

SENATE FILE 216
BY SCHUERER

Passed Senate, Date _____ Passed House, 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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SF 216
HUMAN RESOURCES

1 Section 1. Section 331.602, Code 2003, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 39A. Record all declarations of intent
4 pursuant to chapter 595A that are presented to the recorder's
5 office for recordation, upon payment of a fee in accordance
6 with section 331.604.

7 Sec. 2. NEW SECTION. 595.3B CERTIFICATE OF MARRIAGE --
8 COVENANT MARRIAGE DESIGNATION.

9 In addition to any other information contained in a
10 certificate of marriage, the certificate of marriage shall
11 include a section to allow the parties to designate the
12 marriage as a covenant marriage.

13 Sec. 3. NEW SECTION. 595.3C COVENANT MARRIAGE --
14 INFORMATION PAMPHLET.

15 The county registrar shall provide each applicant for a
16 marriage license with a copy of the informational pamphlet on
17 covenant marriage prepared by the office of the attorney
18 general pursuant to section 595A.6.

19 Sec. 4. NEW SECTION. 595.14 COVENANT MARRIAGE --
20 DECLARATION RETURN.

21 If the parties wish to designate the marriage a covenant
22 marriage, after the marriage has been solemnized, the
23 officiating minister or magistrate shall return the completed
24 certificate of marriage with the section designating the
25 marriage as a covenant marriage clearly indicated to the
26 county registrar in the county in which the parties applied
27 for a license to marry, within fifteen days of the
28 solemnization. Additionally, the parties to the marriage
29 shall record the declaration of intent with the county
30 recorder in the county in which the parties applied for the
31 license to marry, and shall pay the fee in accordance with
32 section 331.604.

33 Sec. 5. NEW SECTION. 595A.1 COVENANT MARRIAGE -- INTENT
34 -- CONDITIONS TO CREATE.

35 1. A man and woman who intend to enter a covenant marriage

1 shall execute a declaration of intent to contract a covenant
2 marriage as provided in 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. 6. 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 returned to the county

1 recorder of the county in which the parties applied for a
2 license to marry.

3 Sec. 7. NEW SECTION. 595A.3 COVENANT MARRIAGE --
4 APPLICABILITY TO EXISTING MARRIAGES.

5 1. On or after January 1, 2004, married parties may
6 designate their marriage as a covenant marriage by executing a
7 declaration of intent in accordance with this section and by
8 complying with the other requirements of this chapter.

9 2. The married parties wishing to designate their marriage
10 as a covenant marriage shall record a duplicate original of
11 the declaration of intent with the county recorder in the
12 county in which the parties reside and shall pay the fee in
13 accordance with section 331.604. The county recorder shall
14 make a notation on the declaration of intent identifying the
15 source of issuance of the original marriage license of the
16 parties.

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

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

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

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

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

8 "I, (name of provider), confirm that (names of both parties
9 to the marriage) received marital education that complies with
10 Iowa Code section 595A.1. I am a licensed or ordained
11 minister, a person authorized to solemnize marriages under
12 Iowa Code section 595.10 or a marital and family therapist
13 licensed pursuant to Iowa Code chapter 154D."

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

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

29 Sec. 8. NEW SECTION. 595A.4 DISSOLUTION OF A COVENANT
30 MARRIAGE -- EXCLUSIVE GROUNDS.

31 1. Notwithstanding any other law to the contrary, and
32 subsequent to the parties obtaining marital counseling, a
33 party to a covenant marriage may obtain a dissolution of
34 marriage, only upon proof of any of the following:

35 a. The other party has committed adultery.

1 b. The other party has committed a felony and has been
2 sentenced to imprisonment.

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

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

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

10 2. In all proceedings for dissolution of marriage pursuant
11 to subsection 1, the court may issue an order of temporary
12 support and maintenance during the pendency of the
13 proceedings. Notwithstanding the time period requirements of
14 the grounds specified pursuant to subsection 1, paragraph "c"
15 or "e", a party to a covenant marriage may petition the court
16 for separate support and maintenance prior to the elapsing of
17 the specified time period.

18 3. In all proceedings for dissolution of marriage pursuant
19 to subsection 1, the court shall order the parties to complete
20 at least twelve hours of marital counseling that involves both
21 parties and emphasizes the principles of reconciliation. The
22 court may require the parties to pay an equal share of the
23 costs of the counseling or may apportion the cost between the
24 parties based on the ability to pay. The counseling shall be
25 provided by a licensed or ordained minister or the minister's
26 designee, a person authorized to solemnize a marriage pursuant
27 to section 595.10, or a marital and family therapist licensed
28 pursuant to chapter 154D. The court may waive all or part of
29 the counseling requirement to the extent the parties have
30 already received the required twelve hours of marital
31 education within one year of the petition for dissolution of
32 marriage.

33 Sec. 9. NEW SECTION. 595A.5 COVENANT MARRIAGE -- OTHER
34 APPLICABLE LAWS.

35 1. A covenant marriage shall be governed by all of the

1 nonconflicting provisions of chapter 595.

2 2. A dissolution of a covenant marriage shall be governed
3 by all of the nonconflicting provisions of chapter 598.

4 Sec. 10. NEW SECTION. 595A.6 ATTORNEY GENERAL --
5 PAMPHLET.

6 Prior to July 1, 2003, the office of the attorney general
7 shall develop an informational pamphlet entitled "Covenant
8 Marriage Option" which shall outline in sufficient detail the
9 requirements for entering into a covenant marriage or
10 designating an existing marriage as a covenant marriage, the
11 implications of entering into a covenant marriage or
12 designating an existing marriage as a covenant marriage, the
13 grounds for dissolution of a covenant marriage, and the legal
14 differences between a covenant marriage and a noncovenant
15 marriage. The informational pamphlet shall be made available
16 to all offices of the county registrar and to all persons who
17 provide premarital and marital education under this chapter.

18 Sec. 11. EFFECTIVE DATE. The section of this Act enacting
19 section 595A.6 relating to the pamphlet to be developed by the
20 attorney general, being deemed of immediate importance, takes
21 effect upon enactment.

22 EXPLANATION

23 This bill establishes the procedure and requirements for a
24 covenant marriage. The bill requires the county registrar to
25 provide each applicant for a marriage license with an
26 informational pamphlet on covenant marriage, prepared by the
27 office of the attorney general. The bill requires the
28 certificate of marriage to include a place to allow the
29 parties to designate the marriage as a covenant marriage.
30 After the marriage is solemnized, the officiating minister or
31 magistrate is directed to return the completed certificate of
32 marriage with the section designating the marriage a covenant
33 marriage clearly indicated to the county registrar in the
34 county in which the parties applied for a license to marry,
35 within 15 days of the solemnization. Additionally, the

1 parties are directed to record the declaration of intent with
2 the county recorder in the county in which the parties applied
3 for the license to marry.

4 The bill describes a covenant marriage, requires that the
5 parties to a covenant marriage complete at least 12 hours of
6 premarital education, and provides that the declaration of
7 intent to enter a covenant marriage is aspirational and
8 failure of a party to comply with the statements included in
9 the declaration does not provide additional grounds for
10 dissolution beyond those provided in the bill.

11 The bill specifies the contents of the declaration of
12 intent and requires a statement relating to the intent of the
13 parties to designate their marriage as a covenant marriage,
14 requires a statement from the person who provided the
15 premarital education relating to confirmation of the
16 completion by the parties of the required education, and
17 requires the signature of each party, or if one or both of the
18 parties are minors, the written consent or authorization of
19 those persons designated by law to provide consent or
20 authorization. The declaration of intent is to be prepared in
21 duplicate originals with one original being retained by the
22 parties and one original being filed with the county recorder
23 in the county in which the parties applied for the license to
24 marry.

25 The bill also provides a procedure for parties to an
26 existing marriage on or after January 1, 2004, to designate
27 their marriage as a covenant marriage.

28 The bill provides the exclusive grounds for obtaining a
29 dissolution of a covenant marriage which include: that a
30 party commits adultery, commits a felony and is imprisoned,
31 abandons the matrimonial domicile for one year and refuses to
32 return, physically or sexually abuses the other party or a
33 child of one of the parties, or is living separate and apart
34 continuously without reconciliation for a period of two years.
35 In all proceedings for dissolution based on a covenant

1 marriage, the court is to order the parties to complete at
2 least 12 hours of marital counseling. The court may waive the
3 requirement to the extent that the parties have already
4 completed other required education.

5 The bill provides that nonconflicting provisions of the
6 marriage chapter (Code chapter 595) and the dissolution
7 chapter (Code chapter 598) apply to covenant marriages.

8 The bill directs the office of the attorney general, prior
9 to July 1, 2003, to develop a pamphlet entitled "Covenant
10 Marriage Option" to outline the requirements of a covenant
11 marriage, the implications of entering into a covenant
12 marriage, the grounds for dissolution of a covenant marriage,
13 and the legal differences between covenant and noncovenant
14 marriages. The pamphlet is to be available at the offices of
15 the county registrar and to all persons who provide premarital
16 and marital education. This section of the bill takes effect
17 upon enactment.

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