

# PUBLIC LAW RESEARCH INSTITUTE

UNIVERSITY OF CALIFORNIA HASTINGS COLLEGE OF THE LAW



## REPORT

LEGISLATIVE EFFORTS TO STRENGTHEN MARRIAGE

by Leslie A. Mark

Papers in the PLRI Working Papers Series are produced by students at Hastings College of the Law. The views expressed do not represent the views or policies of Hastings College of the Law, its Board of Directors or its faculty.

### I. Introduction.

### II. The Rising Divorce Rate and its Effects on the Couple, Their Children, and Society.

### III. Legislative Efforts to Strengthen Marriage.

#### A. The Initial Trend Among the States.

(1) Michigan Serves as the Nation's Prototype.

(2) Pre-Marital Counseling and Other Efforts to Intervene Before a Couple Gets Married.

(3) Efforts to Educate and Counsel.

(4) Toughening the Divorce Requirements.

#### B. The Latest Trend Among the States: Covenant Marriage.

### IV. Community Efforts to Strengthen Marriage: The "Community Marriage Policy."

### V. Conclusion.

### Appendix.

### **I. Introduction.**

Divorce has reached epidemic proportions in the United States. Starting in the 1960s, demographers have tracked the steady increase in the divorce rate.<sup>1</sup> According to the late Harvard University psychologist, Richard J. Herrnstein, it is "one of the most rapid, compressed changes in a basic social behavior that the 20th century has witnessed."<sup>2</sup> Most studies estimate that between 45-50% of all first-time marriages fail and that the divorce rate for non-first marriages now exceeds 50%.<sup>3</sup> Divorce affects not only the couple involved, but also their children (if there are any), and society as a whole. It is nearly a universally accepted proposition

that the state has a paramount interest in marriage and divorce. The family unit, constituting as it does the very base of our religious, cultural and moral life, is one of the principle supporting pillars of our civilization. The state created by the people for the protection and promotion of their common

welfare, must protect and foster marriage and the family relationship.<sup>4</sup>

Because divorce is perceived as a societal problem, legislatures and community groups across the nation are making renewed efforts to strengthen the institution of marriage by encouraging pre-marital and marital counseling, providing education, or mandating tougher divorce requirements.<sup>5</sup> While most of the legislative attempts to strengthen marriage have been unsuccessful thus far, the State of Louisiana has successfully enacted a "covenant marriage" statute. This statute attacks the problem of divorce from both ends: couples opting for the covenant marriage must engage in pre-marital counseling *before* marriage and the couple may only be divorced if certain requirements are met.<sup>6</sup>

The purpose of this paper is to examine and analyze the approaches that states have proposed to address and hopefully alleviate the problem of divorce. This paper is intended to accompany California's latest attempt to strengthen the institution of marriage. Bills have been introduced in the past in the California Legislature to provide a pamphlet to couples who apply for a marriage license in order to educate them about marriage and its legal implications. With the continuing high divorce rates and the renewed interest around the country to address this problem, many people in California are interested in again working to pass legislation to provide couples with some fundamental education about the institution of marriage.

**II. The Rising Divorce Rate and its Effects on the Couple, Their Children, and Society.** Divorce rates began a steep increase in the mid-1960s (at the end of the pure no-fault era). Many commentators speculate about the causes of the rising divorce rate. On one side of the spectrum is the view that no-fault divorce laws facilitate divorce, and thus are to blame for the increasing divorce rate.<sup>7</sup> The converse position suggests that other factors are to blame, including married women's employment and changes in social values.<sup>8</sup> While the cause is subject to intense dispute and heated debate, one thing is undeniable -- the divorce rate is alarmingly high. As stated above, approximately 50% of marriages fail, resulting in divorce. Wide-spread marital breakdown is a problem which affects the couple, their children and society as a whole.

The effects of divorce on children are clear -- divorce can be harmful to children's well-being. According to one estimate, approximately 1.2 million children each year experience the divorce of their parents.<sup>9</sup> Numerous studies indicate that children of divorced families are harmed when custody disputes are protracted. At a minimum, divorce creates significant stress and disruption in the child's life because the child has less contact with one parent and may also experience the consequences of reduced family income.<sup>10</sup>

Studies show that children of divorce experience depression, under-achievement, and difficulty in forming long-term intimate relationships of their own.<sup>11</sup> In addition, these children showed serious education decline, and increased risk of teenage suicide, as well as increased drug-use and criminal behavior.<sup>12</sup>

Society is also severely affected by divorce. Increased drug use and criminal involvement pose significant problems for the general welfare of society. Additionally, divorce may contribute to what social scientists term the "feminization of poverty," a phenomenon where families headed by women, with no husband present, have a higher likelihood of living in poverty, especially if the head of the household is a minority.<sup>13</sup> According to one commentator, "[f]emale headed households make up the 'new poor' in America with

median incomes of one-third those of married couples."<sup>14</sup> This phenomenon suggests that more women and children are homeless<sup>15</sup> or on welfare,<sup>16</sup> possibly as a result of increased divorce rates. Because of the perceived ills stemming from divorce, there has been a significant trend in recent years among states and community groups to strengthen marriage.

### **III. Legislative Efforts to Strengthen Marriage.**

There is a renewed interest in trying to keep married couples married. Approximately three years ago, religious groups began to sponsor and finance legislative attempts to eliminate the no-fault divorce laws and to return to a "fault" based system.<sup>17</sup> The first bills were introduced in Michigan on Valentine's Day, 1995.<sup>18</sup> Although the Michigan proposals were swiftly defeated, "rumblings" were set off across the nation to change the divorce laws.<sup>19</sup> These legislative efforts can be roughly categorized into three groups: (1) making it more difficult to enter into the marital relationship, (2) providing marital counseling and education about the effects of divorce, and (3) making it more difficult to end a marriage. As of the date of this paper, none of these early efforts survived the legislative process (except one bill where noted). While these initial efforts may not have been successful, a new kind of legislative trend is evolving -- the covenant marriage modeled after Louisiana's Covenant Marriage Act.

#### **A. The Initial Trend Among the States.**

##### **(1) Michigan Serves as the Nation's Prototype.**

While the proposals in most states focused on only one of the above mentioned areas, the legislation in Michigan essentially combined all three approaches. There were 12 separate bills and one concurrent resolution which represented a sweeping overhaul of the existing statutes.<sup>20</sup> Michigan's approach encompassed three general areas: pre-marital counseling, mandatory family therapy, and post-divorce planning.

*Pre-Marital Counseling.* If a couple undergoes pre-marriage counseling, the cost of the marriage license is \$20 and there is a 3-day waiting period. If the couple does not undergo pre-marriage counseling, however, the marriage license costs \$100 and there is a 30-day waiting period.

*Mandatory Family Therapy.* Divorce would be denied if only one spouse wanted a divorce, unless the spouse can prove physical and mental abuse, alcoholism, desertion or several other grounds. Mandatory family therapy would be required in non-contested divorce cases. Family law practitioners would also have to be certified according to standards which would be promulgated by the Michigan State Bar Association.

*Post-Divorce Planning.* Divorcing parents would have to establish a parenting and financial plan for their children, as well as an alimony schedule for couples married for over 10 years.

(2) Pre-Marital Counseling and Other Efforts to Intervene Before a Couple Gets Married. Currently, there are few legal constraints or formalities to signal that marriage is a decision that should be made thoughtfully. It seems logical that intervention before marriage in terms of premarital counseling, waiting periods or education about the marital relationship could help couples make more informed choices about the decision to get married.

Indiana<sup>21</sup> and Mississippi<sup>22</sup> would require premarital counseling before a couple could be

issued a marriage license. Minnesota would amend its law to waive the \$80 marriage license fee for couples who participate in premarital counseling.<sup>23</sup> Studies indicate that 10-15% of couples who participate in premarital counseling end up postponing or canceling their weddings.<sup>24</sup> This suggests that premarital counseling can help couples critically evaluate their decision to get married. Additionally, social science research suggests that premarital counseling can help couples manage conflict as well as teach "ground rules for airing complaints so they do not get stuck in the negativity that is so corrosive to love."<sup>25</sup>

Education is also a key to informed decision making. In 1993, A.B. 3130 was introduced in California which suggested that an informational brochure should be provided to couples applying for a marriage license.<sup>26</sup> The proposal would require the Judicial Council to create a pamphlet describing the legal rights and responsibilities related to marriage, which would be distributed by the County Clerk to couples applying for a marriage license.<sup>27</sup> Although A.B. 3130 survived committee hearings, it eventually failed to pass the Assembly.

Neither A.B. 3130 nor its predecessor (A.B. 2214) contained a prototype pamphlet. If the bill is re-introduced, a prototype pamphlet will accompany the proposal. A prototype was researched and drafted by the author of this paper, a copy of which is attached hereto as Appendix "A". Because marriage is a contractual relationship and an economic partnership, the goal of the pamphlet is to educate couples about the rights and obligations that arise when a marriage contract is entered into. Usually, a person entering into a contractual relationship understands the contract and the rights and duties flowing from that contract. Marriage is one of the few relationships where the contracting parties are not directly educated about the contract they are entering into.

### (3) Efforts to Educate and Counsel.

The above proposals were focused on premarital efforts to encourage thoughtful decision making. There is, however, another effort to strengthen marriage: educating people on how to prevent distress long before it starts.<sup>28</sup> The following proposals focus on education and *marital* counseling.

Alaska,<sup>29</sup> Iowa,<sup>30</sup> and Maryland<sup>31</sup> would require mandatory educational courses for parents seeking to divorce. The summary of the Maryland bill suggests that the goal of the educational seminar would be to educate parents on the effects of divorce and to minimize the disruption it causes on the minor children of the marriage.<sup>32</sup> There have been mixed results with this particular type of bill: it was enacted in Iowa, but reported unfavorably in committee hearings in Maryland. Unfortunately, the legislative analysis for these proposals is not readily available so the author was unable to discover why such seemingly opposite results occurred.

Other bills would require marital counseling if one of the spouses files for divorce. Idaho would mandate the court to stay divorce proceedings and require counseling if a couple sought a divorce on the grounds of irreconcilable differences.<sup>33</sup> Pennsylvania would also require mandatory counseling in certain divorce cases.<sup>34</sup>

A principal aim of educational seminars and marital counseling efforts is to help couples stay together. Marital education "immunizes couples against disappointment and despair, . . . it also prevents the development of problems that are costly to children and all of society. Mismanaged conflict . . . predicts both marital distress and negative effects on children's physical and mental health."<sup>35</sup>

If a couple is unable to resolve their conflicts, education and counseling may help parties with children to be amicable and keep the custody proceedings out of court. Experience suggests that divorce-related risks<sup>36</sup> "are increased if parents engage in a protracted custody dispute."<sup>37</sup>

Research and common sense suggest that early intervention to reduce conflict and educate parents is essential to prevent harm to children. The earlier in the divorce process that the parents understand the harm that a protracted custody dispute can do to their children and them, and steps they can take to reduce the harm, the more likely it is that they will minimize conflict and coexist as parents.

. . . By alerting parents to the negative consequences their children will face as a result of a spiteful custody fight and how the child's post-divorce environment can be strengthened, these programs attempt to educate parents so that their children need not become one of the casualties of a failed marriage.<sup>38</sup>

While educational programs are not a cure-all, they can help encourage parents to settle their differences through presentation of accurate information.<sup>39</sup> Additionally, these programs can create a foundation for more intensive interventions as well as provide referrals to community services for the family.<sup>40</sup> According to one commentator, the "educational approach is consistent with society's desire to give adults the power to terminate an unhappy marriage while still insuring that they give appropriate consideration to the needs of the child."<sup>41</sup>

#### (4) Toughening the Divorce Requirements.

Although the above attempts focus on strengthening the marital relationship to withstand potential failure, most of the proposed legislation centers on reintroducing the concept of fault and other measures simply intended to make obtaining a divorce decree more difficult.

Georgia would require that a certain amount of time must elapse before a divorce would be granted on the ground that the marriage is irretrievably broken.<sup>42</sup> Idaho would require that irreconcilable differences be determined by mutual consent of the parties rather than by the court.<sup>43</sup> Minnesota would similarly require mutual consent in order for a divorce to be granted.<sup>44</sup> There would be an exception, however, for cases of domestic violence.<sup>45</sup>

Illinois would amend its statute to provide that a judgment of dissolution of marriage may be granted on the grounds of irreconcilable differences *only if neither spouse objects* in the following situations: (1) where the parties have been married for 10 years or more, (2) where there are minor children of the marriage (either natural or adopted) who have not been emancipated, (3) where there are children with special needs, or (4) where the wife is pregnant.<sup>46</sup>

Virginia would prohibit no-fault divorce if the couple has minor children and would further require mutual consent and a one-year waiting period to grant a no-fault divorce.<sup>47</sup> Washington would require evidence of an irretrievable breakdown of the marriage.<sup>48</sup> Additionally, a divorce decree would not be granted if it was not in the best interests of the children.<sup>49</sup>

Finally, Kentucky, Michigan, Pennsylvania, and West Virginia would simply re-introduce the concept of fault into the divorce laws.

According to one commentator, some social science studies *suggest* that the "likelihood of divorce depends not only on the attractiveness of the marriage, *but also on the barriers to leaving it* . . ." <sup>54</sup> Other than extrapolations like these, there is no hard evidence which proves that making it harder to get divorced will ultimately lead to a lower divorce rate. This is probably because almost every state has some version of no-fault divorce. Pure fault regimes no longer exist in the United States, so it is difficult to examine whether these types of laws really lower divorce rates or not.

#### B. The Latest Trend Among the States: Covenant Marriage.

As of August, 1997, Louisiana stands alone as the only state to have successfully enacted a statute which is intended to strengthen the institution of marriage. The Covenant Marriage Act allows couples to "opt-out" of the no-fault system already established in Louisiana.<sup>55</sup> The couple must choose to have a covenant marriage and must have received pre-marital counseling as a condition of marriage.<sup>56</sup> The Covenant Marriage Act establishes the following exclusive grounds for obtaining a divorce in the event the couple has obtained counseling:

(1) the other spouse has committed adultery; (2) the other spouse has committed a felony punishable by death or hard labor; (3) the other spouse has abandoned the matrimonial domicile for one year and constantly refuses to return; (4) the other spouse has physically or sexually abused the spouse seeking the divorce or a child of one of the spouses; (5) the spouses have lived separate and apart for two years; or (6) the spouses have been living separate and apart continuously for one year from the date of the judgment of separation from bed and board; or, if minor children exist in the marriage, the time period is increased to one year and six months from the date of separation from bed and board; however, this time period may return to one year if the cause of separation from bed and board is child abuse.<sup>57</sup>

Louisiana has started a trend. California<sup>58</sup> has jumped on the bandwagon with S.B. 1377, along with Alabama,<sup>59</sup> Arizona,<sup>60</sup> Georgia,<sup>61</sup> Indiana,<sup>62</sup> Kansas,<sup>63</sup> Minnesota,<sup>64</sup> Mississippi,<sup>65</sup> Nebraska,<sup>66</sup> Ohio,<sup>67</sup> Oklahoma,<sup>68</sup> South Carolina,<sup>69</sup> Tennessee,<sup>70</sup> Virginia,<sup>71</sup> Washington,<sup>72</sup> and West Virginia.<sup>73</sup> All of these states have introduced covenant marriage bills modeled after Louisiana's Covenant Marriage Act.

According to proponents of Louisiana's Covenant Marriage Act, the purpose

is to bring cohesion back to the family . . . . [The Act] is aimed at stopping societal problems such as crime and drugs by preventing what is believed to be the source, marital breakdown. . . . The advocates of the Covenant Marriage Act blame the increase in the divorce rate on the advent of no-fault divorce. . . . By making a divorce more difficult to obtain and by requiring marital counseling for a couple who is experiencing problems, the legislature anticipates that the family unit will become a more stable environment in which to raise a child.<sup>74</sup>

Advocates of California's S.B. 1377 make similar contentions. Opponents to the California proposal, however, cite numerous reasons why the Covenant Marriage Act would not achieve the results its advocates suggest. Among the reasons for opposition

are the potential harmful effects of a covenant marriage on children, if they are subjected to "continued high conflict in the household for their entire childhood."<sup>75</sup> Additionally, opponents suggest that the "bill would require victims [of domestic violence] to publicly declare humiliating and closely held secrets that may have little or no documentation except through their own testimony, and create another opportunity for batterers to manipulate their victims and perhaps draw them back into abusive marriages."<sup>76</sup> Some even suggest that a re-introduction of fault will likely result in

couples not getting married and living together; [couples] separating anyway and living with new mates; physical and/or economic coercion to force consent to a divorce thereby increasing domestic violence; false charges of spousal, child, or sexual abuse; collusion of the parties to create grounds; parties remaining together in a hostile environment.<sup>77</sup>

Because it has not even been a year since Louisiana enacted its Covenant Marriage Act, it is difficult to assess whether it has achieved its laudable goal of maintaining marriage or if it has resulted in the difficulties suggested by the opponents. One commentator, however, believes that the Covenant Marriage Act will not cause a significant decrease in the divorce rate in Louisiana as its advocates suggest.<sup>78</sup>

**IV. Community Efforts to Strengthen Marriage: The "Community Marriage Policy."** This paper has focused exclusively on legislative attempts to strengthen the institution of marriage. Marriage and divorce, however, are social and cultural institutions which go beyond the legal structure imposed by the state. This is reflected in the growing grass-roots campaigns aimed at strengthening marriage on a community level. In 1986, churches in Modesto, California became the "first in the nation to band together to adopt a 'community marriage policy' that puts engaged couples through rigorous premarital counseling, [and] sets a mandatory waiting period before they tie the knot . . . ." <sup>79</sup>

"Religious institutions of all denominations in a community sign an agreement to perform weddings only for couples who undergo training in communication and conflict resolution. The goal is to affect as many couples as possible, since 74% of marriages are performed by the clergy."<sup>80</sup> The community marriage policy also uses "mentoring couples" (older couples who have successful marriages) to counsel newlyweds during their first year of marriage to assist them with any problems that may arise after the honeymoon.<sup>81</sup>

According to the founder of community marriage policy, the rate of divorce in Stanislaus County (where Modesto is located) was nearly 40% lower in 1995 than it was in 1986 when Modesto began the community marriage policy.<sup>82</sup> This figure, however, may be deceiving because Modesto's divorce rate was closer to the national average for 1991-94, and the divorce rate was actually higher in a couple of years.<sup>83</sup>

Although it seems that this is purely a community-based movement, some counties have recognized that preventing divorce should not be confined solely to the religious realm.<sup>84</sup> In mid-June, 1997, Lenawee County Michigan adopted the first "*total-community marriage policy, involving judges and magistrates as well as members of the clergy.*"<sup>85</sup> According to this policy, "all couples seeking a marriage license in Lenawee County, [Michigan] will first have to receive marital education by a certified professional."<sup>86</sup>

A similar campaign is underway to establish community marriage policies in every county in Iowa.<sup>87</sup> In Souix City, Iowa, clergy and judges have agreed to require premarital counseling for engaged couples, and to establish a mentoring program.<sup>88</sup> Just recently

(late March, 1998), judges and pastors in Dodge County, Nebraska signed a pledge to refuse to marry any couples that have not had at least six weeks of premarital counseling.<sup>89</sup> It is the first community-wide policy of its kind in Nebraska.<sup>90</sup> Because the policy extends to civil ceremonies, the counseling would focus on communication, conflict resolution, and family history rather than on any particular faith.<sup>91</sup>

Community marriage policies represent a growing movement to educate people on how to prevent marital distress long before it starts.<sup>92</sup> According to one expert, "[m]arriage education not only immunizes couples against disappointment and despair . . . it also prevents the development of problems that are costly to children and all of society."<sup>93</sup> California's educational pamphlet proposal could be viewed as a supplement and an aid to these community efforts to strengthen marriage.

## V. Conclusion.

It is clear that divorce and the accompanying social effects are a major problem in this country. The divorce rate remains alarmingly high with little suggestion of decline. Because "the state has a paramount interest in marriage and divorce,"<sup>94</sup> it is not surprising that state legislatures have taken a renewed interest in exploring alternatives which may lower the divorce rate. The efforts have concentrated both on encouraging rational and informed decisions about marriage based on pre-marital counseling and on encouraging couples to seek divorce as a final option. And there are still other efforts advocated by community groups to discourage couples from seeking divorce as the first choice when conflict arises.

California's proposal of an educational pamphlet distributed when a couple applies for a marriage license is intended to increase rational and informed choices about the decision to get married. At the current time, no states have such an educational pamphlet even though education is a fundamental component of rational and informed decision-making. If couples are educated about the implications and legal ramifications of marriage, it is anticipated that they will make more informed decisions, and perhaps decisions which will result in more stable relationships with smaller chances of failure.



[FRAN.HTM]

---

## FOOTNOTES

<sup>1</sup>. See George Cantor, *Making Breaking Up Harder To Do? Intervening Before Marriage May Be Better*, Detroit News, Feb. 25, 1996, at A8. ([back to text](#))

<sup>2</sup>. *Id.* ([back to text](#))

<sup>3</sup>. See Edmund V. Ludwig, *Friendage*, 3 Roger Williams U. L. Rev. 149, n. 5 (1997). ([back to text](#))

<sup>4</sup>. J. Herbie DiFonzo, *Alternatives To Marital Fault: Legislative And Judicial Experiments in Cultural Change*, 34 Idaho L. Rev. 1, 42 (1997). ([back to text](#))

<sup>5</sup>. See *infra* notes 17-55 and accompanying text. ([back to text](#))

<sup>6</sup>. See *infra* notes 56-58 and accompanying text. ([back to text](#))

<sup>7</sup>. See John L. Burton, *Senate Judiciary Committee -- S.B. 1377 -- Bill Analysis*, available at (<http://leginfo.public.ca.gov>) April 14, 1998. ([back to text](#))

8. *See id.* ([back to text](#))
9. *See* Andrew Schepard, et al., *Preventing Trauma for the Children of Divorce Through Education and Professional Responsibility*, 16 Nova L. Rev. 767, 768 (1992). ([back to text](#))
10. *See* Elizabeth S. Scott, *Rational Decisionmaking About Marriage and Divorce*, 76 Va. L. Rev. 9, 29 (1990) ([back to text](#))
11. *See* Ruth Sidel, *Keeping Women and Children Last: Americas War on the Poor* 36-37 (Penguin Books 1996) (citing to study by Judith Wallerstein *Second Chances: Men, Women, and Children a Decade After Divorce*). ([back to text](#))
12. *See* Schepard, *supra* note 9, at 768. ([back to text](#))
13. *See* William Levernier & John B. White, *The Determinants of Poverty in Georgia's Plantation Belt: Explaining the Difference in Measured Poverty Rates*, Am. J. Econ. & Soc. 47 (1998) available at 1998 WL 12027076. ([back to text](#))
14. Laura Bradford, Note, *The Counterrevolution: A Critique of Recent Proposals to Reform No-Fault Divorce Laws*, 49 Stan. L. Rev. 607, 608 (1997). ([back to text](#))
15. *See* Claudia Kolke, *More Women, Children Seek Shelter, Study Says*, Houst. Chron., May 6, 1998, at 1. ([back to text](#))
16. *See* Levernier, *supra* note 13, at 47 (stating that the percent of children living below poverty level increased from 14.9% to 21.1% from 1970 to 1992). ([back to text](#))
17. *See* Fred Morganroth, *No Fault Divorce: A Blessing Or A Curse?*, 9 FairShare 8, 8 (1997). ([back to text](#))
18. *See id.* ([back to text](#))
19. Laura Gatland, *Putting the Blame on No-Fault*, 83 A.B.A. J. 50, 52 (April 1997). ([back to text](#))
20. *E.g.*, H.B. 4432, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5627, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5628, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5629, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5630, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5631, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5632, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5633, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5634, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5635, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5636, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.B. 5637, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995); H.C.R 351, 88<sup>th</sup> Leg., Reg. Sess. (Mich. 1995). ([back to text](#))
21. *See* S.B. 303, 109th Leg., 2d Sess. (Ind. 1996). ([back to text](#))
22. *See* S.B. 2558, 1996 Leg., Reg. Sess. (Miss. 1996). ([back to text](#))
23. *See* Grant Moss, *State Legislatures Move to Turn Back the Clock on No-Fault Divorces*, West's Legal news, Mar. 1, 1996, available at 1996 WL 258780; H.B. 1607, 79th Leg., Reg. Sess. (Minn. 1995); S.B. 844, 79th Leg., Reg. Sess. (Minn. 1995). ([back to text](#))
24. *See* Kristi Wright, *Until Death Do Us Part; Covenants, Other Programs Help Couples Keep Their Vows*, Omaha World-Hearld, Dec. 28, 1997 at 1E available at 1997 WL 6325937. ([back to text](#))
25. Hara Estroff Marano, *Marital Hex: The Devil of Divorce is in the Details*, Ariz. Republic, June 10, 1997, at C1, available at 1997 WL 8369698. ([back to text](#))
26. *See* A.B. 3130, 1993-94 Leg., Reg. Sess. (Cal. 1993). ([back to text](#))
27. *See id.* A similar bill was introduced by Jackie Speier in 1989 (A.B. 2214). ([back to text](#))
28. *See* Marano, *supra* note 25. ([back to text](#))
29. *See* H.B. 477, 19th Leg., Reg. Sess. (Alaska 1996). ([back to text](#))

30. See S.B. 2265, 76th Leg., 2d Sess. (Iowa 1996). ([back to text](#))
31. See S.B. 367, 1996 Leg., Reg. Sess. (Md. 1996). ([back to text](#))
32. See *supra* notes 9-12 and accompanying text. ([back to text](#))
33. See H.B. 826, 53d Leg., 2d Sess. (Idaho 1996). ([back to text](#))
34. See S.B. 958, 179th Leg., Reg. Sess. (Pa. 1995). ([back to text](#))
35. Marano, *supra* note 25. ([back to text](#))
36. See *supra* notes 9-12 and accompanying text. ([back to text](#))
37. Schepard, *supra* note 9, at 768. ([back to text](#))
38. *Id.* at 772-73 (footnotes omitted). ([back to text](#))
39. See *id.* at 776. ([back to text](#))
40. See *id.* ([back to text](#))
41. *Id.* at 777. ([back to text](#))
42. See H.B. 1765, 143d Leg., Reg. Sess. (Ga. 1995). ([back to text](#))
43. See H.B. 470, 53d Leg., 2d Sess. (Idaho 1996). Additionally, Idaho would require mandatory marital counseling if a couple files for divorce because of irreconcilable differences. See *supra* note 33 and accompanying text. ([back to text](#))
44. See H.F. 1975, 79th Leg., Reg. Sess. (Minn. 1995). ([back to text](#))
45. See *id.* ([back to text](#))
46. See S.B. 1842, 89th Leg., Reg. Sess. (Ill. 1995). ([back to text](#))
47. See H.B. 1188, 1997 Leg., Reg. Sess. (Va. 1996). ([back to text](#))
48. See H.B. 2950, 54th Leg., Reg. Sess. (Wash. 1995). ([back to text](#))
49. See *id.* ([back to text](#))
50. See H.B. 911, 1996 Leg., Reg. Sess. (Ky. 1996). ([back to text](#))
51. See H.B. 4432, 89th Leg., Reg. Sess. (Mich. 1995). ([back to text](#))
52. See H.B. 2562, 180th Leg., Reg. Sess. (Penn. 1995) (bill would eliminate divorce based on mutual consent and irretrievable breakdown). ([back to text](#))
53. H.B. 4416, 1996 Leg., Reg. Sess. (W. Va. 1996). ([back to text](#))
54. Bradford, *supra* note 14, at 621 (emphasis added) (citing Scott, *supra* note 10, at 45 & n. 99). ([back to text](#))
55. See Melissa S. LaBauve, Comment, *Covenant Marriages: A Guise for Lasting Commitment?*, 43 Loy. L. Rev. 421 (1997). ([back to text](#))
56. See La. Rev. Stat. Ann.  272 (West Supp. 1997). ([back to text](#))
57. LaBauve, *supra* note 55. ([back to text](#))
58. See S.B. 1377, 1997-98 Leg., Reg. Sess. (Cal. 1997). ([back to text](#))

59. See H.B. 30, 1998 Leg., Reg. Sess. (Ala. 1998); H.B. 44, 1998 Leg., Reg. Sess. (Ala. 1998); S.B. 606, 1998 Leg., Reg. Sess. (Ala. 1998). ([back to text](#))
60. See S.B. 1133, 43d Leg., 2d Sess. (Ariz. 1998); H.B. 2658, 43d Leg., Reg. Sess. (Ariz. 1998). ([back to text](#))
61. See S.B. 440, 144th Leg., Reg. Sess. (Ga. 1997). ([back to text](#))
62. See H.B. 1052, 110th Leg., 2d Sess. (Ind. 1998). ([back to text](#))
63. See H. B. 2839, 77th Leg., Reg. Sess. (Kan. 1997). ([back to text](#))
64. See H.F. 2760, 80th Leg., Reg. Sess. (Minn. 1997); S.F. 2935, 80th Leg., Reg. Sess. (Minn. 1997). ([back to text](#))
65. See H.B. 1645, 1998 Leg., Reg. Sess. (Miss. 1998); S.B. 2910, 1998 Leg., Reg. Sess. (Miss. 1998); H.B. 1201, 1998 Leg., Reg. Sess. (Miss. 1998); H.B. 1222, 1998 Leg., Reg. Sess. (Miss. 1998). ([back to text](#))
66. See L.B. 1214, 95th Leg., 2d Sess. (Neb. 1997). ([back to text](#))
67. See H.B. 567, 122d Leg., Reg. Sess. (Ohio 1997). ([back to text](#))
68. See S.B. 1115, 46th Leg., 2d Sess. (Okla. 1997); H.B. 2208, 46th Leg., 2d Sess. (Okla. 1997). ([back to text](#))
69. See S.B. 961, 112th Leg., Reg. Sess. (S.C. 1997); H.B. 870, 112th Leg., Reg. Sess. (S.C. 1997). ([back to text](#))
70. H.B. 2101, 100th Leg., Reg. Sess. (Tenn. 1997). ([back to text](#))
71. See H.B. 1056, 1998 Leg., Reg. Sess. (Va. 1998); H.J.R. 266, 1998 Leg., Reg. Sess. (Va. 1998); H.B. 1159, 1998 Leg., Reg. Sess. (Va. 1998). ([back to text](#))
72. See S.B. 6135, 55th Leg., Reg. Sess. (Wash. 1997). ([back to text](#))
73. See H.B. 4562, 73d Leg., 2d Sess. (W. Va. 1998). ([back to text](#))
74. LaBauve, *supra* note 55 (footnotes omitted). ([back to text](#))
75. Burton, *supra* note 7. ([back to text](#))
76. *Id* ([back to text](#))
77. Morganroth, *supra* note 17, at 8-9. ([back to text](#))
78. See LaBauve, *supra* note 55. ([back to text](#))
79. Larry B. Stammer, *A Crusade To Save Marriages Pact By Modesto Churches Makes Engaged Couples Take Rigorous Premarital Counseling, Putting The City At Vanguard Of A Movement To Turn Tide Of Divorce*, L.A. Times, Mar. 17, 1997, at A1. ([back to text](#))
80. Marano, *surpa* note 25. ([back to text](#))
81. See Stammer, *supra* note 79. ([back to text](#))
82. See *id.* ([back to text](#))
83. See *id.* ([back to text](#))
84. See Marano, *supra* note 25. ([back to text](#))
85. *Id.* (emphasis added). ([back to text](#))
86. *Id* ([back to text](#))

87. See Wright, *supra* note 24. ([back to text](#))

88. See *id.* ([back to text](#))

89. See Associated Press, *Civil-Court Couples Won't Get Religious-Based Counseling*, March 30, 1998 available at 1998 WL 7400786. ([back to text](#))

90. See *id.* ([back to text](#))

91. See *id.* ([back to text](#))

92. See Marano, *supra* note 25. ([back to text](#))

93. Marano, *supra* note 25. ([back to text](#))

94. DiFonzo, *supra* note 4, at 42. ([back to text](#))