

1 SB270  
2 135711-1  
3 By Senators Williams, Allen, Beason, Brooks, Reed and Scofield  
4 RFD: Judiciary  
5 First Read: 09-FEB-12

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8 SYNOPSIS: This bill would create the Alabama Covenant  
9 Marriage Act. This bill would provide a process by  
10 which a couple could choose to enter into a  
11 covenant marriage by stating such on the  
12 application for a marriage license. This bill would  
13 provide that parties who enter into a covenant  
14 marriage must undergo counseling and meet certain  
15 requirements before seeking a divorce.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

20  
21 To create the Alabama Covenant Marriage Act; to  
22 provide requirements for a covenant marriage; and to provide  
23 for dissolution of a covenant marriage.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. This act shall be known and may be cited  
26 as the "Alabama Covenant Marriage Act."

1           Section 2. (a) A covenant marriage is a marriage  
2 entered into by one male and one female who understand and  
3 agree that the marriage between them is a lifelong  
4 relationship. Parties to a covenant marriage have received  
5 counseling emphasizing the nature and purposes of marriage and  
6 the responsibilities thereto. Only when there has been a  
7 complete and total breach of the marital covenant commitment  
8 may the non-breaching party seek a declaration that the  
9 marriage is no longer legally recognized.

10           (b) A man and a woman may contract a covenant  
11 marriage by declaring their intent to do so on their  
12 application for a marriage license and executing a declaration  
13 of intent to contract a covenant marriage. The application for  
14 a marriage license and the declaration of intent shall be  
15 filed with the official who issues the marriage license.

16           Section 3. (a) A declaration of intent to contract a  
17 covenant marriage shall contain all of the following:

18           (1) A recitation by the parties to the following  
19 effect:

20           "A COVENANT MARRIAGE

21           "We do solemnly declare that marriage is a covenant  
22 between a man and a woman who agree to live together as  
23 husband and wife for so long as they both may live. We have  
24 chosen each other carefully and disclosed to one another  
25 everything which could adversely affect the decision to enter  
26 into this marriage. We have received premarital counseling on

1 the nature, purposes, and responsibilities of marriage. We  
2 have read the Covenant Marriage Act, and we understand that a  
3 covenant marriage is for life. If we experience marital  
4 difficulties, we commit ourselves to take all reasonable  
5 efforts to preserve our marriage, including marital  
6 counseling.

7 "With full knowledge of what this commitment means,  
8 we do hereby declare that our marriage will be bound by  
9 Alabama law on Covenant Marriage and we promise to love,  
10 honor, and care for one another as husband and wife for the  
11 rest of our lives."

12 (2)a. An affidavit by the parties that they have  
13 received premarital counseling from a priest, minister, rabbi,  
14 clergy of any religious sect, or a marriage counselor, which  
15 counseling shall include a discussion of the seriousness of  
16 covenant marriage, communication of the fact that a covenant  
17 marriage is a commitment for life, a discussion of the  
18 obligation to seek marital counseling in times of marital  
19 difficulties, and a discussion of the exclusive grounds for  
20 legally terminating a covenant marriage by divorce or by  
21 divorce after a judgment of separation from bed and board.

22 b. A notarized attestation, signed by the counselor  
23 and attached to or included in the parties' affidavit,  
24 confirming that the parties were counseled as to the nature  
25 and purpose of the marriage and the grounds for termination  
26 thereof and an acknowledgment that the counselor provided to

1 the parties the informational pamphlet developed and  
2 promulgated by the office of the Attorney General, which  
3 pamphlet shall be entitled "The Covenant Marriage Act," and  
4 provide full explanation of the terms and conditions of a  
5 covenant marriage.

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

8 b. If one or both of the parties are minors, the  
9 written consent of authorization of a parent or guardian to  
10 consent to or authorize the marriage of minors.

11 (b) The declaration shall contain two separate  
12 documents, the recitation and the affidavit, the latter of  
13 which shall include the attestation either included therein or  
14 attached thereto. The recitation shall be prepared in  
15 duplicate, one copy shall be retained by the parties and the  
16 other copy, together with the affidavit and attestation, shall  
17 be filed in the probate office of the county issuing the  
18 marriage license.

19 Section 4. (a) On or after the date that this act  
20 becomes law, married couples may execute a declaration of  
21 intent to designate their marriage as a covenant marriage to  
22 be governed by the laws relative thereto.

23 (b) (1) This declaration of intent in the form and  
24 containing the contents required by subsection (c) shall be  
25 presented to the judge of probate who issued the couple's  
26 marriage license and with whom the couple's marriage

1 certificate is filed. If the couple was married outside of  
2 this state, a copy of the foreign marriage certificate, with  
3 the declaration of intent attached thereto, shall be filed  
4 with the judge of probate in the county in which the couple is  
5 domiciled. The judge of probate shall make a notation on the  
6 marriage certificate of the declaration of intent of a  
7 covenant marriage and attach a copy of the declaration to the  
8 certificate.

9 (2) On or before the fifteenth day of each calendar  
10 month, the judge of probate shall forward to the office of  
11 vital statistics each declaration of intent of a covenant  
12 marriage filed with him or her during the preceding calendar  
13 month pursuant to this section.

14 (c) (1) A declaration of intent to designate a  
15 marriage as a covenant marriage shall contain all of the  
16 following:

17 a. A recitation by the parties of the following  
18 effect:

19 "We do solemnly declare that marriage is a covenant  
20 between a man and a woman who agree to live together as  
21 husband and wife for so long as they both may live. We  
22 understand the nature, purpose, and responsibilities of  
23 marriage. We have read the Covenant Marriage Act, and we  
24 understand that a covenant marriage is for life. If we  
25 experience marital difficulties, we commit ourselves to take

1 all reasonable efforts to preserve our marriage, including  
2 marital counseling.

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

8 b.1. An affidavit by the parties that they have  
9 discussed their intent to designate their marriage as a  
10 covenant marriage with a priest, minister, rabbi, clergy of  
11 any religious sect, or a marriage counselor, which included a  
12 discussion of the obligation to seek marital counseling in  
13 times of marital difficulties and the exclusive grounds for  
14 legally terminating a covenant marriage by divorce or by  
15 divorce after a judgment of separation from bed and board.

16 2. A notarized attestation, signed by the counselor  
17 and attached to the parties' affidavit, acknowledging that the  
18 counselor provided to the parties the information pamphlet  
19 developed and promulgated by the office of the Attorney  
20 General, which pamphlet shall be entitled "The Covenant  
21 Marriage Act," and provide a full explanation of the terms and  
22 conditions of a covenant marriage.

23 3. The signature of both parties witnessed by a  
24 notary.

25 (2) The declaration shall contain two separate  
26 documents, the recitation and the affidavit, the latter of

1 which shall include the attestation either included therein or  
2 attached thereto. The recitation shall be prepared in  
3 duplicate, one copy shall be retained by the parties and the  
4 other copy, together with the affidavit and attestation, shall  
5 be filed as provided in subsection (b).

6 Section 5. (a) Notwithstanding any other law to the  
7 contrary and subsequent to the parties obtaining counseling, a  
8 spouse to a covenant marriage may obtain a judgment of divorce  
9 only upon proof of any of the following:

10 (1) The other spouse has committed adultery.

11 (2) The other spouse has committed a felony and has  
12 been sentenced to death or imprisonment at hard labor.

13 (3) The other spouse has abandoned the matrimonial  
14 domicile for a period of one year and constantly refuses to  
15 return.

16 (4) The other spouse has physically, emotionally, or  
17 sexually abused the spouse seeking the divorce or a child of  
18 one of the spouses.

19 (5) The spouses have been living separate and apart  
20 continuously without reconciliation for a period of two years.

21 (6)a. The spouses have been living separate and  
22 apart continuously without reconciliation for a period of one  
23 year from the date the judgment of separation from bed and  
24 board was signed.

25 b. If there is a minor child or children of the  
26 marriage, the spouses have been living separate and apart



1 continuously without reconciliation for a period of one year  
2 and six months from the date the judgment of separation from  
3 bed and board was signed; however, if abuse of a child of the  
4 marriage or a child of one of the spouses is the basis for  
5 which the judgment of separation from bed and board was  
6 obtained, then a judgment of divorce may be obtained if the  
7 spouses have been living separate and apart continuously  
8 without reconciliation for a period of one year from the date  
9 the judgment of separation from bed and board was signed.

10 (b) In the event one spouse refuses after repeated  
11 requests to attend marital counseling as required in  
12 subsection (a), the petitioning spouse may submit a sworn  
13 affidavit which shall accompany any complaint for divorce  
14 under the grounds cited in subdivisions (1) to (6), inclusive,  
15 of subsection (a). The affidavit shall attest to the repeated  
16 attempts to pursue marital counseling and shall be served upon  
17 the opposing spouse along with any summons and complaint as a  
18 part of the due process otherwise required under state law.

19 Section 6. The office of Attorney General shall  
20 promulgate an informational pamphlet entitled "Covenant  
21 Marriage Act," which shall outline in sufficient detail the  
22 consequences of entering into a covenant marriage. The  
23 informational pamphlet shall be made available online or in  
24 hard copy to any counselor who provides marriage counseling as  
25 provided for by this act.

1                   Section 7. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.