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JUDICIARY

HOUSE FILE 23
BY TYRRELL

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing covenant marriages and providing an effective
2 date.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 595.3B COVENANT MARRIAGE --
2 APPLICATION FORM.

3 1. The county registrar shall provide each applicant for a
4 marriage license with a copy of the informational pamphlet on
5 covenant marriage prepared by the office of the attorney
6 general pursuant to section 595A.6.

7 2. In addition to any other information contained in an
8 application form for a marriage license, the application form
9 shall contain a place to acknowledge, over the signature of
10 both parties to the marriage, the awareness of the parties of
11 the option to designate their marriage as a covenant marriage,
12 and the intent of the parties to designate their marriage as a
13 covenant marriage or a noncovenant marriage.

14 3. If the parties designate their marriage a covenant
15 marriage, the parties shall also attach a copy of the
16 declaration of intent as provided in section 595A.2.

17 Sec. 2. Section 595.4, Code 2001, is amended by adding the
18 following new unnumbered paragraph:

19 NEW UNNUMBERED PARAGRAPH. A license to marry shall
20 indicate whether the marriage will be designated a covenant
21 marriage.

22 Sec. 3. Section 595.13, Code 2001, is amended to read as
23 follows:

24 595.13 CERTIFICATE -- RETURN.

25 After the marriage has been solemnized, the officiating
26 minister or magistrate shall return the certificate of
27 marriage within fifteen days to the county registrar who
28 issued the marriage license upon the blank provided for that
29 purpose. The certificate of marriage shall indicate whether
30 the marriage is a covenant marriage.

31 Sec. 4. NEW SECTION. 595A.1 COVENANT MARRIAGE -- INTENT
32 -- CONDITIONS TO CREATE.

33 1. A man and woman who intend to enter a covenant marriage
34 shall include this intent on the marriage license application
35 form pursuant to section 595.3B and by executing a declaration

1 of intent to contract a covenant marriage as provided in
2 section 595A.2.

3 2. A covenant marriage is a contract entered into by one
4 man and one woman who understand and agree that the marriage
5 between them is a lifelong relationship, as indicated in the
6 declaration of intent signed by both parties. Parties to a
7 covenant marriage shall receive premarital education prior to
8 entering the covenant marriage which emphasizes the nature and
9 purposes of marriage and the responsibilities of marriage.
10 Only when there has been a complete and total breach of the
11 marital covenant contract shall the nonbreaching party be
12 allowed to seek a declaration that the marriage is no longer
13 legally recognized.

14 3. Parties to a covenant marriage shall receive at least
15 twelve hours of premarital education that is provided by a
16 licensed or ordained minister, or the minister's designee, a
17 person authorized to solemnize marriages under section
18 595.10, or a marital and family therapist licensed pursuant to
19 chapter 154D. The education provided shall include a
20 discussion of the seriousness of marriage and that it is a
21 commitment for life, the teaching of communication skills, the
22 teaching of conflict management skills, and a discussion of
23 the obligation to seek marital counseling in times of marital
24 difficulties.

25 4. The declaration of intent to enter a covenant marriage
26 is aspirational only and a failure by a party to comply with
27 the statements contained in the declaration does not
28 constitute additional grounds for dissolution of a covenant
29 marriage beyond those provided in section 595A.4.

30 Sec. 5. NEW SECTION. 595A.2 COVENANT MARRIAGE --
31 CONTENTS OF DECLARATION OF INTENT.

32 1. A declaration of intent to contract a covenant marriage
33 shall contain all of the following:

34 a. A statement by the parties to the following effect:

35 "We, (names of both parties), solemnly declare our intent

1 to enter into a covenant marriage and we agree to live
2 together as husband and wife as long as we both live. We have
3 chosen each other carefully and voluntarily accept the
4 exclusive grounds for dissolution of a covenant marriage. We
5 have received the required premarital education, which
6 included a discussion of the seriousness of marriage and that
7 it is a commitment for life, the teaching of communication
8 skills, the teaching of conflict management skills, and a
9 discussion of the obligation to seek marital counseling in
10 times of marital difficulties. We have read the pamphlet
11 regarding covenant marriage and understand that a covenant
12 marriage is for life. If either of us experiences serious
13 difficulties with the marriage, we accept the ethical
14 responsibility to inform the other spouse about the extent of
15 those problems in time for corrective action to be taken and
16 will make all reasonable efforts to preserve our marriage,
17 including participation in marital counseling."

18 b. A statement from the person who provided the premarital
19 education to the following effect:

20 "I, (name of provider), confirm that (names of both parties
21 to the marriage) received at least twelve hours of premarital
22 education that complies with Iowa Code section 595A.1. I am a
23 licensed or ordained minister, a person authorized to
24 solemnize marriages under Iowa Code section 595.10 or a
25 marital and family therapist licensed pursuant to Iowa Code
26 chapter 154D."

27 c. (1) The signature of both parties, witnessed by a
28 notary public.

29 (2) If one or both of the parties are minors, the written
30 consent or authorization of those persons required under
31 section 595.2 to consent to or authorize the marriage of
32 minors.

33 2. The declaration of intent shall be prepared in
34 duplicate originals, one of which shall be retained by the
35 parties and the other of which shall be filed with the county

1 registrar.

2 Sec. 6. NEW SECTION. 595A.3 COVENANT MARRIAGE --
3 APPLICABILITY TO EXISTING MARRIAGES.

4 1. On or after January 1, 2002, married parties may
5 designate their marriage as a covenant marriage by executing a
6 declaration of intent in accordance with this section.

7 2. The declaration of intent shall be filed with the
8 county registrar with whom the marriage license of the parties
9 is filed. If the parties were married outside of the state, a
10 copy of the foreign marriage certificate, with the declaration
11 of intent attached, shall be filed with the county registrar
12 in the county in which the parties reside. The county
13 registrar shall make a notation on the marriage certificate of
14 the declaration of intent of a covenant marriage and shall
15 attach a copy of the declaration to the certificate.

16 3. A declaration of intent to designate an existing
17 marriage as a covenant marriage shall contain all of the
18 following:

19 a. A statement by the parties to the following effect:

20 "We, (names of both parties), solemnly declare that our
21 marriage is a covenant marriage and we agree to live together
22 as husband and wife as long as we both live. We voluntarily
23 accept the exclusive grounds for dissolution of a covenant
24 marriage. We have received the required marital education,
25 which included a discussion of the obligation to seek marital
26 counseling in times of marital difficulties and an explanation
27 of the exclusive grounds for dissolving a covenant marriage.
28 We have read the informational pamphlet regarding covenant
29 marriage and understand that a covenant marriage is for life.
30 If either of us experiences serious difficulties with the
31 marriage, we accept the ethical responsibility to inform the
32 other spouse about the extent of those problems in time for
33 corrective action to be taken and will make all reasonable
34 efforts to preserve our marriage, including participation in
35 marital counseling. With full knowledge of what this

1 commitment means, we declare that our marriage will be bound
2 by the state law on covenant marriage and we promise to love,
3 honor, and care for one another as husband and wife for the
4 rest of our lives."

5 b. A statement from the person who provided the marital
6 education to the following effect:

7 "I, (name of provider), confirm that (names of both parties
8 to the marriage) received marital education that complies with
9 Iowa Code section 595A.3. I am a licensed or ordained
10 minister, a person authorized to solemnize marriages under
11 Iowa Code section 595.10 or a marital and family therapist
12 licensed pursuant to Iowa Code chapter 154D."

13 c. The signature of both parties, witnessed by a notary
14 public.

15 4. The marital education provided to parties to a marriage
16 who wish to designate their marriage as a covenant marriage
17 shall be provided by a licensed or ordained minister, a person
18 authorized to solemnize marriages under section 595.10, or a
19 marital and family therapist licensed pursuant to chapter
20 154D. The education provided shall include a discussion of
21 the obligation to seek marital counseling in times of marital
22 difficulties and an explanation of the exclusive grounds for
23 dissolution of a covenant marriage. The educator shall
24 provide the parties with the informational pamphlet on
25 covenant marriage developed by the office of the attorney
26 general pursuant to section 595A.6.

27 Sec. 7. NEW SECTION. 595A.4 DISSOLUTION AND SEPARATE
28 MAINTENANCE IN A COVENANT MARRIAGE -- EXCLUSIVE GROUNDS.

29 1. Notwithstanding any other law to the contrary, and
30 subsequent to the parties obtaining marital counseling, a
31 party to a covenant marriage may obtain an order of separate
32 support and maintenance or a dissolution of marriage, only
33 upon proof of any of the following:

- 34 a. The other party has committed adultery.
- 35 b. The other party has committed a felony and has been

1 sentenced to imprisonment.

2 c. The other party has abandoned the matrimonial domicile
3 for a period of one year and refuses to return.

4 d. The other party has physically or sexually abused the
5 party seeking the order or dissolution or a child of one of
6 the parties.

7 e. The parties have been living separate and apart
8 continuously without reconciliation for a period of two years.

9 2. In all proceedings for separate support and maintenance
10 or dissolution of marriage pursuant to subsection 1, the court
11 shall order the parties to complete at least twelve hours of
12 marital counseling that involves both parties and emphasizes
13 the principles of reconciliation. The court may require the
14 parties to pay an equal share of the costs of the counseling
15 or may apportion the cost between the parties based on the
16 ability to pay. The counseling shall be provided by a
17 licensed or ordained minister or the minister's designee, a
18 person authorized to solemnize a marriage pursuant to section
19 595.10, or a marital and family therapist licensed pursuant to
20 chapter 154D. The court may waive all or part of the
21 counseling requirement to the extent the parties have already
22 received the required twelve hours of marital education within
23 one year of the petition for separate support and maintenance
24 or dissolution of marriage.

25 Sec. 8. NEW SECTION. 595A.5 COVENANT MARRIAGE -- OTHER
26 APPLICABLE LAWS.

27 1. A covenant marriage shall be governed by all of the
28 nonconflicting provisions of chapter 595.

29 2. A dissolution of or order of separate support and
30 maintenance relating to a covenant marriage shall be governed
31 by all of the nonconflicting provisions of chapter 598.

32 Sec. 9. NEW SECTION. 595A.6 ATTORNEY GENERAL --
33 PAMPHLET.

34 Prior to July 1, 2001, the office of the attorney general
35 shall develop an informational pamphlet entitled "Covenant

1 Marriage Option" which shall outline in sufficient detail the
2 requirements for entering into a covenant marriage or
3 designating an existing marriage as a covenant marriage, the
4 implications of entering into a covenant marriage or
5 designating an existing marriage as a covenant marriage, the
6 grounds for dissolution of a covenant marriage, and the legal
7 differences between a covenant marriage and a noncovenant
8 marriage. The informational pamphlet shall be made available
9 to all offices of the county registrar and to all persons who
10 provide premarital and marital education under this chapter.

11 Sec. 10. EFFECTIVE DATE. The section of this Act creating
12 section 595A.6 relating to the pamphlet developed by the
13 attorney general, being deemed of immediate importance, takes
14 effect upon enactment.

15 EXPLANATION

16 This bill establishes the procedure and requirements for a
17 covenant marriage. The bill requires the county registrar to
18 provide each applicant for a marriage license with an
19 informational pamphlet on covenant marriage, prepared by the
20 office of the attorney general. The bill requires the
21 application form for a marriage license to include a place for
22 the parties to indicate that they have been informed of the
23 option to designate the marriage a covenant marriage, and to
24 indicate, with their signatures, their intent to designate
25 their marriage a covenant marriage or a noncovenant marriage.
26 If the parties designate their marriage a covenant marriage,
27 they are to attach a copy of the declaration of their intent
28 to the marriage license application. The license to marry and
29 the certificate of marriage are also to indicate whether the
30 marriage is designated a covenant marriage.

31 The bill describes a covenant marriage, requires that the
32 parties to a covenant marriage complete at least 12 hours of
33 premarital education, and provides that the declaration of
34 intent to enter a covenant marriage is aspirational and
35 failure of a party to comply with the statements included in

1 the declaration does not provide additional grounds for
2 dissolution beyond those provided in the bill.

3 The bill specifies the contents of the declaration of
4 intent and requires a statement relating to the intent of the
5 parties to designate their marriage as a covenant marriage,
6 requires a statement from the person who provided the
7 premarital education relating to confirmation of the
8 completion by the parties of the required education, and
9 requires the signature of each party, or if one or both of the
10 parties are minors, the written consent or authorization of
11 those persons designated by law to provide consent or
12 authorization. The declaration of intent is to be prepared in
13 duplicate originals with one original being retained by the
14 parties and one original being filed with the county
15 registrar.

16 The bill also provides a procedure for parties to an
17 existing marriage to designate their marriage as a covenant
18 marriage, similar to the procedure established for entering
19 into a marriage.

20 The bill provides the exclusive grounds for obtaining
21 separate support and maintenance under or dissolution of a
22 covenant marriage which include: that a party commits
23 adultery, commits a felony and is imprisoned, abandons the
24 matrimonial domicile for one year and refuses to return,
25 physically or sexually abuses the other party or a child of
26 one of the parties, or is living separate and apart
27 continuously without reconciliation for a period of two years.
28 In all proceedings for separate support and maintenance or
29 dissolution based on a covenant marriage, the court is to
30 order the parties to complete at least 12 hours of marital
31 counseling. The court may waive the requirement to the extent
32 that the parties have already completed other required
33 education.

34 The bill provides that nonconflicting provisions of the
35 marriage chapter (Code chapter 595) and the dissolution

1 chapter (Code chapter 598) apply to covenant marriages.
2 The bill directs the office of the attorney general to
3 develop a pamphlet entitled "Covenant Marriage Option" to
4 outline the requirements of a covenant marriage, the
5 implications of entering into a covenant marriage, the grounds
6 for dissolution of a covenant marriage, and the legal
7 differences between covenant and noncovenant marriages. The
8 pamphlet is to be available at the offices of the county
9 registrar and to all persons who provide premarital and
10 marital education. This section of the bill takes effect upon
11 enactment.

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