

Covenant Marriage in Arizona

Information taken from <http://www.supreme.state.az.us/dr/text/covenant.htm>

As of August 21, 1998, Arizona incorporated into statute a new type of marriage called "covenant marriage." (The law can be found in Sections 25-901 through 25-906 of the Arizona Revised Statutes.) This pamphlet describes what steps must be taken to enter into a covenant marriage. It also lists the limited reasons available for a legal separation or divorce for those in a covenant marriage. The pamphlet contains only general information. If you have questions about covenant marriage, please ask a member of the clergy, a marriage counselor or an attorney of your choice.

What is a Covenant Marriage?

The State Legislature has created a type of marriage in Arizona called "covenant marriage." It does not replace the kind of marriage already available. Instead it offers an additional option to couples who wish to marry. The covenant marriage differs both in the steps necessary to get married and the reasons why a legal separation or divorce may be granted by the court.

To enter into a covenant marriage, the couple first must have counseling (called "premarital counseling") from a member of the clergy or a marriage counselor. Then, when applying for a license to be married, both persons must show their intention to enter into a covenant marriage by signing a special statement (or "declaration") on the application form. In a covenant marriage, legal separation or divorce (in Arizona, a "dissolution of marriage") may be granted by the court only for specific reasons listed in state law. These are explained in the following pages.

ENTERING INTO A COVENANT MARRIAGE

To be married in Arizona, a woman and man legally qualified to marry must first get a marriage license. (Sections 25-101 and 25-102 of the Arizona Revised Statutes indicate who may legally marry.) To get a license, a written application must be filed with the Clerk of the Superior Court in any county of the state or with some justices of the peace, city clerks or town clerks. Call the Clerk of the Superior Court in your county for information on where to apply for a marriage license.

For a covenant marriage, certain information must be included in the marriage license application. By law (Section 25-901 of the Arizona Revised Statutes) a person must state their intention to enter into a covenant marriage. This statement (or "declaration:") must contain three things:

A written statement, printed exactly as follows:

A Covenant Marriage

We solemnly declare that marriage is a covenant between a man and a woman who agree to live together as husband and wife for as long as they both live. We have chosen each other carefully and have received premarital counseling on the nature, purposes and responsibilities of marriage. 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 declare that our marriage will be bound by Arizona law on covenant marriages and we promise to love, honor and care for one another as husband and wife for the rest of our lives.

The signed and sworn statement of both people that they have received premarital counseling from a member of the clergy or from a marriage counselor.

In premarital counseling, both people must be advised that a covenant marriage is a commitment for life. Premarital counseling also must include a discussion of the seriousness of covenant marriage, the requirement to seek marriage counseling if marital difficulties develop and the limited legal reasons available for ending the marriage by legal separation or divorce. The couple also must receive a copy of this pamphlet.

The signatures of both parties witnessed by a court clerk.

The parties must submit with the license application a sworn, notarized statement from the member of the clergy or marriage counselor who provided the premarital counseling. This statement must confirm that the parties were advised about the nature and purpose of a covenant marriage and the limited reasons for ending the marriage by legal separation or divorce. The counselor's statement also must show that a copy of this informational pamphlet was given to each person. A sample affidavit is available at:

<http://www.supreme.state.az.us/dr/booklets.htm>

COVENANT MARRIAGE FOR ALREADY MARRIED PERSONS

People who are already married in this or any state may change (or "convert") their marriage to a covenant marriage. In this situation, it is not necessary to have premarital counseling or to apply for a marriage license and go through a marriage ceremony. To convert a marriage, the married couple must pay a fee (prescribed in Section 12-284(A) of the Arizona Revised Statutes) to the Clerk of the Superior Court and present two things:

1. A written statement ("declaration") like the one printed for unmarried persons seeking a covenant marriage (see Page 2).
2. A sworn statement listing the names and the date and place their marriage ceremony was performed.

Some courts have preprinted forms for married couples to complete. The Clerk of the Superior Court will file the documents and issue a certificate stating that the earlier marriage is converted to a covenant marriage. However, the process of converting a marriage will not legalize a marriage that was not properly entered into or that is prohibited by Arizona law.

The statements for conversion to a covenant marriage may be submitted to the Clerk of the Superior Court in any county of the state and to some justices of the peace, city clerks or town clerks. Call the Clerk of the Superior Court in your county for more information.

LIMITED LEGAL REASONS TO GET A DIVORCE OR LEGAL SEPARATION

For a covenant marriage, the court can only grant a divorce ("dissolution of marriage" in Arizona) or a legal separation for certain, limited reasons.

To get a divorce, any one of the following eight reasons must be proved to the court (these are listed in Section 25-903 of the Arizona Revised Statutes):

1. The spouse against whom the divorce case is filed (the "Respondent") has committed adultery.
2. The spouse against whom the divorce case is filed (the "Respondent") has committed a serious crime ("felony") and has been sentenced to death or imprisonment.
3. For at least one year before the divorce case is filed, the spouse against whom the divorce case is filed (the "Respondent") has been absent from ("abandoned") the home where the married couple resided and refuses to return. The law allows an exception. A person may file for divorce by claiming that the other spouse has left the home and is expected to stay away for the one-year period. If the

spouse has not been away for one year when the court papers are filed, the divorce case will not be dismissed by the court. Instead the case will be put on hold until the one-year requirement is met. During this time, the court still may grant and enforce temporary orders for things like child support, parenting time (formerly known as "visitation") and spousal support (sometimes called "alimony" or "spousal maintenance").

4. The spouse against whom the divorce case is filed (the "Respondent") either has (1) physically or sexually abused the other spouse, a child or a relative of either spouse who lives permanently in the married couple's home, or (2) committed domestic violence (defined in Section 13-3601 of the Arizona Revised Statutes) or emotional abuse.
5. The spouses have been living separate and apart without getting back together for at least two straight years before the divorce case is filed. The law allows an exception. A person may file for divorce by claiming it is expected the spouses will be separated for the two-year period. If the spouses have not been separated for two years when the court papers are filed, the divorce case will not be dismissed. Instead the case will be put on hold until the two-year requirement is met. During the two-year period, the court may still grant and enforce temporary orders for things like child support, parenting time (formerly known as "visitation") and spousal support (sometimes called "alimony" or "spousal maintenance").
6. The spouses already have been granted a legal separation by the court, and they have been living separate and apart without getting back together for at least one year from the date of the legal separation.
7. The spouse against whom the divorce case is filed (the "Respondent") has regularly abused drugs or alcohol.
8. The spouses both agree to a divorce.

The reasons for obtaining a legal separation differ somewhat, but also are limited. The court must have proof that any one of the following are true (these are listed in Section 25-904 of the Arizona Revised Statutes):

1. The spouse against whom the legal separation case is filed (the "Respondent") has committed adultery.
2. The spouse against whom the legal separation case is filed (the "Respondent") has committed a serious crime ("felony") and has been sentenced to death or imprisonment.
3. For at least one year before the separation case is filed, the spouse against whom the legal separation case is filed (the "Respondent") has been absent from ("abandoned") the home where the married couple resided and refuses to return. The law allows an exception. A person may file for a legal separation by claiming that the other spouse has left the home and is expected to stay away for the one-year period. If the spouse has not been away for one year when the court papers are filed, the legal separation case will not be dismissed by the court. Instead the case will be put on hold until the one-year requirement is met. During the one-year period, the court still may grant and enforce temporary orders for things like child support, parenting time (formerly known as "visitation") and spousal support (sometimes called "alimony" or "spousal maintenance").
4. The spouse against whom the legal separation case is filed (the "Respondent") either has (1) physically or sexually abused the other spouse, a child or a relative of either spouse who lives permanently in the married couple's home, or (2) committed domestic violence (defined in Section 13-3601 of the Arizona Revised Statutes) or emotional abuse.
5. The spouses have been living separate and apart without getting back together for at least two straight years before the request for a legal separation is made to the court. The law allows an exception. A person may file for a legal separation by claiming it is expected the spouses will be separated for the two-year period. If the spouses have not been separated for two years when the court papers are filed, the legal separation case will not be dismissed by the court. Instead the case will be put on hold until the two-year requirement is met. During the two-year period, the court still may grant and enforce temporary orders for things like child support, parenting time (formerly known as "visitation") and spousal support (sometimes called "alimony" or "spousal maintenance").
6. Regular abuse of alcohol or ill treatment of a spouse by the spouse against whom the legal separation case is filed (the "Respondent") makes living together intolerable.
7. The spouse against whom the legal separation case is filed (the "Respondent") has regularly abused drugs or alcohol.