

THE COVENANT MARRIAGE ACT

Covenant Marriage

Louisiana enacted a stronger, alternative form of marriage called the covenant marriage. Parties to a covenant marriage understand and agree that marriage is a lifelong relationship. Louisiana law governing covenant marriage is found at Louisiana Revised Statutes 9:272-276.

Creating a Covenant Marriage

In order to enter into a covenant marriage, a couple must do the following:

- Obtain premarital counseling. La. R.S. 9:272 (A).
- Declare their intent to contract a covenant marriage on their application for a marriage license as provided in La. R.S. 9:272 (B); *See also* La. R.S. 9:224(C) and La. R.S. 9:273.
- Execute a declaration of intent to contract a covenant marriage. La. R.S. 9:273.
- File the application for a marriage license and the declaration of intent with the official who issues the marriage license. La. R.S. 9:272.

Contents of Declaration of Intent

A declaration of the intent to contract a covenant marriage shall contain all of the following:

- A recitation signed by both parties. See La. R.S. 9:273. The recitation must be prepared in duplicate originals, one of which shall be retained by the parties and the other, together with the affidavit and attestation, shall be filed with the official who issues the marriage license.
- An affidavit by the parties attesting they have received premarital counseling from a priest, minister, rabbi, clerk of the Religious Society of Friends, any clergyman of any religious sect, or a professional marriage counselor. Certain information must be discussed in the counseling. See La. R.S. 9:273.
- An attestation signed by the counselor and attached to or included in the parties' affidavit, confirming that the couple was counseled as to the nature and purpose of the marriage. La. R.S. 9:273.
- The signature of both parties witnessed by a notary. La. R.S. 9:273.
- If one or both of the parties are minors, the written consent or authorization of those persons required under the Children's Code to consent to or authorize the marriage of minors. See La. Ch. Code art. 1545; La. R.S. 9:273.

Applicability to already married couples

Married couples may convert their marriage into a covenant marriage. This is accomplished by executing a declaration of intent to designate their marriage as a covenant marriage to be governed by the applicable laws. *See* La. R.S. 9:275 (C) for the required contents of the declaration.

The declaration of intent must be presented to the officer who issued the couple's marriage license and with whom the couple's marriage certificate is filed. If the couple was married outside of the state, a copy of the foreign marriage certificate shall be filed with the officer who issues marriage licenses in the parish where the couple is domiciled.

A declaration of the intent to designate a marriage as a covenant marriage shall contain all of the following:

- A recitation signed by both parties. La. R.S. 9:275.
- An affidavit by the parties attesting they have received premarital counseling from a priest, minister, rabbi, clerk of the Religious Society of Friends, any clergyman of any religious sect, or a professional marriage counselor. Certain information must be discussed in the counseling. *See* La. R.S. 9:275.
- An attestation signed by the counselor and attached to or included in the parties' affidavit, confirming that the parties were counseled as to the nature and purpose of the marriage. La. R.S. 9:275.
- The signature of both parties witnessed by a notary. La. R.S. 9:275.
- If one or both of the parties are minors, the written consent or authorization of those persons required under the Children's Code to consent to or authorize the marriage of minors. *See* La. Ch. Code art. 1545; La. R.S. 9:273.

Special incidents and effects of a covenant marriage

The law provides that spouses to a covenant marriage are subject to all of the laws governing married couples generally and special rules governing covenant marriage. La. R.S. 9:293-298. The special rules imposed by covenant marriage include the following:

- Spouses owe each other love and respect, and they commit to a community of living. Each spouse should attend to the satisfaction of the other's needs.
- Spouses are bound to live together, unless there is a good cause otherwise.
- Spouses determine the family residence by mutual consent, according to their requirements and those of the family.
- The management of the household is the right and the duty of both spouses.
- Spouses by mutual consent after collaboration shall make decisions relating to family life in the best interest of the family.
- Spouses are bound to maintain, teach, and educate their children born of the marriage in accordance with their capacities, natural inclinations, and aspirations, and shall prepare them for their future.

Grounds for divorce in a covenant marriage

An extremely important effect of covenant marriage is that there are a limited number of reasons or grounds for divorce. *See* La. R.S. 9:307; La. Civ. Code arts. 102-103. In entering into covenant marriage, spouses voluntarily declare that if there are difficulties, they commit to take all reasonable efforts to preserve their marriage, including marriage counseling. La. R.S. 9:273. According to legal commentaries, this declaration is a legally binding obligation on the spouses. Not only is formal marital counseling to be undertaken, but also all other reasonable steps are to be taken. These steps could include a myriad of other religious and non-religious assistance to the preservation of the marriage. Whether any one step or effort is reasonable is a factual determination and will depend on all the circumstances.

Subsequent to the parties obtaining counseling, a judgment of divorce from a covenant marriage may be only be obtained upon proof of the following grounds:

- The other spouse has committed adultery.
- The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.
- The other spouse has abandoned the matrimonial domicile for a period of one year and constantly refuses to return.
- The other spouse has physically or sexually abused the spouse seeking the divorce or a child of one of the spouses.
- The spouses have been living separate and apart continuously without reconciliation for a period of two years.
- The spouses have been living separate and apart continuously without reconciliation for a period of one year from the date of the judgment of separation from bed and board was signed.
- If there is a minor child or children of the marriage, the spouses have been living separate and apart continuously without reconciliation for a period of one year and six months from the date the judgment of separation from bed and board was signed; however, if abuse of a child of the marriage or a child of one of the spouses is the basis for which the judgment of separation from bed and board was obtained, then a judgment of divorce may be obtained if the spouses have been living separate and apart continuously without reconciliation for a period of one year from the date the judgment of separation from bed and board was signed.

La. R.S. 9:307(A).

Grounds for a judgment of separation from bed and board

Instead of an immediate divorce, and subsequent to the parties obtaining counseling, a spouse may obtain a separation from bed and board. A separation from bed and board in a covenant marriage does not dissolve the bond of matrimony, since the separated husband and wife are not at liberty to marry again; but it puts an end to their conjugal cohabitation, and to the common concerns, which existed between them. *See* La. R.S. 9:309(A).

A judgment of separation from bed and board may be obtained only upon proof of the following grounds:

- The other spouse has committed adultery.
- The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.
- The other spouse has abandoned the matrimonial domicile for a period of one year and constantly refuses to return.
- The other spouse has physically or sexually abused the spouse seeking the divorce or a child of one of the spouses.
- The spouses have been living separate and apart continuously without reconciliation for a period of two years.
- On account of habitual intemperance of the other spouse, or excesses, cruel treatment, or outrages of the other spouse, if such habitual intemperance, or such ill-treatment is of such a nature as to render their living together insupportable.

See La. R.S. 9:307(B).

Spouses who are judicially separated from bed and board in a covenant marriage retain that status until either they reconcile or divorce. La. R.S. 9:309(B).

Regardless of whether the spouse is attempting to obtain a judgment of separation of bed and board or a judgment of divorce, the spouses are required to take part in counseling or other intervention until the rendition of a judgment of divorce except in situations in which one spouse has physically or sexually abused the spouse seeking the divorce or a child of one of the spouses. *See* La. R.S. 9:307(C) and (D).

Forms

The law suggests sample legal forms for couples entering a covenant marriage, which can be found at La. R.S. 9:273.1 and La. R.S. 9:275.1. These forms and other applicable laws can be viewed free of charge at the legislature's website: <http://www.legis.la.gov/legis/LawSearch.aspx>