

HOUSE BILL No. 5951

March 11, 2010, Introduced by Reps. McMillin, Paul Scott, Lund, Haveman and Agema and referred to the Committee on Judiciary.

A bill to provide for covenant marriages; to establish the requirements and formalities for entering into a covenant marriage; to limit the ability of a spouse to a covenant marriage to maintain an action against the other spouse; to establish the procedures and requirements for maintaining an action for and obtaining a judgment of separate maintenance or divorce in a covenant marriage; and to provide for the powers and duties of certain state and local governmental officers and agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "covenant marriage act".

3 Sec. 3. (1) A covenant marriage is a marriage entered into by
4 1 male and 1 female who acknowledge that they understand and agree

1 that their marriage is a lifelong relationship.

2 (2) A party to a covenant marriage shall not seek a divorce or
3 separate maintenance unless there has been a complete and total
4 breach of the marital covenant as provided in this act.

5 (3) A man and a woman may contract a covenant marriage by
6 declaring their intent to do so on an application for a marriage
7 license under section 2 of 1887 PA 128, MCL 551.102, and executing
8 a declaration of intent to contract a covenant marriage under
9 section 5.

10 (4) A declaration of intent under section 5 that is completed
11 as provided in this act shall be given to the individual
12 officiating at the marriage, who shall deliver it to the county
13 clerk with the completed marriage license as provided in section 3
14 of 1887 PA 128, MCL 551.103.

15 (5) A covenant marriage is governed by all of the laws of this
16 state relating to marriage and divorce, except as otherwise
17 specifically provided in this act.

18 Sec. 5. A declaration of intent to contract a covenant
19 marriage shall consist of a recitation signed by both parties that
20 contains substantially the following language:

21 "We solemnly declare that marriage is a covenant between a man
22 and a woman who agree to live together as husband and wife for so
23 long as they both may live. We have chosen each other carefully and
24 disclosed to one another everything that could adversely affect the
25 decision to enter into this marriage. We have read the covenant
26 marriage act, and we understand that a covenant marriage is for
27 life. If we experience marital difficulties, we commit ourselves to

1 take all reasonable efforts to preserve our marriage.

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

6 Sec. 7. (1) A man and woman who are married, on submission of
7 a copy of their marriage certificate, which need not be certified,
8 may execute a declaration of intent to designate the marriage as a
9 covenant marriage to be governed by this act.

10 (2) A declaration of intent to redesignate a marriage as a
11 covenant marriage shall consist of a recitation by the parties
12 under section 5.

13 (3) A declaration of intent under this section shall be filed
14 with the clerk of the county in which the couple resides.

15 Sec. 9. (1) A spouse to a covenant marriage may obtain a
16 judgment of divorce only if proof of 1 or more of the following are
17 presented to the court:

18 (a) The other spouse has committed adultery.

19 (b) The other spouse has committed a felony.

20 (c) The other spouse has physically or sexually abused the
21 spouse seeking the divorce or a child of 1 or both of the spouses.

22 (d) The spouses have been living separate and apart
23 continuously without reconciliation for a period of at least 2
24 years.

25 (e) One of the following:

26 (i) If there is no minor child of the marriage, subject to
27 subparagraph (iii), the spouses have been living separate and apart

1 continuously without reconciliation for a period of at least 2
2 years from the date a judgment of separate maintenance was entered.

3 (ii) If there is a minor child of the marriage, subject to
4 subparagraph (iii), the spouses have been living separate and apart
5 continuously without reconciliation for a period of at least 2
6 years and 6 months from the date a judgment of separate maintenance
7 was entered.

8 (iii) If abuse of a child of 1 or both of the spouses is the
9 basis for which the judgment of separate maintenance was obtained,
10 the spouses have been living separate and apart continuously
11 without reconciliation for a period of at least 1 year from the
12 date a judgment of separate maintenance was entered.

13 (2) A spouse to a covenant marriage may obtain a judgment of
14 separate maintenance only if proof of 1 or more of the following
15 are presented to the court:

16 (a) The other spouse has committed adultery.

17 (b) The other spouse has committed a felony and has been
18 sentenced to death or imprisonment.

19 (c) The other spouse has physically or sexually abused the
20 spouse seeking the separate maintenance or divorce or a child of 1
21 or both of the spouses.

22 (d) The spouses have been living separate and apart
23 continuously without reconciliation for a period of at least 2
24 years.

25 (e) One of the following applies:

26 (i) The other spouse has been addicted to habitual drunkenness
27 for 1 year.

1 (ii) The other spouse has treated the spouse seeking separate
2 maintenance to such cruel and barbarous treatment as to endanger
3 the life of the spouse seeking separate maintenance.

4 (iii) The other spouse has offered such indignities to the
5 person of the spouse seeking separate maintenance as to render his
6 or her condition intolerable.

7 Sec. 11. (1) A spouse in a covenant marriage shall not bring a
8 civil action against the other spouse unless a judgment of separate
9 maintenance has been entered or 1 of the following applies:

10 (a) The action pertains to a contract.

11 (b) The action is for restitution of separate property.

12 (c) The action is for separate maintenance or divorce.

13 (d) The action is to annul the marriage.

14 (e) The action pertains to spousal support or the support or
15 custody of a child while the spouses are living separate and apart,
16 although a judgment of separate maintenance has not been entered.

17 (2) A court that has jurisdiction of divorce proceedings has
18 jurisdiction of an action for separate maintenance or divorce in a
19 covenant marriage if either of the following applies:

20 (a) One or both of the spouses reside in this state and the
21 ground for separate maintenance or divorce was committed or
22 occurred in this state or while 1 or both of the parties resided in
23 this state.

24 (b) The ground for separate maintenance or divorce occurred
25 elsewhere while either or both of the spouses resided elsewhere, if
26 the spouse seeking the separate maintenance or divorce resided in
27 this state before the ground for separate maintenance or divorce

1 occurred and resides in this state at the time the action is filed.

2 (3) An action for separate maintenance or divorce in a
3 covenant marriage shall be brought in a county where either party
4 resides or in the county where the parties last resided together.
5 The requirements of this subsection may not be waived, and a
6 judgment of separate maintenance or divorce entered by a court of
7 improper venue is void.

8 (4) A judgment of separate maintenance or divorce shall not be
9 granted in a covenant marriage unless the action is heard in open
10 court and proofs taken.

11 (5) In an action for separate maintenance or divorce in a
12 covenant marriage, or in postjudgment proceedings, a court may
13 award a spouse all relief afforded in other actions in this state
14 for separate maintenance or divorce, as applicable, including, as
15 applicable, spousal support, child custody, parenting time, child
16 support, injunctive relief, and the division of property.

17 Sec. 13. The state court administrative office shall
18 promulgate and make available to the public an informational
19 pamphlet, entitled "Michigan's covenant marriage act", that
20 outlines in sufficient detail the requirements for and consequences
21 of entering into a covenant marriage under this act.

22 Enacting section 1. This act does not take effect unless all
23 of the following bills of the 95th Legislature are enacted into
24 law:

25 (a) Senate Bill No. ____ or House Bill No. 5950 (request no.
26 03475'09 a *).

27 (b) Senate Bill No. ____ or House Bill No. 5949 (request no.

1 03475'09 b *).