

Covenant Marriage: A Fact Sheet

Examining covenant marriage and its take up rate in the states that have enacted it

Background

Marriage is a long held tradition in many cultures. It is the legal and/or often religious ceremony joining two people in the eyes of a family, religion and/or government. Traditionally, marriage is “until death do us part.” However, it is a social contract that can be broken. Before 1970, getting a divorce meant proving that one spouse had done something wrong or had acted in a way that caused the breakdown of the marriage. Someone had to be at “fault,” which meant that grounds for the divorce had to be established. Such grounds might have included adultery, physical or mental abuse, abandonment, confinement or holding against one’s will, insanity and the inability to be intimate with your spouse. No-fault divorce laws took away the need to prove any of those issues. By 1983, most states had adopted this type of divorce. Born of these laws was the concept of unilateral divorce: either partner feeling the urge to end the marriage

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could do so. These laws, in conjunction with other social shifts, led to sharp increases of divorce rates in the 1980s.

As the public came to understand that half of marriages end in divorces, a movement to restore a traditional model of lifelong monogamous marriages and reduce divorce began in the 1990s. Covenant marriage is an approach to divorce reform that allows couples to opt for a marriage that is more difficult to end than the “standard” marriage granted in most states. It is completely voluntary, only available in a few states, and somewhat controversial. This Fact Sheet examines what is known about covenant marriage and its take up rate in the states that have enacted it.



Definitions

Marriage is generally a legal contract entered into between two consenting adults with rights and obligations governed by state law. Requirements for marriage vary from state to state, but usually establish the

age at which one can marry and require a marriage license from a county court clerk in the state in which a couple plans to be married.ⁱ Premarital counseling/preparation is not required to enter into a marriage, however, it may be encouraged by the state and/or required by the officiate performing the marriage.

Divorce is the legal dissolution of a marriage contract. Many states have enacted no-fault divorce statutes. Nevertheless, in some states, to grant a divorce the court must only find 1) that the relationship is no longer viable, 2) that irreconcilable differences have caused an irremediable breakdown of the marriage, 3) that discord or conflict of personalities have destroyed the legit ends of the marital relationship and prevented any reasonable possibility of reconciliation, or 4) that the marriage is irretrievably broken.ⁱⁱ

Covenant Marriage is a legally distinct kind of marriage, in which the marrying couple agrees to obtain pre-marital counseling and accept more limited grounds for divorce.

Cause for divorce is typically limited to abuse, a felony with jail time, or adultery. Those couples who wish to enter a covenant marriage must receive premarital counseling from a member of the clergy or a professional licensed by the state and provide a notarized statement. Likewise, couples who are seeking divorce in a covenant marriage are mandated to seek marriage counseling.ⁱⁱⁱ

No-Fault Divorce is a divorce in which neither spouse needs to prove spousal misconduct to dissolve the marriage. Either party can state a “no fault divorce” in the petition by just declaring that the marriage is not workable or is incompatible.^{iv}

Headlines/Trends

In 1997, the first covenant marriage law was passed by the Louisiana legislature. Subsequently, the states

of Arizona and Arkansas passed very similar legislation (in 1998 and 2001, respectively). Similar legislation has been introduced in 21 other states, but has not to date passed.^v

The overarching goals of covenant marriage are to strengthen marriage by requiring premarital counseling, reform divorce by requiring proof of spousal misconduct and necessitate marriage counseling prior to the dissolution of the marriage. It also seeks to protect a spouse who desires to preserve the marriage by lengthening the waiting period for divorce.^{vi}

Proponents of this policy believe that divorce should be consensual and that marriage should be strengthened (legally). It is argued that covenant marriage’s counseling requirements and divorce waiting period will give couples time to reconcile and fully engage in therapy to address marital problems. Ultimately, proponents contend, this will lead to better child outcomes and more secure marriages. Legal scholars argue that, because it is a less drastic type of divorce reform, it is more politically palatable.^{vii} Further, many conservatives like the public symbolism of covenant marriage.^{viii}

There is opposition to covenant marriage from both sides of the political spectrum. Some conservatives maintain that opening the door to a second legal framework for forming a marriage will allow more forms of marriage (like same-sex marriage). Liberals are concerned that the courts will regress to the “fault” days of divorce when legal battles were ugly and perjury was widespread. Liberals also warn that making divorce more difficult may make it difficult for an abused spouse to leave a violent marriage. Those who oppose this category of marriage fear that it will stigmatize conventional marriage, ultimately weakening the institution.^{ix} The Catholic Church’s reservation about the policy included fear that it implies standard marriages are inferior, because all marriages are a covenant.^x

Data

Researchers have begun to assess attitudes and beliefs about covenant marriage and whether or not it leads to fewer divorces. They have found that couples who choose covenant marriage already may be at substantially less risk for divorce because of the circumstances, characteristics and attitudes they bring to the marriage.^{xi}

- Rates of couples who choose covenant marriage are similar in Louisiana, Arizona and Arkansas. In its first year, only 1% of Louisiana marriages were covenant. Today, nearly 13 years later, the total has edged to 2%. In 1997, when covenant marriage became law, 13,836 divorces were granted in Louisiana. In 2003 (the most recent year for which statistics are available), the divorce total was 15,230.
- In Arkansas, during the first year that covenant marriage was offered (August 2001-August 2002), 71 of 38,000 marriages were covenant including 14 conversions of standard marriages to the covenant form.^{xii} More recent information regarding covenant marriage in Arkansas is limited. In Arizona one-fourth of 1% of newly married couples select covenant marriage.

Attitudes

In order to assess the attitudes about divorce and covenant marriage, a telephone survey was conducted in Arizona, Louisiana and Minnesota (where a covenant marriage bill was introduced in the legislature but did not pass). In Louisiana and Arizona, the surveys were conducted one year after the covenant marriage legislation had passed while in Minnesota,

the interviews were during the time period when the legislature was considering the bill. There were 413 respondents in Arizona, 527 respondents in Louisiana and 384 respondents in Minnesota for a total sample of 1,324 adults. Attitudes about divorce, covenant marriage, gender ideology and demographics were measured.^{xiii}

Researchers found that:

- About six in ten adults (or 62%) of adults agreed that, "Society would be better off if divorce were harder to get."
- Almost twice as many respondents in Minnesota opposed covenant marriage as did respondents in Arizona and Louisiana.
- Individuals who were more religiously active and conservative in their gender-role ideologies and political beliefs were more supportive of covenant marriage; of lesser importance were cohabitation experience, political ideology and race.

Louisiana marriage license applications contain a line that requires the clerk of the court to indicate whether the marriage is to be covenant. Most clerks (53%) expressed some negative sentiment about covenant marriage and equated covenant marriage with a religious movement and were concerned that the law brought religion too closely into a state licensing process.^{xiv}

Covenant marriage has been implemented in three states as an effort to reduce divorce and strengthen marriage. To date, 1 to 3% of couples choose this type of marriage and the policy continues to be controversial.

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