

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 or 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 or other infamous crime by the other spouse;
- 3) Physical or sexual abuse of the of the spouse or of a child or either spouse;
- 4) The spouses have lived separate and apart continuously without reconciliation for two years;
- 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 or 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 or support or custody of a child while the spouses are living separate and apart, although not judicially separated.

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 a marriage license.