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JUDICIARY

HOUSE FILE 2082
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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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HF 2082

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 1999, 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 1999, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. 3. Indicate in the certificate whether
25 the marriage is a covenant marriage.

26 Sec. 4. NEW SECTION. 595A.1 COVENANT MARRIAGE -- INTENT
27 -- CONDITIONS TO CREATE.

28 1. A man and woman who intend to enter a covenant marriage
29 shall include this intent on the marriage license application
30 form pursuant to section 595.3B and by executing a declaration
31 of intent to contract a covenant marriage as provided in
32 section 595A.2.

33 2. A covenant marriage is a contract entered into by one
34 man and one woman who understand and agree that the marriage
35 between them is a lifelong relationship, as indicated in the

1 declaration of intent signed by both parties. Parties to a
2 covenant marriage shall receive premarital education prior to
3 entering the covenant marriage which emphasizes the nature and
4 purposes of marriage and the responsibilities of marriage.
5 Only when there has been a complete and total breach of the
6 marital covenant contract shall the nonbreaching party be
7 allowed to seek a declaration that the marriage is no longer
8 legally recognized.

9 3. Parties to a covenant marriage shall receive at least
10 twelve hours of premarital education that is provided by a
11 licensed or ordained minister, or the minister's designee, a
12 person authorized to solemnize marriages under section
13 595.10, or a marital and family therapist licensed pursuant to
14 chapter 154D. The education provided shall include a
15 discussion of the seriousness of marriage and that it is a
16 commitment for life, the teaching of communication skills, the
17 teaching of conflict management skills, and a discussion of
18 the obligation to seek marital counseling in times of marital
19 difficulties.

20 4. The declaration of intent to enter a covenant marriage
21 is aspirational only and a failure by a party to comply with
22 the statements contained in the declaration does not
23 constitute additional grounds for dissolution of a covenant
24 marriage beyond those provided in section 595A.4.

25 Sec. 5. NEW SECTION. 595A.2 COVENANT MARRIAGE --
26 CONTENTS OF DECLARATION OF INTENT.

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

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

30 "We, (names of both parties), solemnly declare our intent
31 to enter into a covenant marriage and we agree to live
32 together as husband and wife as long as we both live. We have
33 chosen each other carefully and voluntarily accept the
34 exclusive grounds for dissolution of a covenant marriage. We
35 have received the required premarital education, which

1 included a discussion of the seriousness of marriage and that
2 it is a commitment for life, the teaching of communication
3 skills, the teaching of conflict management skills, and a
4 discussion of the obligation to seek marital counseling in
5 times of marital difficulties. We have read the pamphlet
6 regarding covenant marriage and understand that a covenant
7 marriage is for life. If either of us experiences serious
8 difficulties with the marriage, we accept the ethical
9 responsibility to inform the other spouse about the extent of
10 those problems in time for corrective action to be taken and
11 will make all reasonable efforts to preserve our marriage,
12 including participation in marital counseling."

13 b. A statement from the person who provided the premarital
14 education to the following effect:

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

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

24 (2) If one or both of the parties are minors, the written
25 consent or authorization of those persons required under
26 section 595.2 to consent to or authorize the marriage of
27 minors.

28 2. The declaration of intent shall be prepared in
29 duplicate originals, one of which shall be retained by the
30 parties and the other of which shall be filed with the county
31 registrar.

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

34 1. On or after January 1, 2001, married parties may
35 designate their marriage as a covenant marriage by executing a

1 declaration of intent in accordance with this section.

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

11 3. A declaration of intent to designate an existing
12 marriage as a covenant marriage shall contain all of the
13 following:

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

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

35 b. A statement from the person who provided the marital

1 education to the following effect:

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

8 c. The signature of both parties, witnessed by a notary
9 public.

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

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

24 1. Notwithstanding any other law to the contrary, and
25 subsequent to the parties obtaining marital counseling, a
26 party to a covenant marriage may obtain an order of separate
27 support and maintenance or a dissolution of marriage, only
28 upon proof of any of the following:

29 a. The other party has committed adultery.

30 b. The other party has committed a felony and has been
31 sentenced to imprisonment.

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

34 d. The other party has physically or sexually abused the
35 party seeking the order or dissolution or a child of one of

1 the parties.

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

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

20 Sec. 8. NEW SECTION. 595A.5 COVENANT MARRIAGE -- OTHER
21 APPLICABLE LAWS.

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

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

27 Sec. 9. NEW SECTION. 595A.6 ATTORNEY GENERAL --
28 PAMPHLET.

29 Prior to July 1, 2000, the office of the attorney general
30 shall develop an informational pamphlet entitled "Covenant
31 Marriage Option" which shall outline in sufficient detail the
32 requirements for entering into a covenant marriage or
33 designating an existing marriage as a covenant marriage, the
34 implications of entering into a covenant marriage or
35 designating an existing marriage as a covenant marriage, the

1 grounds for dissolution of a covenant marriage, and the legal
2 differences between a covenant marriage and a noncovenant
3 marriage. The informational pamphlet shall be made available
4 to all offices of the county registrar and to all persons who
5 provide premarital and marital education under this chapter.

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

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EXPLANATION

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

26 The bill describes a covenant marriage, requires that the
27 parties to a covenant marriage complete at least 12 hours of
28 premarital education, and provides that the declaration of
29 intent to enter a covenant marriage is aspirational and
30 failure of a party to comply with the statements included in
31 the declaration does not provide additional grounds for
32 dissolution beyond those provided in the bill.

33 The bill specifies the contents of the declaration of
34 intent and requires a statement relating to the intent of the
35 parties to designate their marriage as a covenant marriage,

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

11 The bill also provides a procedure for parties to an
12 existing marriage to designate their marriage as a covenant
13 marriage, similar to the procedure established for entering
14 into a marriage.

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

29 The bill provides that nonconflicting provisions of the
30 marriage chapter (Code chapter 595) and the dissolution
31 chapter (Code chapter 598) apply to covenant marriages.

32 The bill directs the office of the attorney general to
33 develop a pamphlet entitled "Covenant Marriage Option" to
34 outline the requirements of a covenant marriage, the
35 implications of entering into a covenant marriage, the grounds

1 for dissolution of a covenant marriage, and the legal
2 differences between covenant and noncovenant marriages. The
3 pamphlet is to be available at the offices of the county
4 registrar and to all persons who provide premarital and
5 marital education. This section of the bill takes effect upon
6 enactment.

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**HOUSE FILE 2082
FISCAL NOTE**

A fiscal note for House File 2082 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2082 establishes the procedure and requirements for a covenant marriage. The Bill requires the county registrar to provide each applicant for a marriage license with an informational pamphlet on covenant marriage, prepared by the Office of the Attorney General. House File 2082 requires that the parties to a covenant marriage complete at least 12 hours of premarital education. The Court shall order parties to a covenant marriage, who are seeking a dissolution, to complete at least 12 hours of marriage counseling. The counseling shall be provided by a licensed or ordained minister, or designee, justices, judges, and magistrates, or a licensed marital and family therapist. House File 2082 provides a procedure for an existing marriage to be designated a covenant marriage. The Bill provides the exclusive grounds for obtaining support and maintenance or dissolution of a covenant marriage.

ASSUMPTIONS

1. House File 2082 provides that a covenant marriage is discretionary on the part of the applicants.
2. County Recorder's Offices are required to perform additional duties. These duties include providing the Covenant Marriage Option pamphlet, and explaining the procedures for a covenant marriage, to each marriage applicant; reformatting the marriage application; and additional record storage requirements.
3. Any costs of the required counseling shall be paid by the marriage applicants or the parties seeking dissolution of the marriage.
4. There are approximately 23,000 applications for marriage annually.
5. The Office of the Attorney General is required to provide a Covenant Marriage Option pamphlet to county registrars, ministers, marriage and family counselors, justices, judges, and magistrates.
6. There will be 50,000 pamphlets distributed annually.
7. The exclusions under which a covenant marriage may be dissolved will prevent stipulated divorces.

FISCAL IMPACT

The General Fund fiscal impact of House File 2082 is approximately \$10,000 annually for the Office of the Attorney General to print and distribute the "Covenant Marriage Option" pamphlet. This cost only includes pamphlets printed in English.

Parties to a covenant marriage who are seeking dissolution will be required to appear in District Court. This provision may result in more trials at the District Court level. However, since the covenant marriage provision is

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optional, it is not possible to estimate the number of covenant marriages which will be dissolved.

House File 2082 may also result in increased workloads in County Recorder's Offices. Staff will spend more time with each applicant for a covenant marriage, and the Office may incur additional records storage costs. Because it is not known how many covenant marriage applications will be filed in each county, the fiscal impact to County Recorder's Offices cannot be determined.

SOURCES

Office of the Attorney General
State Court Administrator's Office
Department of Public Health
Polk County Recorder Office
Story County Recorder Office
Jasper County Recorder Office

(LSB 5738hh, BAL)

FILED FEBRUARY 16, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR