

HOUSE BILL No. 1052

DIGEST OF INTRODUCED BILL

Citations Affected: IC 31-11-4-4; IC 31-11-4-4.5; IC 31-15.

Synopsis: Marriage. Establishes two classifications of marriage licenses. Provides that a marriage based upon a contract license may be dissolved without proving fault. Provides that a marriage based upon a covenant license: (1) is entered into after obtaining premarital counseling; and (2) may not be dissolved except upon a finding of a felony conviction, impotence, incurable insanity, adultery, or certain other findings. Requires that the prerequisites for entering into a marriage based upon a covenant marriage license must be verified as part of the individual's marriage license application. Requires the clerk of the circuit court to: (1) inform individuals who apply for a marriage license of the option of applying for a covenant marriage license; and (2) provide the individuals with an application for a covenant marriage license upon request. Allows a court on its own motion in a dissolution of marriage proceeding to order counseling for the parties who entered into marriage based upon a covenant license.

Effective: July 1, 1998.

Kruse

January 6, 1998, read first time and referred to Committee on Judiciary.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

HOUSE BILL No. 1052

A BILL FOR AN ACT to amend the Indiana Code concerning family law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 31-11-4-4, AS ADDED BY P.L.1-1997, SECTION
2 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 1998]: Sec. 4. (a) **There are two (2) classifications of marriage**
4 **licenses, a contract marriage license and a covenant marriage**
5 **license.** An application for a **contract** marriage license must be written
6 and verified. The application must contain the following information
7 concerning each of the applicants:
8 (1) Full name.
9 (2) Birthplace.
10 (3) Residence.
11 (4) Age.
12 (5) Names of dependent children.
13 (6) Full name, including the maiden name of a mother, last known
14 residence, and, if known, the place of birth of:
15 (A) the birth parents of the applicant if the applicant is not
16 adopted; or
17 (B) the adoptive parents of the applicant if the applicant is

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1 a marriage license.

2 SECTION 2. IC 31-11-4-4.5 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 1998]: **Sec. 4.5. (a) The clerk of the circuit court shall
5 inform each individual who applies for a marriage license of the
6 option to enter into a marriage based upon a covenant marriage
7 license. The clerk of the circuit court shall inform each individual
8 that marriage based upon a covenant license requires that the
9 parties acknowledge that they have participated in premarital
10 counseling. The clerk of the circuit court shall further inform the
11 parties that a marriage based upon a covenant license may not be
12 dissolved except as a result of:**

- 13 (1) a felony conviction;
14 (2) impotency;
15 (3) incurable insanity;
16 (4) adultery; or
17 (5) a court's finding that:
18 (A) a pattern of physical or psychological abuse exists;
19 (B) the parties have been separated for at least two (2)
20 years; or
21 (C) denial of a dissolution of the marriage would be
22 unconscionable.

23 (b) Upon request, the clerk shall provide a special application
24 to individuals who wish to apply for a covenant marriage license.
25 The application must include the information required under
26 subsection (a) and must contain the following:

- 27 (1) An acknowledgment that both individuals have
28 participated in premarital counseling.
29 (2) An acknowledgment that both applicants wish to enter into
30 a marriage based upon a covenant marriage license. The
31 acknowledgment must be signed by both parties and must be
32 in the following form:

33 **ACKNOWLEDGMENT**

34 I, _____, declare my intent to enter into a marriage
35 based upon a covenant marriage license. I do so with the full
36 understanding that a marriage based upon a covenant
37 marriage license may not be legally dissolved except as a
38 result of a felony conviction, impotency, incurable insanity,
39 adultery, or a court's finding that: (1) a pattern of physical or
40 psychological abuse exists; (2) the parties have been separated
41 for at least two (2) years; or (3) denial of a dissolution of the
42 marriage would be unconscionable. I have attended



1 premarital counseling in good faith and am entering into the
 2 marriage as a serious lifetime commitment. When marital
 3 difficulties arise, I agree to participate in marriage counseling
 4 if ordered by the court before a dissolution of marriage is
 5 granted.

6 _____
 7 **Signature of Applicant**

_____ **Date**

8 _____
 9 **Signature of Applicant**

_____ **Date**

10 SECTION 3. IC 31-15-1-2, AS ADDED BY P.L.1-1997, SECTION
 11 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 12 1998]: Sec. 2. The purposes and policies of this article are as follows:

13 ~~(1) To abolish the existing grounds for absolute and limited divorce~~
 14 ~~and to provide as the basis for dissolution of marriage:~~

15 ~~(A) irremediable breakdown of the marriage;~~

16 ~~(B) the conviction of either party, subsequent to the marriage,~~
 17 ~~of a felony;~~

18 ~~(C) impotence existing at the time of the marriage; and~~

19 ~~(D) incurable insanity of either party for a period of at least~~
 20 ~~two (2) years.~~

21 ~~(2) (1) To provide for the appropriate procedures for the dissolution~~
 22 ~~of marriage.~~

23 ~~(3) (2) To provide for the disposition of property, child support,~~
 24 ~~and child custody.~~

25 ~~(4) (3) To provide for separation agreements.~~

26 ~~(5) (4) To provide for a temporary legal separation.~~

27 SECTION 4. IC 31-15-2-3, AS ADDED BY P.L.1-1997, SECTION
 28 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 29 1998]: Sec. 3. (a) Dissolution of a marriage **that was entered into under**
 30 **a contract marriage license, or under a marriage license applied for**
 31 **before July 1, 1998**, shall be decreed upon a finding by a court of one (1)
 32 of the following grounds and no other ground:

33 (1) Irremediable breakdown of the marriage.

34 (2) The conviction of either of the parties, subsequent to the
 35 marriage, of a felony.

36 (3) Impotence existing at the time of the marriage.

37 (4) Incurable insanity of either party for a period of at least two (2)
 38 years.

39 (b) **Dissolution of a marriage that was entered into under a**
 40 **covenant marriage license shall be granted upon a finding of one (1)**
 41 **of the following grounds:**

42 (1) **Subsequent to the marriage, the conviction of either of the**



- 1 parties of a felony.
- 2 (2) **Impotence existing at the time of the marriage.**
- 3 (3) **Incurable insanity of either party for at least the two (2)**
- 4 **years immediately preceding the filing of the petition for**
- 5 **marriage dissolution.**
- 6 (4) **Adultery.**
- 7 (5) **A court's finding that:**
- 8 (A) **at least one (1) spouse has engaged in a pattern of**
- 9 **physical or psychological abuse against:**
- 10 (i) **the other spouse; or**
- 11 (ii) **a child of either spouse;**
- 12 (B) **the parties have been separated for at least two (2)**
- 13 **years; or**
- 14 (C) **denial of a dissolution of the marriage would be**
- 15 **unconscionable.**
- 16 SECTION 5. IC 31-15-2-5, AS ADDED BY P.L.1-1997, SECTION
- 17 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 18 1998]: Sec. 5. A petition for dissolution of marriage must:
- 19 (1) be verified; and
- 20 (2) set forth the following:
- 21 (A) The residence of each party and the length of residence in
- 22 the state and county.
- 23 (B) The date of the marriage.
- 24 (C) The date on which the parties separated.
- 25 (D) The name, age, and address of:
- 26 (i) any living child less than twenty-one (21) years of
- 27 age; and
- 28 (ii) any incapacitated child;
- 29 of the marriage and whether the wife is pregnant.
- 30 (E) The grounds for dissolution of the marriage.
- 31 (F) **A statement that the parties entered into a covenant**
- 32 **marriage license, if applicable.**
- 33 ~~(G)~~ (G) The relief sought.
- 34 SECTION 6. IC 31-15-4-9, AS ADDED BY P.L.1-1997,
- 35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 36 JULY 1, 1998]: Sec. 9. The court may require the parties to seek
- 37 counseling for themselves or for a child of the parties under such terms
- 38 and conditions that the court considers appropriate if:
- 39 (1) either party makes a motion for counseling in an effort to
- 40 improve conditions of their marriage;
- 41 (2) a party, the child of the parties, the child's guardian ad litem or
- 42 court appointed special advocate, or the court makes a motion for



1 counseling for the child; or
2 (3) the court makes a motion for counseling for parties who:
3 (A) are the parents of a child less than eighteen (18) years of
4 age; **or**
5 (B) **entered into the marriage based upon a covenant**
6 **marriage license.**

