

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 231

H.P. 169

House of Representatives, January 11, 1999

An Act to Initiate Covenant Marriage in the State.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SNOWE-MELLO of Poland.
Cosponsored by Senator CAREY of Kennebec and
Representatives: AHEARNE of Madawaska, DESMOND of Mapleton, JOY of Crystal,
KASPRZAK of Newport, MacDOUGALL of North Berwick, STEDMAN of Hartland,
WESTON of Montville, Senator: BENOIT of Franklin.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 19-A MRSA §651, sub-§2,** as amended by PL 1997, c. 537,
§12 and affected by §62, is further amended to read:

6 **2. Application.** The parties wishing to record notice of
their intentions of marriage shall submit an application for
8 recording notice of their intentions of marriage. If the parties
wish to create a covenant marriage, the application must include
10 the declaration of intent for a covenant marriage as provided in
section 671. The application must include a signed certification
12 that the information recorded on the application is correct and
that the applicant is free to marry according to the laws of this
14 State. The applicant's signature must be acknowledged before an
official authorized to take oaths. Applications recording notice
16 of intentions to marry must be open for public inspection in the
office of the clerk. When the application is submitted, the
18 applicant shall provide the clerk with the social security
numbers of the parties. The application must include a statement
20 that the social security numbers of the parties have been
provided to the clerk. The clerk shall record the social
22 security numbers provided by each applicant. The record of the
social security numbers is confidential and is not open for
24 public inspection.

26 **Sec. 2. 19-A MRSA c. 23, sub-c. I-A** is enacted to read:

28 **SUBCHAPTER I-A**

30 **COVENANT MARRIAGE**

32 **§671. Covenant marriage; intent; conditions to create**

34 **1. Covenant marriage.** A covenant marriage is a marriage
entered into by one male and one female who understand and agree
36 that the marriage between them is a lifelong relationship.
Parties to a covenant marriage have received counseling
38 emphasizing the nature and purposes of marriage and the
responsibilities of marriage. Only when there has been a
40 complete and total breach of the marital covenant commitment may
the nonbreaching party seek a declaration that the marriage is no
42 longer legally recognized.

44 **2. Creating a covenant marriage.** A man and woman may
contract a covenant marriage by declaring their intent to do so
46 on their application for a marriage license, as provided in
section 651, and executing a declaration of intent to contract a
48 covenant marriage, as provided in section 672. The application
for a marriage license and the declaration of intent must be
50 filed with the municipal clerk who issues the marriage license.

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§672. Covenant marriage; contents of declaration of intent

1. Declaration of intent. A declaration of intent to contract a covenant marriage must contain the following.

A. A recitation by the parties to the following effect:

"A COVENANT MARRIAGE

We do solemnly declare that marriage is a covenant between a man and a woman who agree to live together as husband and wife for so long as they both may live. We have chosen each other carefully and disclosed to one another everything that could adversely affect the decision to enter into this marriage. We have received premarital counseling on the nature, purposes and responsibilities of marriage. We have read the pamphlet entitled "Covenant Marriage Act" and we understand that a covenant marriage is for life. If we experience marital difficulties, we commit ourselves to take all reasonable efforts to preserve our marriage, including marital counseling.

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

B. An affidavit consisting of the following:

(1) An affidavit by the parties that they have received premarital counseling from a priest, minister, rabbi, clerk of the Religious Society of Friends, any clergy of any religious sect or a marriage counselor. The premarital counseling must include a discussion of the seriousness of covenant marriage, communication of the fact that a covenant marriage is a commitment for life, a discussion of the obligation to seek marital counseling in times of marital difficulties and a discussion of the exclusive grounds for legally terminating a covenant marriage by divorce;

(2) A notarized attestation, signed by the counselor and attached to or included in the parties' affidavit, confirming that the parties were counseled as to the nature and purpose of marriage and the grounds for termination of a marriage and acknowledging that the counselor provided to the parties the informational

2 pamphlet written by the Office of the Attorney General
3 entitled "Covenant Marriage Act," which provides a full
4 explanation of the terms and conditions of a covenant
5 marriage; and

6 (3) The signatures of both parties witnessed by a
7 notary. If one or both of the parties are minors, the
8 written consent or authorization of those persons
9 required under section 652 to consent to or authorize
10 the marriage of minors.

11 2. Contents of declaration of intent. The declaration of
12 intent must contain 2 separate documents, the recitation and the
13 affidavit, including the attestation within the affidavit or
14 attached to the affidavit. The parties shall prepare the
15 recitation in duplicate originals, one of which the parties shall
16 retain and the other, together with the affidavit and
17 attestation, the parties shall file as provided in section 671,
18 subsection 2.

19 **§673. Covenant marriage; applicability to already married couples**

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21 1. Already married couples. On or after January 1, 2000, a
22 married couple may execute a declaration of intent to designate
23 their marriage as a covenant marriage to be governed by this
24 subchapter.

25 2. Filing with clerk of municipality. The declaration of
26 intent in the form and containing the contents required by
27 subsection 3 must be presented to the clerk of the municipality
28 who issued the couple's marriage license and with whom the
29 couple's marriage certificate is filed. For a couple whose
30 marriage was solemnized outside this State, a copy of the
31 marriage certificate, with the declaration of intent attached,
32 must be filed with the clerk of the municipality in which the
33 couple is domiciled. The clerk shall make a notation of the
34 declaration of intent of a covenant marriage on the marriage
35 certificate and attach a copy of the declaration to the
36 certificate.

37 Within 15 days of receiving a declaration of intent as provided
38 in subsection 3, the municipal clerk shall forward to the State
39 Registrar of Vital Statistics the declaration of intent of a
40 covenant marriage filed pursuant to this section.

41 3. Declaration of intent. A declaration of intent to
42 designate a marriage as a covenant marriage must contain the
43 following.

44 A. A recitation by the parties to the following effect:

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"A COVENANT MARRIAGE

We do solemnly declare that marriage is a covenant between a man and a woman who agree to live together as husband and wife for so long as they both may live. We understand the nature, purpose and responsibilities of marriage. We have read the pamphlet entitled "Covenant Marriage Act" and we understand that a covenant marriage is for life. If we experience marital difficulties, we commit ourselves to take all reasonable efforts to preserve our marriage, including marital counseling.

With full knowledge of what this commitment means, we do hereby declare that our marriage will be bound by Maine law on covenant marriage, and we renew our promise to love, honor and care for one another as husband and wife for the rest of our lives."

B. An affidavit consisting of the following:

(1) An affidavit by the parties that they have discussed their intent to designate their marriage as a covenant marriage with a priest, minister, rabbi, clerk of the Religious Society of Friends, any clergy of any religious sect or a marriage counselor, which included a discussion of the obligation to seek marital counseling in times of marital difficulties and the exclusive grounds for legally terminating a covenant marriage by divorce;

(2) A notarized attestation, signed by the counselor and attached to or included in the parties' affidavit, acknowledging that the counselor provided to the parties the informational pamphlet written by the Office of the Attorney General entitled "Covenant Marriage Act," which provides a full explanation of the terms and conditions of a covenant marriage; and

(3) The signature of both parties witnessed by a notary.

4. Contents of declaration of intent. The declaration of intent must contain 2 separate documents, the recitation and the affidavit, including the attestation within the affidavit or attached to the affidavit. The parties shall prepare the recitation in duplicate originals, one of which the parties shall retain and the other, together with the affidavit and attestation, the parties shall file as provided in section 671, subsection 2.

2 **Sec. 3. 19-A MRSA §901, sub-§1**, as enacted by PL 1995, c. 694,
Pt. B, §2 and as affected by Pt. E, §2, is amended to read:

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6 **1. Filing of complaint; grounds.** A person seeking a
divorce may file a complaint for divorce in the Superior Court or
the District Court if:

8 A. The plaintiff has resided in good faith in this State
10 for 6 months prior to the commencement of the action;

12 B. The plaintiff is a resident of this State and the
parties were married in this State;

14 C. The plaintiff is a resident of this State and the
16 parties resided in this State when the cause of divorce
accrued; or

18 D. The defendant is a resident of this State.

20 The complaint must state one or more grounds listed in section
22 902, subsection 1 or, in the case of a covenant marriage, grounds
listed in section 902-A.

24 **Sec. 4. 19-A MRSA §902, sub-§1**, as enacted by PL 1995, c. 694,
26 Pt. B, §2 and affected by Pt. E, §2, is amended to read:

28 **1. Grounds.** A Except in the case of a covenant marriage, a
divorce may be granted for one of the following causes:

30 A. Adultery;

32 B. Impotence;

34 C. Extreme cruelty;

36 D. Utter desertion continued for 3 consecutive years prior
38 to the commencement of the action;

40 E. Gross and confirmed habits of intoxication from the use
of liquor or drugs;

42 F. Nonsupport, when one spouse has sufficient ability to
44 provide for the other spouse and grossly, wantonly or
cruelly refuses or neglects to provide suitable maintenance
46 for the complaining spouse;

48 G. Cruel and abusive treatment;

50 H. Irreconcilable marital differences; or

2 I. Mental illness requiring confinement in a mental
4 institution for at least 7 consecutive years prior to the
commencement of the action.

6 **Sec. 5. 19-A MRSA §902-A** is enacted to read:

8 **§902-A. Grounds for divorce in a covenant marriage**

10 1. Counseling. The parties must obtain counseling before
12 the court may issue a divorce judgment.

14 2. Grounds. After the parties have obtained counseling, a
16 spouse to a covenant marriage may obtain a judgment of divorce
18 only upon proof of any of the following:

20 A. The other spouse has committed adultery;

22 B. The other spouse has committed a felony or a crime
24 punishable by a year or more imprisonment or by death, and
26 has been sentenced to death or life imprisonment;

28 C. The other spouse has abandoned the matrimonial domicile
30 for a period of one year and constantly refuses to return;

32 D. The other spouse has physically or sexually abused the
34 spouse seeking the divorce or a child of one of the spouses;
36 or

38 E. The spouses have been living separate and apart
40 continuously without reconciliation for a period of 3 years.

42 **Sec. 6. Effective date.** This Act takes effect January 1, 2000.

44 **SUMMARY**

46 This bill is modeled on the Louisiana covenant marriage
48 law. It gives a man and a woman the option to enter into a
covenant marriage by filing an intention to create a covenant
marriage at the time they apply for a marriage license. Husbands
and wives who are already married can convert their marriage into
a covenant marriage by making the same filing.

Under covenant marriage, the parties must undergo counseling
prior to a divorce being granted. The grounds for a divorce
dissolving a covenant marriage are limited; "irreconcilable
differences" is not recognized as a reason.