

BILL ANALYSIS

Senate Research Center
77R10185 MCK-D

S.B. 70
By: Haywood
State Affairs
4/10/2001
Committee Report (Amended)

DIGEST AND PURPOSE

Under Texas law, either spouse can unilaterally seek divorce if the marriage is “insupportable.” There is no need to prove “fault.” Parties must wait 60 days until a final divorce decree is entered, and courts may require pre-divorce counseling. A covenant marriage involves more stringent premarital requirements and marital obligations, and encourages the commitment to preserve the marriage union through difficulty. S.B. 70 authorizes 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 expressly 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 a person applying for a license for a covenant marriage to complete an affidavit of intent to contract a covenant marriage described by Section 2.601.

SECTION 2. Amends Section 2.004, Family Code, by adding Subsection (c), to require the application form for a covenant marriage to include a certain statement.

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

SECTION 4. Amends Section 2.014(c) Family Code, to require the premarital education handbook under Subsection(b)(1) to contain information on covenant marriage.

SECTION 5. 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 each applicant for a covenant marriage to submit a signed and notarized affidavit of intent to enter a covenant marriage. Requires the affidavit to contain a certain statement.

Sec. 2.602. **DESIGNATING EXISTING MARRIAGE AS COVENANT MARRIAGE.** (a) Authorizes a married couple to designate their marriage as a covenant marriage by filing a signed and notarized affidavit of intent to designate the marriage as a covenant marriage.

(b) Requires the affidavit of intent to designate a marriage as a covenant marriage to contain a certain statement.

(c) Requires the applicants to file the affidavit with certain persons.

(d) Provides that a marriage becomes a covenant marriage when a couple files with the county clerk the affidavit of intent to designate a marriage as a covenant marriage.

Sec. 2.603. COUNSELING REQUIREMENT. (a) Requires a couple, before entering into a covenant marriage or designating a marriage as a covenant marriage, to receive counseling from a person legally authorized to engage in marriage counseling.

(b) Requires the counselor to discuss certain issues with the couple and inform the couple of certain things.

(c) Authorizes the counselor to discuss any other topic the counselor considers important to the couple's understanding of the marital commitment.

Sec. 2.604. INFORMATION FOR APPLICANTS. Requires the attorney general to include in the premarital education handbook described by Section 2.014 a full explanation of the terms and conditions of a covenant marriage, including the grounds for a divorce under Section 6.903 and the grounds for legal separation under Section 6.904.

SECTION 6. 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 7. 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 who meets the requirements of this subchapter to file a suit for dissolution of the covenant marriage or legal separation.

Sec. 6.902. COUNSELING REQUIREMENT BEFORE DISSOLUTION. Prohibits a spouse in a covenant marriage from filing a suit to dissolve a covenant marriage unless the parties to the marriage have received counseling from a person legally authorized to engage in marriage counseling in an attempt to reconcile the marriage. Requires the couple to participate in the counseling until the counselor or both spouses determine that the marriage is not salvageable.

Sec. 6.903. GROUNDS FOR DIVORCE OF COVENANT MARRIAGE. (a) Authorizes the court to grant a divorce in a covenant marriage in favor of a spouse if certain conditions are met.

(b) Prohibits the court from granting a divorce under Subsection (a) if the spouse who was convicted of a felony was convicted solely on the testimony of the other spouse.

Sec. 6.904. LEGAL SEPARATION. (a) Authorizes a spouse in a covenant marriage to file a suit to obtain from the court an order of legal separation if certain conditions are met.

(b) Makes a conforming change.

(c) Makes the procedures in this chapter for a suit for dissolution of a marriage applicable to a suit for legal separation of a covenant marriage.

SECTION 8. Amends Section 8.002, Family Code, to require the court to issue a temporary order for maintenance in favor of a spouse who files for legal separation of a covenant marriage based on abandonment under Section 6.904(a)(3), or dissolution of a covenant marriage.

SECTION 9. Amends Section 118.011(a), Local Government Code, to add to the list of fees a county clerk is required to collect for services rendered, a covenant marriage license fee of \$12.50, and a fee for an affidavit of intent to designate a marriage as a covenant marriage of \$12.50.

SECTION 10. Amends Section 118.018(a), Local Government Code, to make conforming changes.

SECTION 11. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Amends As Filed S.B. 70 as follows:

SECTIONS 1 - 3, no changes.

SECTION 4. Adds a new SECTION 4 to amend Section 2.014(c) Family Code, by requiring the premarital education handbook under Subsection(b)(1) to contain information on covenant marriage.

SECTION 5. Redesignates original SECTION 4 as SECTION 5. Replaces the text “read the pamphlet on covenant marriage” with “received the premarital education handbook.” Makes conforming changes. Omits original proposed Section 2.604, Family Code, regarding the pamphlet on covenant marriage and adds a new Section 2.604, as follows:

Sec. 2.604. INFORMATION FOR APPLICANTS. Requires the attorney general to include in the premarital education handbook described by Section 2.014 a full explanation of the terms and conditions of a covenant marriage, including the grounds for a divorce under Section 6.903 and the grounds for legal separation under Section 6.904.

Renumbers original SECTIONS 5 - 10 as SECTIONS 6 - 11, respectively.