

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 527

By: Senator K. Hammer
By: Representative C. Cooper

For An Act To Be Entitled

AN ACT TO AMEND THE COVENANT MARRIAGE ACT OF 2001; TO REQUIRE CLERKS TO PROVIDE ADDITIONAL INFORMATION REGARDING COVENANT MARRIAGES TO A MARRIAGE LICENSE APPLICANT; TO IMPOSE ADDITIONAL REQUIREMENTS FOR ENTERING INTO AND DISSOLVING A COVENANT MARRIAGE; AND FOR OTHER PURPOSES.

Subtitle

TO IMPOSE ADDITIONAL REQUIREMENTS FOR ENTERING INTO AND DISSOLVING A COVENANT MARRIAGE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 9-11-203, concerning the issuance of marriage licenses, is amended to add an additional subsection to read as follows:

(e) A clerk who is required to furnish a marriage license under this section shall provide:

(1) A current copy of the Covenant Marriage Act of 2001, § 9-11-801 et seq., to a person who inquires about a covenant marriage license; and

(2) Information about a covenant marriage on the clerk's website, if the clerk has a website.

SECTION 2. Arkansas Code § 9-11-802 is amended to read as follows:
9-11-802. Definitions.



As used in this subchapter:

(1) “Authorized ~~counseling~~ counselor” means a person providing premarital or marital counseling provided by who is one (1) of the following:

- (A) A priest;
- (B) A minister;
- (C) A rabbi;
- (D) A clerk of the Religious Society of Friends;
- (E) Any clergy member of any religious sect or a designated representative;
- (F) A marriage educator approved by the person who will perform the marriage ceremony; ~~or~~

(G) As defined by in § 17-27-102:

- (i) A licensed professional counselor;
- (ii) A licensed associate counselor;
- (iii) A licensed marriage and family therapist;
- (iv) A licensed clinical psychologist; or
- (v) A licensed associate marriage and family therapist; ~~and~~ or

(H) A certified biblical counselor;

(2) “Certified biblical counselor” means a person who:

- (A) Is certified by a biblical counseling association that provides accreditation or certification services; and
- (B) Uses only biblical scripture to provide counseling to individuals or couples;

(3) “Judicial separation” means a judicial proceeding pursuant to under § 9-11-809 that results in a court determination that the parties to a covenant marriage live separate and apart;

(4) “Marital counseling” means counseling provided by an authorized counselor to a couple in a covenant marriage that serves to describe, evaluate, and modify the couple’s intrapersonal and interpersonal behavior within the context of the couple’s covenant marriage; and

(5) “Premarital counseling” means counseling provided by an authorized counselor to a couple before a couple enters into a covenant marriage that serves to develop an understanding of the nature, purposes, and responsibilities associated with a covenant marriage.

SECTION 3. Arkansas Code § 9-11-803(a), concerning the description of a covenant marriage, is amended to read as follows:

(a)(1) A covenant marriage is a marriage entered into by one (1) male and one (1) female who understand and agree that the marriage between them is a lifelong relationship.

(2) Parties to a covenant marriage will have received ~~authorized counseling emphasizing the nature, purposes, and responsibilities of marriage~~ premarital counseling as described under § 9-11-812 before entering into the covenant marriage.

(3)(A) Only when there has been a complete and total breach of the marital covenant commitment may a party seek a declaration that the marriage is no longer legally recognized.

(B) If a party to a covenant marriage seeks a divorce or a judicial separation, the party shall attach to his or her initial pleading an attestation signed by the authorized counselor who provided premarital counseling or the authorized counselor who provided marital counseling, or both, that:

(i) The parties completed the number of premarital counseling and marital counseling sessions required under § 9-11-812; and

(ii) The authorized counselor who provided premarital counseling discussed the topics required under § 9-11-812 with the parties in their premarital counseling sessions.

SECTION 4. Arkansas Code § 9-11-804 is amended to read as follows:
9-11-804. Content of declaration of intent.

(a) A declaration of intent to contract a covenant marriage shall contain all of the following:

(1) A recitation signed by both parties to the following effect:
“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~~ premarital counseling on the nature, purposes, and responsibilities of marriage. We have read the Covenant Marriage Act of 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.”;

(2) An affidavit by the parties that they have received authorized premarital counseling that shall include a discussion of the seriousness of covenant marriage, communication of the fact that a covenant marriage is a commitment for life, a discussion of the obligation to seek marital counseling in times of marital difficulties, and a discussion of the exclusive grounds for legally terminating a covenant marriage by divorce;

(3) An attestation, signed by the authorized counselor and attached to or included in the parties’ affidavit, confirming that the parties received authorized premarital counseling as to the nature and purpose of the marriage and the grounds for termination of the marriage and an acknowledgment that the authorized counselor;

(A) Provided to the parties the informational pamphlet developed and promulgated by the Administrative Office of the Courts under this subchapter that provides a full explanation of the terms and conditions of a covenant marriage;

(B) Provided a minimum of four (4) premarital counseling sessions to the couple; and

(C) Discussed the topics required under § 9-11-812 with the parties in their premarital counseling sessions; and

(4)(A) The signature of both parties witnessed by a notary.

(B) If one (1) of the parties is a minor, or both are minors, the written consent or authorization of those persons required under this chapter to consent to or authorize the marriage of minors.

(b) The declaration shall consist of two (2) separate documents:

(1) The recitation as set out in subdivision (a)(1) of this section; and

(2) The affidavit with the attestation either included within or attached to the document.

(c) The recitation, affidavit, and attestation shall be filed as

provided in § 9-11-803(b).

(d) A clerk required to issue a marriage license under § 9-11-203 shall:

(1) Ask an applicant for a covenant marriage license for a copy of the attestation described in subdivision (a)(3) of this section; and

(2) Keep a copy of the attestation described in subdivision (a)(3) of this section that is provided by the applicant.

SECTION 5. Arkansas Code § 9-11-808 is amended to read as follows:

9-11-808. Divorce or separation.

(a) Notwithstanding any other law to the contrary and subsequent to the parties' obtaining ~~authorized~~ marital counseling, a spouse to a covenant marriage may obtain a judgment of divorce only upon proof of any of the following:

(1) The other spouse has committed adultery;

(2) The other spouse has committed a felony or other infamous crime;

(3) The other spouse has physically or sexually abused the spouse seeking the divorce or a child of one (1) of the spouses;

(4) The spouses have been living separate and apart continuously without reconciliation for a period of two (2) years; or

(5)(A) The spouses have been living separate and apart continuously without reconciliation for a period of two (2) years from the date the judgment of judicial separation was signed.

(B)(i) If there is a minor child or children of the marriage, the spouses have been living separate and apart continuously without reconciliation for a period of two (2) years and six (6) months from the date the judgment of judicial separation was signed.

(ii) However, if abuse of a child of the marriage or a child of one (1) of the spouses is the basis for which the judgment of judicial separation was obtained, then a judgment of divorce may be obtained if the spouses have been living separate and apart continuously without reconciliation for a period of one (1) year from the date the judgment of judicial separation was signed.

(b) Notwithstanding any other law to the contrary and subsequent to the parties' obtaining ~~authorized~~ marital counseling, a spouse to a covenant

marriage may obtain a judgment of judicial separation only upon proof of any of the following:

- (1) The other spouse has committed adultery;
- (2) The other spouse has committed a felony and has been sentenced to death or imprisonment;
- (3) The other spouse has physically or sexually abused the spouse seeking the legal separation or divorce or a child of one (1) of the spouses;
- (4) The spouses have been living separate and apart continuously without reconciliation for a period of two (2) years; or
- (5) The other spouse ~~shall~~:
 - (A) ~~Be~~ Is addicted to habitual drunkenness or habitual substance abuse for at least one (1) year;
 - (B) ~~Be~~ Is guilty of such cruel and barbarous treatment as to endanger the life of the other; or
 - (C) ~~Offer~~ Offers such indignities to the person of the other ~~as shall~~ sufficient to render his or her condition intolerable.

SECTION 6. Arkansas Code § 9-11-811(b), concerning informational pamphlets to be provided in accordance with the Covenant Marriage Act of 2001, is amended to read as follows:

(b) The informational pamphlet shall be made available to any authorized counselor who provides ~~authorized~~ premarital or marital counseling as provided for by this subchapter.

SECTION 7. Arkansas Code Title 9, Chapter 11, Subchapter 8, is amended to add an additional section to read as follows:

9-11-812. Premarital counseling and marital counseling - Requirements.

- (a) Premarital counseling shall:
 - (1) Be provided for a minimum of four (4) sessions; and
 - (2) Involve discussion between the authorized counselor and the couple of topics related to covenant marriage, including without limitation:
 - (A) The description of covenant marriage as described in § 9-11-803;
 - (B) The significance of commitment to a covenant marriage;

(C) Each spouse's role in the covenant marriage; and

(D) The effects of a covenant marriage on the couple's children and families, including its effects on future children if the couple decides to conceive or adopt children together.

(b) If marital problems arise during a covenant marriage, the parties to the covenant marriage shall seek marital counseling to attempt to resolve the problems before seeking a divorce or a judicial separation.

(c) Marital counseling shall:

(1) Be provided for a minimum of four (4) sessions; and

(2) Serve to describe, evaluate, and modify the couple's intrapersonal and interpersonal behavior within the context of the couple's covenant marriage.

(d) If a party to a covenant marriage seeks a divorce or a judicial separation, the party shall attach to his or her initial pleading an attestation signed by the authorized counselor who provided premarital counseling or the authorized counselor who provided marital counseling, or both, that:

(1) The parties completed the number of premarital counseling and marital counseling sessions required under this section; and

(2) The authorized counselor who provided premarital counseling discussed the topics required under this section with the parties in their premarital counseling sessions.