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# SENATE BILL No. 119

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2-28.5; IC 31-11; IC 31-15.

**Synopsis:** Covenant marriage. Defines "covenant marriage". Provides that a couple may designate a covenant marriage when applying for a marriage license or after marriage. Requires that a marriage license must indicate whether the marriage is a covenant marriage. Establishes the procedure for declaring a covenant marriage. Requires the state department of health to maintain records of covenant marriage declarations. Requires the attorney general to develop an informational pamphlet regarding covenant marriage.

**Effective:** Upon passage.

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January 5, 2011, read first time and referred to Committee on Judiciary.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 119



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

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

1 SECTION 1. IC 31-9-2-28.5 IS ADDED TO THE INDIANA CODE  
 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
 3 UPON PASSAGE]: **Sec. 28.5. "Covenant marriage", for purposes**  
 4 **of IC 31-11-4, IC 31-11-4.5, and IC 31-15 means a marriage**  
 5 **entered into by one (1) male and one (1) female who:**  
 6 (1) **understand and agree that the marriage between them is**  
 7 **a lifelong relationship;**  
 8 (2) **have attended at least two (2) sessions with a total of at**  
 9 **least four (4) hours of premarital counseling that emphasize**  
 10 **the nature, purposes, and responsibilities of marriage;**  
 11 (3) **understand and agree that only when there has been a**  
 12 **complete and total breach of the marital covenant may the**  
 13 **nonbreaching party seek a dissolution of the marriage; and**  
 14 (4) **declare their intent to enter into a covenant marriage on:**  
 15 (A) **their application for a marriage license under**  
 16 **IC 31-11-4-4; or**  
 17 (B) **a declaration of intent to designate their existing**



1 **marriage as a covenant marriage under IC 31-11-4.5-2.**  
2 SECTION 2. IC 31-11-4-4 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) An  
4 application for a marriage license must be written and verified. The  
5 application must contain the following information concerning each of  
6 the applicants:

- 7 (1) Full name.
- 8 (2) Birthplace.
- 9 (3) Residence.
- 10 (4) Age.
- 11 (5) Names of dependent children.
- 12 (6) Full name, including the maiden name of a mother, last known  
13 residence, and, if known, the place of birth of:
  - 14 (A) the birth parents of the applicant if the applicant is not  
15 adopted; or
  - 16 (B) the adoptive parents of the applicant if the applicant is  
17 adopted.
- 18 (7) A statement of facts necessary to determine whether any legal  
19 impediment to the proposed marriage exists.
- 20 (8) Except as provided in subsection (e), an acknowledgment that  
21 both applicants must sign, affirming that the applicants have  
22 received the information described in section 5 of this chapter,  
23 including a list of test sites for the virus that causes AIDS  
24 (acquired immune deficiency syndrome). The acknowledgment  
25 required by this subdivision must be in the following form:

26 **ACKNOWLEDGMENT**

27 I acknowledge that I have received information regarding dangerous  
28 communicable diseases that are sexually transmitted and a list of test  
29 sites for the virus that causes AIDS (acquired immune deficiency  
30 syndrome).

31 \_\_\_\_\_  
32 Signature of Applicant Date

33 \_\_\_\_\_  
34 Signature of Applicant Date

- 35 **(9) If the parties intend to enter into a covenant marriage:**
- 36 **(A) a statement that both applicants must sign; and**
- 37 **(B) the documents required under IC 31-11-4.5-1.**
- 38 **The statement under clause (A) for a covenant marriage must**
- 39 **be in the following form:**

40 **COVENANT MARRIAGE**

41 We, \_\_\_\_\_ (name of intended husband) and \_\_\_\_\_  
42 (name of intended wife), do hereby declare our intent to

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**contract a covenant marriage and, accordingly, have executed a declaration of intent and filed it with this application for a marriage license.**

\_\_\_\_\_  
**Signature of Intended Husband                      Date**

\_\_\_\_\_  
**Signature of Intended Wife                      Date**

(b) The clerk of the circuit court shall record the application, including the license and certificate of marriage, in a book provided for that purpose. This book is a public record.

(c) The state department of health shall develop uniform forms for applications for marriage licenses, **which must indicate whether the individuals applying for the marriage license are declaring an intent to enter into a covenant marriage.** The state department of health shall furnish these forms to the circuit court clerks. The state department of health may periodically revise these forms.

(d) The state department of health shall require that the record of marriage form developed under subsection (c) must include each applicant's Social Security number. Any Social Security numbers collected on the record of marriage form shall be kept confidential and used only to carry out the purposes of the Title IV-D program. A person who knowingly or intentionally violates confidentiality regarding an applicant's Social Security ~~numbers~~ **number** as described in this subsection commits a Class A infraction.

(e) Notwithstanding subsection (a), a person who objects on religious grounds is not required to:

- (1) verify the application under subsection (a) by oath or affirmation; or
- (2) sign the acknowledgment described in subsection (a)(8).

However, before the clerk of the circuit court may issue a marriage license to a member of the Old Amish Mennonite church, the bishop of that member must sign a statement that the information in the application is true.

(f) If a person objects on religious grounds to:

- (1) verifying the application under subsection (a) by oath or affirmation; or
- (2) signing the acknowledgment described in subsection (a)(8);

the clerk of the circuit court shall indicate that fact on the application for a marriage license.

SECTION 3. IC 31-11-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. Each marriage license must have two (2) certificates attached to the license. The state

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1 department of health shall prescribe a uniform ~~form~~ **forms** for these  
2 certificates. One (1) certificate must be marked "Original", and one (1)  
3 certificate must be marked "Duplicate". Each certificate must contain  
4 the following:

5 **(1) For individuals not declaring their marriage a covenant**  
6 **marriage:**

7 MARRIAGE CERTIFICATE

8 I \_\_\_\_\_ (name) certify that on \_\_\_\_\_ (date) at \_\_\_\_\_ in  
9 \_\_\_\_\_ County, Indiana, \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_  
10 (state) and \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state) were  
11 married by me as authorized under a marriage license that was  
12 issued by the Clerk of the Circuit Court of \_\_\_\_\_ County,  
13 Indiana, dated \_\_\_\_\_.

14 Signed

15 (OFFICIAL DESIGNATION)

16 **(2) For individuals declaring their marriage a covenant**  
17 **marriage:**

18 MARRIAGE CERTIFICATE

19 I \_\_\_\_\_ (name) certify that on \_\_\_\_\_ (date) at \_\_\_\_\_ in  
20 \_\_\_\_\_ County, Indiana, \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_  
21 (state) and \_\_\_\_\_ of \_\_\_\_\_ County, \_\_\_\_\_ (state) were  
22 married by me into a covenant marriage as authorized under  
23 a marriage license that was issued by the Clerk of the Circuit  
24 Court of \_\_\_\_\_ County, Indiana, dated \_\_\_\_\_.

25 Signed

26 (OFFICIAL DESIGNATION)

27 SECTION 4. IC 31-11-4-18 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) The clerk  
29 of the circuit court shall forward marriage records to the state  
30 department of health on at least a monthly basis.

31 (b) The state department of health shall:

32 (1) prescribe:

33 **(A) a form for recording marriages that provides a manner for**  
34 **the clerk of the circuit court to indicate whether the**  
35 **marriage was declared a covenant marriage; and**

36 **(B) a form for recording declarations of a covenant marriage**  
37 **filed under IC 31-11-4.5-2;**

38 (2) accept a court order under section 17 of this chapter (or  
39 IC 31-7-3-15.5 before its repeal) in place of a marriage certificate;

40 (3) prepare an annual index of all marriages solemnized in Indiana  
41 that:

42 **(A) distinguishes between a marriage designated as a**

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1 covenant marriage and a marriage not designated as a  
2 covenant marriage; and  
3 (B) indicates declarations of a covenant marriage filed under  
4 IC 31-11-4.5-2;

5 and furnish at least one (1) index to the Indiana state library; and  
6 (4) furnish to the Indiana state library reports on records of  
7 marriage published by the state department of health to the Indiana  
8 state library that:

9 (A) distinguish between a marriage designated as a covenant  
10 marriage and a marriage not designated as a covenant  
11 marriage; and

12 (B) indicate declarations of a covenant marriage filed under  
13 IC 31-11-4.5-2.

14 (c) The attorney general shall develop an informational pamphlet  
15 entitled "Covenant Marriage Law", which outlines in sufficient  
16 detail the consequences of entering into a covenant marriage. The  
17 office of the attorney general shall make this informational  
18 pamphlet available upon request to any priest, minister, rabbi,  
19 clerk of the Religious Society of Friends, member of the clergy of  
20 any religious sect, or marriage counselor.

21 (d) The attorney general shall develop the pamphlet described in  
22 subsection (c) before July 1, 2011. This subsection expires July 1,  
23 2011.

24 SECTION 5. IC 31-11-4.5 IS ADDED TO THE INDIANA CODE  
25 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
26 UPON PASSAGE]:

27 Chapter 4.5. Covenant Marriage

28 Sec. 1. (a) Individuals applying for a marriage license under  
29 IC 31-11-4 may, at the time of filing an application for a marriage  
30 license, file a declaration of intent to enter into a covenant  
31 marriage, consisting of the following documents:

32 (1) A recitation to the following effect, with the signatures of  
33 both parties witnessed by a notary public:

34 A COVENANT MARRIAGE  
35 "We do solemnly declare that marriage is a covenant  
36 between a man and a woman who agree to live together as  
37 husband and wife for so long as they both may live. We have  
38 chosen each other carefully and disclosed to one another  
39 everything that could adversely affect the decision to enter  
40 into this marriage. We have received premarital counseling  
41 on the nature, purposes, and responsibilities of marriage. We  
42 have read the "Covenant Marriage Law" informational

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1 pamphlet, and we understand that a covenant marriage is for  
2 life. If we experience marital difficulties, we commit  
3 ourselves to take all reasonable efforts to preserve our  
4 marriage, including marital counseling.

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

10 (2) An affidavit by the parties that they have attended at least  
11 two (2) sessions with a total of at least four (4) hours of  
12 premarital counseling from a priest, minister, rabbi, clerk of  
13 the Religious Society of Friends, member of the clergy of any  
14 religious sect, or marriage counselor that included a discussion  
15 of the seriousness of covenant marriage, communication of the  
16 fact that a covenant marriage is a commitment for life, and a  
17 discussion of the obligation to seek marital counseling in times  
18 of marital difficulties.

19 (3) A notarized attestation, signed by the counselor and  
20 attached to or included in the parties' affidavit, confirming  
21 that the parties attended at least two (2) sessions with a total of  
22 at least four (4) hours of premarital counseling as to the nature  
23 and purpose of the marriage and the grounds for termination  
24 of the marriage and acknowledging that the counselor  
25 provided to the parties the informational pamphlet "Covenant  
26 Marriage Law" developed by the attorney general.

27 (b) The recitation required under subsection (a)(1) shall be  
28 prepared in duplicate originals, one (1) of which shall be retained  
29 by the parties and the other of which shall be filed with the clerk of  
30 the circuit court and attached to the duplicate marriage certificate  
31 when filed with the clerk of the circuit court.

32 Sec. 2. (a) A married couple may execute a declaration of intent  
33 to designate their marriage as a covenant marriage to be governed  
34 by the laws governing covenant marriages. The declaration  
35 consists of the following documents:

36 (1) A recitation to the following effect, with the signatures of  
37 both parties witnessed by a notary public:

38 A COVENANT MARRIAGE

39 "We do solemnly declare that marriage is a covenant  
40 between a man and a woman who agree to live together as  
41 husband and wife for so long as they both may live. We  
42 understand the nature, purposes, and responsibilities of

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1 marriage. We have read the "Covenant Marriage Law"  
 2 informational pamphlet, and we understand that a covenant  
 3 marriage is for life. If we experience marital difficulties, we  
 4 commit ourselves to take all reasonable efforts to preserve  
 5 our marriage, including marital counseling.

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

11 (2) An affidavit by the parties that they have discussed their  
 12 intent to designate their marriage as a covenant marriage with  
 13 a priest, minister, rabbi, clerk of the Religious Society of  
 14 Friends, member of the clergy of any religious sect, or  
 15 marriage counselor, and that the discussion included a  
 16 discussion of the obligation to seek marital counseling in times  
 17 of marital difficulties.

18 (3) A notarized attestation, signed by the counselor and  
 19 attached to or included in the parties' affidavit, acknowledging  
 20 that the counselor provided to the parties the informational  
 21 pamphlet "Covenant Marriage Law" developed by the  
 22 attorney general.

23 (b) The recitation required under subsection (a)(1) shall be  
 24 prepared in duplicate originals, one (1) of which shall be retained  
 25 by the parties and the other of which shall be filed as determined  
 26 under subsection (c).

27 (c) The documents required under subsection (a) shall be filed  
 28 with the clerk of the circuit court:

29 (1) in which the couple's marriage license is filed, if the couple  
 30 was married in Indiana; or

31 (2) in the county where the couple is domiciled, if the couple  
 32 was married outside Indiana.

33 (d) If the couple is married outside Indiana, the documents  
 34 required under subsection (a) must be accompanied by a certified  
 35 copy of the couple's marriage certificate.

36 (e) Upon receipt of a declaration designating a marriage as a  
 37 covenant marriage under this section, the clerk of the circuit court  
 38 shall make a notation on the marriage certificate of the declaration  
 39 and attach a copy of the declaration to the certificate.

40 SECTION 6. IC 31-15-2-5 IS AMENDED TO READ AS FOLLOWS  
 41 [EFFECTIVE UPON PASSAGE]: Sec. 5. A petition for dissolution of  
 42 marriage must:

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- 1 (1) be verified; and
- 2 (2) set forth the following:
- 3 (A) The residence of each party and the length of residence in
- 4 the state and county.
- 5 (B) The date of the marriage.
- 6 (C) The date on which the parties separated.
- 7 (D) The name, age, and address of:
- 8 (i) any living child less than twenty-one (21) years of age; and
- 9 (ii) any incapacitated child;
- 10 of the marriage and whether the wife is pregnant.
- 11 (E) The grounds for dissolution of the marriage.
- 12 (F) The relief sought.
- 13 **(G) If applicable, a statement that the marriage has been**
- 14 **declared a covenant marriage.**

15 SECTION 7. IC 31-15-3-4 IS AMENDED TO READ AS FOLLOWS  
 16 [EFFECTIVE UPON PASSAGE]: Sec. 4. A proceeding for legal  
 17 separation is commenced by the filing of a petition entitled, "In Re the  
 18 legal separation of \_\_\_\_\_ and \_\_\_\_\_". The petition 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 names, ages, and addresses of:
- 26 (i) any living child less than twenty-one (21) years of age; and
- 27 (ii) any incapacitated child;
- 28 of the marriage and whether the wife is pregnant.
- 29 (E) The grounds for legal separation.
- 30 (F) The relief sought.
- 31 **(G) If applicable, a statement that the marriage has been**
- 32 **declared a covenant marriage.**

33 SECTION 8. IC 31-15-4-9 IS AMENDED TO READ AS FOLLOWS  
 34 [EFFECTIVE UPON PASSAGE]: Sec. 9. The court may require the  
 35 parties to seek counseling for themselves or for a child of the parties  
 36 under such terms and conditions that the court considers appropriate if:

- 37 (1) either party makes a motion for counseling in an effort to
- 38 improve conditions of their marriage;
- 39 (2) a party, the child of the parties, the child's guardian ad litem or
- 40 court appointed special advocate, or the court makes a motion for
- 41 counseling for the child; or
- 42 (3) the court makes a motion for counseling for parties who:

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1           **(A)** are the parents of a child less than eighteen (18) years of age;  
2           **or**  
3           **(B) have declared their marriage to be a covenant marriage.**  
4           **SECTION 9. An emergency is declared for this act.**

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