
SUBSTITUTE SENATE BILL 6135

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Oke, Swecker, Hargrove, Rossi and Anderson)

Read first time 02/03/98.

1 AN ACT Relating to covenant marriages; amending RCW 26.04.080,
2 26.04.090, 26.04.160, and 26.09.030; adding new sections to chapter
3 26.04 RCW; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 26.04.080 and Code 1881 s 2384 are each amended to
6 read as follows:

7 The person solemnizing a marriage shall give to each of the parties
8 thereto, if required, a certificate thereof, specifying therein the
9 names and residence of the parties, and of at least two witnesses
10 present, the time and place of such marriage, and the date of the
11 license thereof, and by whom issued. If applicable, the person
12 solemnizing the marriage shall include a designation on the face of the
13 certificate that the parties entered into a covenant marriage signed by
14 the parties to the marriage.

15 **Sec. 2.** RCW 26.04.090 and 1967 c 26 s 4 are each amended to read
16 as follows:

17 A person solemnizing a marriage shall, within thirty days
18 thereafter, make and deliver to the county auditor of the county

1 wherein the license was issued a certificate for the files of the
2 county auditor, and a certificate for the files of the state registrar
3 of vital statistics. The certificate for the files of the county
4 auditor shall be substantially as follows:

5 STATE OF WASHINGTON }
6 }
7 COUNTY OF }

8 This is to certify that the undersigned, a, by
9 authority of a license bearing date the day of
10 A.D., 19. . ., and issued by the County auditor of the county of
11, did, on the day of A.D., 19. . ., at
12 in this county and state, join in lawful wedlock A.B. of
13 the county of, state of and C.D. of the county
14 of, state of, with their mutual assent, in the
15 presence of F H and E G, witnesses.

16 In Testimony Whereof, witness the signatures of the parties to said
17 ceremony, the witnesses and myself, this day of,
18 A.D., 19. . .

19 (~~The certificate for the files of the state registrar of vital~~
20 ~~statistics shall be in accordance with RCW 70.58.200)) A designation by
21 the person solemnizing the marriage shall appear on the face of the
22 certificate, if applicable, that the parties entered into a covenant
23 marriage. The certificate forms for the files of the county auditor
24 and for the files of the state registrar of vital statistics shall be
25 provided by the state registrar of vital statistics.~~

26 **Sec. 3.** RCW 26.04.160 and 1997 c 58 s 909 are each amended to read
27 as follows:

28 (1) Application for a marriage license must be made and filed with
29 the appropriate county auditor upon blanks to be provided by the county
30 auditor for that purpose, which application shall be under the oath of
31 each of the applicants, and each application shall state the name,
32 address at the time of execution of application, age, social security
33 number, birthplace, whether single, widowed or divorced, and whether
34 under control of a guardian, residence during the past six months:
35 PROVIDED, That each county may require such other and further
36 information on said application as it shall deem necessary. In cases

1 where the parties intend to enter into a covenant marriage, the
2 application for a marriage license must also include the following:

3 "We [name of intended husband and name of intended wife], do hereby
4 declare our intent to contract a covenant marriage and, accordingly,
5 have executed the attached declaration of intent."

6 (2) The county legislative authority may impose an additional fee
7 up to fifteen dollars on a marriage license for the purpose of funding
8 family services such as family support centers.

9 **Sec. 4.** RCW 26.09.030 and 1996 c 23 s 1 are each amended to read
10 as follows:

11 Except in the case of a covenant marriage, when a party who ((+1))
12 is a resident of this state, or ((+2)) is a member of the armed forces
13 and is stationed in this state, or ((+3)) is married to a party who is
14 a resident of this state or who is a member of the armed forces and is
15 stationed in this state, petitions for a dissolution of marriage, and
16 alleges that the marriage is irretrievably broken and when ninety days
17 have elapsed since the petition was filed and from the date when
18 service of summons was made upon the respondent or the first
19 publication of summons was made, the court shall proceed as follows:

20 (1) If the other party joins in the petition or does not deny that
21 the marriage is irretrievably broken, the court shall enter a decree of
22 dissolution.

23 (2) If the other party alleges that the petitioner was induced to
24 file the petition by fraud, or coercion, the court shall make a finding
25 as to that allegation and, if it so finds shall dismiss the petition.

26 (3) If the other party denies that the marriage is irretrievably
27 broken the court shall consider all relevant factors, including the
28 circumstances that gave rise to the filing of the petition and the
29 prospects for reconciliation and shall:

30 (a) Make a finding that the marriage is irretrievably broken and
31 enter a decree of dissolution of the marriage; or

32 (b) At the request of either party or on its own motion, transfer
33 the cause to the family court, refer them to another counseling service
34 of their choice, and request a report back from the counseling service
35 within sixty days, or continue the matter for not more than sixty days
36 for hearing. If the cause is returned from the family court or at the
37 adjourned hearing, the court shall:

1 (i) Find that the parties have agreed to reconciliation and dismiss
2 the petition; or

3 (ii) Find that the parties have not been reconciled, and that
4 either party continues to allege that the marriage is irretrievably
5 broken. When such facts are found, the court shall enter a decree of
6 dissolution of the marriage.

7 (4) If the petitioner requests the court to decree legal separation
8 in lieu of dissolution, the court shall enter the decree in that form
9 unless the other party objects and petitions for a decree of
10 dissolution or declaration of invalidity.

11 NEW SECTION. **Sec. 5.** (1) A covenant marriage is a marriage
12 entered into by one man and one woman who understand and agree that the
13 marriage between them is a lifelong relationship. Parties to a
14 covenant marriage have received counseling emphasizing the nature and
15 purposes of marriage and the responsibilities thereto. Only when there
16 has been a complete and total breach of the marital covenant commitment
17 may the nonbreaching party seek a declaration that the marriage is no
18 longer legally recognized.

19 (2) A man and woman may contract a covenant marriage by declaring
20 their intent to do so on their application for a marriage license, as
21 provided in RCW 26.04.160, and executing a declaration of intent to
22 contract a covenant marriage, as provided in section 6 of this act.
23 The application for a marriage license and the declaration of intent
24 shall be filed with the appropriate county auditor.

25 NEW SECTION. **Sec. 6.** (1) A declaration of intent to contract a
26 covenant marriage shall contain the following:

27 (a) A recitation by the parties to the following effect:

28 "A COVENANT MARRIAGE

29 We do solemnly declare that marriage is a covenant between a man
30 and a woman who agree to live together as husband and wife for so long
31 as they both may live. We have chosen each other carefully and
32 disclosed to one another everything which could adversely affect the
33 decision to enter into this marriage. We have received premarital
34 counseling on the nature, purposes, and responsibilities of marriage.
35 We understand that a covenant marriage is for life. If we experience
36 marital difficulties, we commit ourselves to take all reasonable
37 efforts to preserve our marriage, including marital counseling.

1 With full knowledge of what this commitment means, we do hereby
2 declare that our marriage will be bound by Washington law on covenant
3 marriages and we promise to love, honor, and care for one another as
4 husband and wife for the rest of our lives.";

5 (b)(i) An affidavit by the parties that they have received
6 premarital counseling from a clergy member of any religious sect, a
7 person practicing counseling under the auspices of a religious
8 denomination or church, or a marriage counselor registered under
9 chapter 18.19 RCW, which counseling shall include a discussion of the
10 seriousness of covenant marriage, communication of the fact that a
11 covenant marriage is a commitment for life, a discussion of the
12 obligation to seek marital counseling in times of marital difficulties,
13 and a discussion of the exclusive grounds for legally terminating a
14 covenant marriage by dissolution or by dissolution after a legal
15 separation;

16 (ii) A notarized attestation, signed by the counselor and attached
17 to or included in the parties' affidavit, confirming that the parties
18 were counseled as to the nature and purpose of the marriage and the
19 grounds for termination thereof and an acknowledging that the counselor
20 provided to the parties an informational pamphlet developed by the
21 office of the attorney general, which pamphlet provides a full
22 explanation of the terms and conditions of a covenant marriage;

23 (c)(i) The signature of both parties witnessed by a notary; and

24 (ii) If one or both of the parties are minors, the written consent
25 or authorization of a superior court judge as required by RCW
26 26.04.010.

27 (2) The declaration shall contain two separate documents, the
28 recitation and the affidavit. The affidavit must either include the
29 attestation or the attestation must be attached to it. The recitation
30 shall be prepared in duplicate originals, one of which shall be
31 retained by the parties and the other, together with the affidavit and
32 attestation, shall be filed with the appropriate county auditor.

33 NEW SECTION. **Sec. 7.** (1) After the effective date of this
34 section, married couples may execute a declaration of intent to
35 designate their marriage as a covenant marriage.

36 (2)(a) The declaration of intent to designate a marriage a covenant
37 marriage must be in the form and fulfill the requirements of subsection
38 (3) of this section. The declaration of intent shall be presented to

1 the county auditor who issued the couple's marriage license and with
2 whom the couple's marriage certificate is filed. If the couple was not
3 married in Washington, a copy of the foreign marriage certificate, with
4 the declaration of intent attached thereto, shall be filed with the
5 county auditor in the county in which the couple is domiciled. The
6 county auditor shall record the declaration of intent of a covenant
7 marriage and index the declaration back to the certificate.

8 (b) On or before the fifteenth day of each calendar month, the
9 county auditor shall forward to the state registrar of vital statistics
10 each declaration of intent of a covenant marriage filed with him or her
11 during the preceding calendar month in accordance with this section.

12 (3)(a) A declaration of intent to designate a marriage as a
13 covenant marriage shall contain all of the following:

14 (i) A recitation by the parties to the following effect:

15 "A COVENANT MARRIAGE

16 We do solemnly declare that marriage is a covenant between a man
17 and a woman who agree to live together as husband and wife for so long
18 as they both may live. We understand the nature, purpose, and
19 responsibilities of marriage. We understand that a covenant marriage
20 is for life. If we experience marital difficulties, we commit
21 ourselves to take all reasonable efforts to preserve our marriage,
22 including marital counseling.

23 With full knowledge of what this commitment means, we do hereby
24 declare that our marriage will be bound by Washington law on covenant
25 marriage, and we renew our promise to love, honor, and care for one
26 another as husband and wife for the rest of our lives.";

27 (ii)(A) An affidavit by the parties that they have discussed their
28 intent to designate their marriage as a covenant marriage with a clergy
29 member of any religious sect, a person practicing counseling under the
30 auspices of a religious denomination or church, or a marriage counselor
31 registered under chapter 18.19 RCW, which included a discussion of the
32 obligation to seek marital counseling in times of marital difficulties
33 and the exclusive grounds for legally terminating a covenant marriage
34 by dissolution or by dissolution after a legal separation;

35 (B) A notarized attestation, signed by the counselor and attached
36 to the parties' affidavit, acknowledging that the counselor provided to
37 the parties an informational pamphlet developed by the office of the
38 attorney general, which pamphlet provides a full explanation of the
39 terms and conditions of a covenant marriage; and

1 (C) The signature of both parties witnessed by a notary.

2 (b) The declaration shall contain two separate documents, the
3 recitation and the affidavit. The affidavit must either include the
4 attestation or the attestation must be attached to it. The recitation
5 shall be prepared in duplicate originals, one of which shall be
6 retained by the parties and the other, together with the affidavit and
7 attestation, shall be filed as provided in subsection (2) of this
8 section.

9 NEW SECTION. **Sec. 8.** (1) Subsequent to the parties obtaining
10 counseling, a spouse to a covenant marriage may obtain a decree of
11 dissolution of marriage only upon proof of any of the following:

12 (a) The other spouse has committed adultery;

13 (b) The other spouse has committed a felony and has been sentenced
14 to death or a life sentence;

15 (c) The other spouse has abandoned the matrimonial domicile for a
16 period of one year and constantly refuses to return;

17 (d) The other spouse has physically or sexually abused the spouse
18 seeking the dissolution or a child of one of the spouses;

19 (e) The spouses have been living separate and apart continuously
20 without reconciliation for a period of two years; or

21 (f)(i) The spouses have been living separate and apart continuously
22 without reconciliation for a period of one year from the date a decree
23 of legal separation was signed;

24 (ii) If there is a minor child or children of the marriage, the
25 spouses have been living separate and apart continuously without
26 reconciliation for a period of one year and six months from the date a
27 decree of legal separation was signed; however, if abuse of a child of
28 the marriage or a child of one of the spouses is the basis for which
29 the decree of legal separation was obtained, then a decree of
30 dissolution of marriage may be obtained, if the spouses have been
31 living separate and apart continuously without reconciliation for a
32 period of one year from the date the decree of legal separation was
33 signed.

34 (2) Subsequent to the parties obtaining counseling, a spouse to a
35 covenant marriage may obtain a decree of legal separation only upon
36 proof of any of the following:

37 (a) The other spouse has committed adultery;

1 (b) The other spouse has committed a felony and has been sentenced
2 to death or a life sentence;

3 (c) The other spouse has abandoned the matrimonial domicile for a
4 period of one year and constantly refuses to return;

5 (d) The other spouse has physically or sexually abused the spouse
6 seeking the dissolution or a child of one of the spouses;

7 (e) The spouses have been living separate and apart continuously
8 without reconciliation for a period of two years; or

9 (f) On account of habitual intemperance of the other spouse, or
10 excesses, cruel treatment, or outrages of the other spouse, if such
11 habitual intemperance, or such ill treatment is of such a nature as to
12 render their living together insupportable.

13 NEW SECTION. **Sec. 9.** (1) Unless judicially separated, spouses in
14 a covenant marriage may not sue each other except for causes of action
15 pertaining to restitution of separate property; for legal separation in
16 covenant marriages, for dissolution, or for declaration of invalidity
17 of the marriage; and for causes of action pertaining to spousal
18 maintenance or the support or custody of a child while the spouses are
19 living separate and apart, although not judicially separated.

20 (2)(a) Any court that is competent to preside over dissolution
21 proceedings has jurisdiction of an action for legal separation in a
22 covenant marriage, if:

23 (i) One or both of the spouses are domiciled in this state and the
24 ground for dissolution was committed or occurred in this state or while
25 the matrimonial domicile was in this state;

26 (ii) The ground for dissolution occurred in another state while
27 either or both of the spouses were domiciled in another state if the
28 person petitioning for the legal separation was domiciled in this state
29 before the time the cause of action accrued and is domiciled in this
30 state at the time the action is filed.

31 (b) An action for legal separation in a covenant marriage shall be
32 brought in a county where either party is domiciled, or in the county
33 of the last matrimonial domicile.

34 (c) The venue provided in this section may not be waived, and a
35 decree of legal separation rendered by a court of improper venue is
36 void.

37 (3) Judgments on the pleadings and summary judgments may not be
38 granted in any action for legal separation in a covenant marriage.

1 (4) In a proceeding for a legal separation in a covenant marriage,
2 a court may award a spouse all incidental relief afforded in a
3 proceeding for dissolution of marriage, including but not limited to
4 spousal maintenance, child support, parenting plans, injunctive relief,
5 and possession and use of a family residence or community property.

6 NEW SECTION. **Sec. 10.** (1)(a) Legal separation in a covenant
7 marriage does not dissolve the bond of matrimony, since the separated
8 husband and wife are not at liberty to marry again; but it puts an end
9 to their conjugal cohabitation and to the common concerns that existed
10 between them.

11 (b) Spouses who are legally separated in a covenant marriage retain
12 that status until either reconciliation or dissolution of marriage.

13 (2)(a) The decree of legal separation carries with it the
14 separation of goods and effects and is retroactive to the date on which
15 the original petition was filed in the action in which the decree is
16 rendered, but such retroactive effect is without prejudice (i) to the
17 liability of the community for the attorneys' fees and costs incurred
18 by the spouses in the action in which the decree is rendered or (ii) to
19 rights validly acquired in the interim between commencement of the
20 action and recording of the decree.

21 (b) Upon reconciliation of the spouses, the community shall be
22 reestablished between the spouses, as of the date of filing of the
23 original petition in the action in which the decree was rendered,
24 unless the spouses execute before the reconciliation a matrimonial
25 agreement that the community shall not be reestablished upon
26 reconciliation. This matrimonial agreement does not require court
27 approval.

28 (c) Reestablishment of the community under this section is
29 effective toward third persons only upon recording notice of the
30 reestablishment. The reestablishment of the community does not
31 prejudice the rights of third persons validly acquired before recording
32 notice of the reestablishment nor does it affect a prior community
33 property partition between the spouses.

34 NEW SECTION. **Sec. 11.** By August 15, 1998, the office of the
35 attorney general shall prepare an informational pamphlet that outlines
36 in sufficient detail the consequences of entering into a covenant
37 marriage. The informational pamphlet shall be made available to any

1 counselor who provides marriage counseling as provided for in section
2 6 or 7 of this act.

3 NEW SECTION. **Sec. 12.** Sections 5 through 10 of this act are each
4 added to chapter 26.04 RCW.

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