

Covenant Marriage act 2001

Act 1486 of 2001 created an option for couples in Arkansas to choose a Covenant Marriage. The couple entering into a Covenant Marriage agrees to be bound by two limitations on obtaining a divorce or separation which do not apply to other couples married in Arkansas: The couple agrees to seek marital counseling if problems develop during the marriage; and the couple can seek a divorce or legal separation only for limited reasons, as set out in the Act and explained in this pamphlet, which outlines the consequences of entering into a Covenant Marriage under Arkansas law. Additionally, couples bound by a Covenant Marriage, unless judicially separated, may only sue each other for certain causes of action. **Couples who are already married** may execute a declaration of intent to designate their marriage a Covenant Marriage. They must sign a recitation and an affidavit such as the one included in this pamphlet, after receiving counseling, to which the counselor must attest. This intent to designate their marriage a Covenant Marriage must be filed with the official who issues marriage licenses in the county in which the couple is domiciled.

LEGAL SEPARATION IN A COVENANT MARRIAGE

In order to obtain a legal separation (which is not a divorce and does not end the marriage), a spouse to a Covenant Marriage must first obtain counseling and then must prove:

- 1) Adultery by the other spouse;
- 2) Commission of a felony by the other spouse which results in a sentence of imprisonment of death;
- 3) Physical or sexual abuse of the spouse or a child of either spouse;
- 4) The spouses have lived separate and apart continuously without reconciliation for two years; or
- 5) Habitual drunkenness for one year, cruel and barbarous treatment or such indignities as to render the spouse's condition intolerable.

DIVORCE IN A COVENANT MARRIAGE

In a Covenant Marriage a spouse may get a divorce only after receiving counseling and only for the following reasons:

- 1) Adultery by the other spouse;
- 2) Commission of a felony by the other spouse which results in a sentence of imprisonment of death;
- 3) Physical or sexual abuse of the spouse or a child of either spouse;
- 4) The spouses have lived separate and apart continuously without reconciliation for two years; or
- 5) The spouses are judicially separated and have lived separate and apart continuously without reconciliation since the legal separation for:
 - a) Two years and six months if there is a minor child or children of the marriage;
 - b) One year if the separation was granted for abuse of a child of either spouse;
 - c) Two years in all other cases.

SUITS AGAINST SPOUSES IN A COVENANT MARRIAGE

Unless judicially separated, spouses in a covenant marriage may only sue each other for causes of action pertaining to contracts, for restitution of separate property, for judicial separation, for divorce, for declaration of nullity of the marriage, or for causes of action pertaining to spousal support of support or custody of a child while the spouses are living separate and apart, although not judicially separated.

DECLARATION OF INTENT

In order to enter into a Covenant Marriage, the couple must sign a recitation that provides:

“A COVENANT MARRIAGE”

We do solemnly declare that marriage is a covenant between a man and a woman who agree to live together as husband and wife for so long as they both may live. We have chosen each other carefully and disclosed to one another everything which could adversely affect the decision to enter into this marriage. We have received authorized counseling on the nature, purposes, and responsibilities of marriage. We have read the Covenant Marriage Act 94 2001, and we understand that a covenant marriage is for life. If we experience marital difficulties, we commit ourselves to take all reasonable efforts to preserve our marriage, including marital counseling. With full knowledge of what this commitment means, we do hereby declare that our marriage will be bound by Arkansas law on covenant marriages and we promise to love, honor, and care for one another as husband and wife for the rest of our lives.”

(Name of prospective spouse)

(Name of prospective spouse)

After discussing the meaning of the Covenant Marriage with a counselor, the couple must also sign a notarized affidavit with an attestation by the counselor. The following is the suggested form of the affidavit:

AFFIDAVIT FOR PARTIES AND NOTARY

State of Arkansas, County of _____

BE IT KNOWN THAT on this ____ day of _____, 20____, before me the undersigned notary, personally came and appeared: _____ and _____ who after being duly sworn by me, a Notary, deposed and stated that: Affiants acknowledge that they have received premarital (or marriage) counseling from a priest, minister, rabbi, clerk of the Religious Society of Friends, any clergyman of any religious sect, or a professional marriage counselor, which marriage counseling included: A discussion of the seriousness of Covenant Marriage; Communication of the fact that a Covenant Marriage is a commitment for life; The obligation of a Covenant Marriage to take reasonable efforts to preserve the marriage if marital difficulties arise; and That the affiants both read this pamphlet, developed and promulgated by the Administrative Office of the Courts, which provides a full explanation of a Covenant Marriage, including the obligation to seek marital counseling in times of marital difficulties and the exclusive grounds for legally terminating a Covenant Marriage by divorce or divorce after judgment of separation from bed or board.

(Name of prospective spouse)

(Name of prospective spouse)

ATTESTATION for counselor

The undersigned attests that the affiants did receive counseling from me as to the nature and purpose of marriage, which included a discussion of the seriousness of Covenant Marriage, communication of the fact that a Covenant Marriage is for life, and the obligation of a Covenant Marriage to take reasonable efforts to preserve the marriage if marital difficulties arise.

Counselor Title/professional credential

The two documents that comprise the declaration of intent-the recitation and the affidavit with attestation-must be filed with the official who issues the marriage license with the couple's application for marriage license.