage – Arkansas, Arizona, and Louisiana — provide couples with the option to waive a no-fault divorce and enter a covenant marriage. Similar legislation has been introduced, but did not pass, in 24 other states. Most states have permitted more restrictive divorce requirements to remain a choice for couples. Texas should, too.

A two-year waiting period could immobilize families from starting over. Divorce can provoke hostility and antagonism, and a longer waiting period could lead to new hostilities, increased feelings of deprivation or loss, and parental conflict. Children adjust better to divorce if their parents adjust better. Divorce requires parents to work toward rebuilding a new family life with consistency and stability. Spouses already feeling abandoned could find it especially difficult to reestablish their lives knowing the decision to divorce was not final. Parents having difficulty with a divorce would be unable to support their children through the transition. Deciding to divorce already is stressful for all involved, and extending the wait time only would serve to compound the effects.

The focus on healthy marriages should not distract from the need to address other conditions that breed poverty and social problems meriting TANF funds — too little education, too few good jobs, poor mental health, and problems of substance abuse. These problems contribute to stresses on a marriage that can lead to divorce, and supporting programs to address these issues would do far more to promote marriage than would the state's forcing a couple seeking to end their marriage to take a class as the price for accelerating their divorce. People decide to divorce for a

wide variety of reasons, and the state should not interfere in private, personal matters by assuming that forcing them to attend a class would solve their problems.

NOTES:

A related bill, HB 2683 by Chisum, which would require a minimum of 1 percent of TANF block grant funds be spent on programs supporting development of healthy marriages and strong families, passed the House by 101-36 on April 12.

Another related bill, HB 2685 by Chisum, which would revise the premarital education course, use TANF funds to award scholarships to fund programs promoting healthy marriages and strong families, and waive the license fee and the 72-hour waiting period following receipt of a marriage license for those completing a premarital education course, passed the House by 93-48-2 on April 12.