

## **A Family Impact Analysis of Covenant Marriage in Minnesota**

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### **Introduction**

Family impact analysis is both a research method and a mindset. Families are a vital part of our society and are very important to most Americans. The family provides basic care, education, and socialization to its members. Traditionally, policymakers have developed policy that is focused on an individual in the family (i.e. elderly, children, disabled, worker, etc). When focusing on individuals, policy ignores the effect on the family as a whole. In recent years, policymakers have worked to examine the impact that policy will have on the family system rather than just the individual (Bogenschneider, 1993).

Family impact analysis is a research method that looks to examine the consequences of a policy, both intended and unintended, on families. This is done by using six guiding principles to assess and describe the impact that a policy will have on families (Bogenschneider, 1993 and Shonyo, 2002).

Society has long been interested in the institution of marriage. For many people, it is considered a rite of passage to adulthood and the start of a family. Over the years, the lines that define what a family is have blurred and perceptions have changed. Who is considered a family member? People have many different opinions about what actually determines this. Studies have shown that marriage has remained quite popular. In fact, it is estimated that 85 to 90 percent of young people today will eventually marry (Hawkins, Nock, Wilson, Sanchez, and Wright, 2002). The popularity of marriage is quite often compared to the divorce rate. The U.S. divorce rate has risen since the 1920's, which spiked after World War II. After dropping, it rose again in the 1970's. The U.S. divorce rate peaked at 5.3 per 1,000 in 1981, before slightly declining (McGeeveran, et al., 2003).

The most recent dramatic rise in the divorce rate (1970 to 1980) coincided with a change in divorce law, namely, the no-fault divorce. In 1970, California was the first state to offer no-fault divorce and since then, every state has followed suit (Hawkins, 2002). The debate about divorce law and concern about the rising divorce rates has caused states to look at laws concerning both marriage and divorce once again. One response to this has been covenant marriage, an alternative to the traditional marriage license. Currently, Louisiana, Arizona, and Arkansas have covenant marriage laws (Perina, 2002). Since Louisiana passed the first covenant marriage legislation in 1997, 19 other states have considered such legislation, one of them being Minnesota (Nock, Wright, Sanchez, 1999). In this report, I will discuss the details, rationale, and results of covenant marriage, using the principles of family impact analysis.

**Literature Review**

Many wonder, why covenant marriage and why now? Scholars have spent years studying marital patterns, and in the 30 years since no-fault divorce was born, there has been a lot of discussion about this institution.

There are many facets that can affect the quality and the quantity of marriages. Over the past 20 years, people have been waiting longer to marry and to have children. There has also been an increase in premarital cohabitation. Research has shown that individuals who cohabit prior to marriage tend to see higher rates of divorce. People have had more of a tendency to marry into heterogamous relationships. Differences among people can lead to more conflict. These changes, along with the woman's increased involvement in the workplace, have been associated with perceived declines in marital quality. There is also a common belief that marriage is in decline. People are moving away from marriage due to certain difficulties of maintaining a successful relationship (Amato, 2003).

Divorce is necessary in some cases. There are marriages that simply need to be dissolved. Even though that is the case, divorce still has significant harmful effects on those involved. Children of divorced parents fare the worst. Studies have shown these children have increased academic and social skill struggles. They are also known for having a higher rate of divorce in their own marriages. Divorced women with children, in some cases, have financial difficulties and have trouble making ends meet. It has been shown that they are more likely to live in poverty after a divorce. Some scholars suggest that the education and counseling components of covenant marriage would be beneficial in preventing these effects. If the individuals discover issues that may cause marital strife, they can deal with them before they get out of hand and possibly before children are involved. "The precommitment made in Louisiana covenant marriage would lead to, like other bonding devices, to better later choices" (Brinig, 1998).

There has been concern over the years that no-fault divorce makes divorce too easy. It was designed to allow people to get out of bad marriages easily. Some people feel it is the easy way out of any marriage. No-fault divorce gives no leverage to the person being divorced. He/she cannot change or stop the process. Covenant marriage gives more power to that person. Katherine Spaht, a legal professor (who will be discussed later), states, "What we have now amounts to legalized abandonment. This law says, 'You leave me, I set the terms'" (Carey, 1999). There has also been concern that marital therapy is ineffective. Research into marital relations has given therapists a better knowledge base to work from. Now therapists understand that there will always be differences between couples. Therapists are focusing on teaching couples the relationship skills they need to deal with these differences to avoid divorce-inducing conflict.

In recent years, a marriage movement has evolved. People have been pushing for the government to recognize that marriages must be strengthened, and they have been working to do it. Clergy have worked to develop premarital counseling and couple mentoring. Katherine Spaht, as mentioned earlier, helped write Louisiana's no-fault divorce bill in the 1980's. Since that time, she

has seen divorce devastate the lives of many women. Spaht then helped Louisiana draft their covenant marriage bill that passed in 1997. This gave more legal clout to the individual who did not want a divorce, making the marriage license more legally binding (Gallagher, 1999).

After a push towards premarital education, improved marital counseling and concern about the high divorce rate, Louisiana passed their first covenant marriage law in 1997. The law allowed for divorce in cases of adultery, felony conviction, abuse, or abandonment. In the case of a couple who simply does not want to be married any longer, couples are required to live separately for two years before a divorce will be granted. However, since this law requires couples to receive premarital education and counseling during marriage distress, the hopes for lifelong marriage is high.

There has been support for covenant marriage. Many found this interesting because it appears to limit an individual's options and freedoms. The positive feedback comes from the fact that states do not criticize no-fault marriage. They focus on the strengths of marriage instead. This strength-based approach makes for a positive look at the situation. There is also the terminology to consider. The word *covenant* is full of religious meaning. Some find this a concern due to the separation of church and state laws. It is important to look at the words; this marriage is, in a way, like a contract. A contract implies the giving and receiving of service. One person gives service to another for some form of payment (i.e. a carpenter). A covenant marriage can be seen as an agreement between two parties, each giving and receiving an equal amount (Gallagher, 1997).

The Louisiana law has had its critics. Feminists have brought up concerns that women will move backwards and will be trapped in bad marriages. Conservatives are concerned that the government is being too intrusive. There has also been concern that not enough couples will choose the covenant marriage option to make a significant impact on the divorce rate. What is so interesting about Louisiana's law is, that it passed. We are in a society that values freedom, moving on, and ever changing relationships. Louisiana's law may not drastically change the divorce rate, but it sets a standard that marriage should not be entered without much consideration (Loconte, 1998).

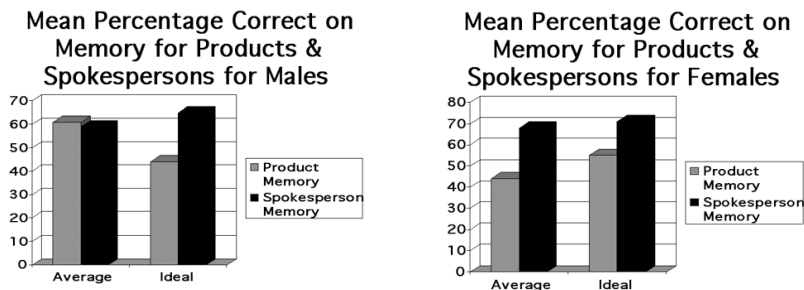
After Louisiana passed its covenant marriage law, many states quickly reviewed the possibility of this law. Arizona passed a covenant marriage law soon after Louisiana. The laws were nearly identical with one important difference. Arizona allowed for substance abuse and/or intemperance as additional grounds for divorce (Arizona Revised Statutes, 2003). This is important because it recognized the dramatic effects substance abuse has on a family. Besides the substance clause, Arizona's legislation is almost identical to Louisiana's.

Steven Nock, Ph.D., is a professor of sociology at the University of Virginia. He has been conducting a five-year study of 600 couples. Half of the couples are bound by covenant marriage. So far, he has found that most covenant couples tend to be religious and conservative. The difference between those couples and the couples seeking a regular marriage license is "a certainty that this relationship is the right one" (Perina, 2002).

Covenant marriage laws have changed the system in a unique way. In states where covenant marriage laws exist, the couples must choose which license they want. Even if they do not choose to have a covenant marriage, they are still required to choose. This will spark discussion, which is the intention of the law. It will force couples to seriously look at their relationship before actually marrying. There has been concern over covenant marriage. Many wonder, is this the beginning of a slippery slope? Some individuals are concerned that the development of different types of marriages will lead to others, such as gay and lesbian marriages. Another concern many have is government getting too involved with marriage. However, Steven Nock found the same people that objected to government "invasion" with marriage had no problem with the state's involvement with the consequences of divorce. Yet another concern with covenant marriage legislation (as written) is there are no standards for counseling or the licensing of counselors. While counseling is required, there are only vague and minimal requirements about what should be covered. There is nothing to prevent bad counseling. A couple could see three different counselors and hear different advice from each one.

Throughout the three states studied, Hawkins et al., found there are mixed feelings. He discovered that the majority of people felt positive about some components of covenant marriage (the education and counseling) and questioned others (the waiting periods). They tended to be lukewarm about the policy as a package. Hawkins found that individuals who seek covenant marriage tend to hold conservative, traditional ideologies and are religiously active. Also, the political and social climate may be accepting of some of these changes.

Interestingly enough, another study was done with forty-two women in eight focus groups. They discussed covenant marriage as a policy in Minnesota. As they gained more information on the policy, many of the women came to view it in a negative fashion. This was very different from the findings in Hawkins' research. The author, Julie Kohler, stated that this demonstrates the differences in research methods (phone survey vs. focus group) rather than discounting the previous studies. Regardless, it shows that more in-depth research should be done to accurately assess the policy and public opinion of it.



### **Description of Policy**

During the 81st legislative session (1999-2000), a bill was introduced into the Minnesota State Legislature providing for the option of covenant marriages. H.F. No. 1571 is the version of that bill that went through the House of Representatives. The bill was similar to legislation that was passed in Louisiana and Arizona legislature.

A covenant marriage is an alternative marriage license. Couples who choose to have a covenant marriage are required to participate in twelve hours of premarital education (by a licensed minister or a practitioner of Marriage and Family Therapy) covering several items. This would include a premarital inventory, conflict management techniques, the teaching of communication skills, and the obligation to seek out marital therapy during times of serious marital difficulty. The education was also to discuss the seriousness of marriage and the fact that it is a life long commitment. Couples choosing a covenant marriage voluntarily give up their right to a no-fault divorce. The existence of a covenant marriage only affects entering the marriage and the grounds for seeking the dissolution of the marriage; it does not prohibit either party from seeking protective orders, a legal separation, child support, custody, visitation, or property division. The dissolution of a covenant marriage will only be granted if proof of one or more of the following conditions is presented:

1. One of the spouses committed adultery.
2. One of the spouses has been convicted of a felony and has been sentenced to imprisonment.
3. One of the spouses has abandoned the home for one year and refuses to return.
4. One of the spouses has physically or sexually abused the spouse seeking the dissolution of the marriage or a child of one of the spouses.
5. The spouses have been living separate and apart for two years without reconciliation. Couples are considered living separate and apart even if there have been brief interruptions of the separation to pursue reconciliation, to fulfill mutual obligations and responsibilities, or sharing living space for economic reasons but are sleeping in separate rooms.

Couples seeking dissolution under clause five are also required to complete twelve hours of marital therapy aimed at reconciliation. Couples seeking dissolution under clauses one through four are not required to seek such therapy.

Couples are informed about covenant marriage in a pamphlet received at the time they apply for their marriage license. Their clergy or the judge, whomever they choose while making arrangements for their wedding, may also inform them of the option.

### **Family Impact Analysis**

As a policy, covenant marriage is explicitly aimed at newly forming families. However, it does allow for couples that are already married to switch to a covenant marriage. The policy increases the competencies and relationship

skills of the marrying parties through education and counseling. Covenant marriage implicitly teaches social responsibility by allowing circumstances of certain behaviors (i.e. felonies, adultery) to be grounds for immediate divorce. It implies that these behaviors are inappropriate and unacceptable. It also makes couples take marriage seriously by requiring premarital education and counseling during times of duress.

Marriage and divorce laws are mandated by the individual states. Therefore, covenant marriage is a state level policy. Thus far, Louisiana and Arizona have passed nearly identical legislation while Arkansas has passed a similar bill. Though considered in 19 other states, including Minnesota, no other states have passed covenant marriage legislation (Nock, et al., 1999). As mentioned earlier, the six principles of covenant marriage will be discussed.

#### **Principle One: Family Stability**

The explicit, primary focus of covenant marriage is to strengthen marital commitment. It requires couples to explore their relationship and potential marriage before they actually marry. Couples entering into a covenant marriage voluntarily give up their right to a no-fault divorce. Before marriage, couples that choose a covenant marriage must fulfill the required amount of premarital education. During times of deep marital stress, the policy states that parties have the ethical responsibility to receive counseling. Couples seeking a divorce under clause five must receive twelve hours of counseling and wait two years without reconciliation before being granted a divorce. Otherwise, the couple can only divorce under very strict conditions. It is not easy to enter or exit a covenant marriage. Lawmakers want to stress that marriage is a lifelong commitment and not one to be entered into lightly. This policy attempts to prepare the couple for marriage and prevent problems before they begin.

#### **Principle Two: Family Support and Responsibilities**

Policy should enhance the family's ability to take care of themselves and resolve their problems. Covenant marriage does this by providing education on relationship skills and conflict management before the marriage begins. It also requires the couples to seek out counseling during times of trouble. This erases the debate of "should we get help for our marriage?" The premarital education and counseling can also build a support network for the new couple so they feel they have a place to turn.

#### **Principle Three: Family Involvement and Interdependence**

Through counseling and education, covenant marriage teaches the couple conflict management and communication techniques. Teaching these basic relationship skills will allow the parties to identify their individual needs, their partner's needs, and the needs of the family. There is an understanding that marriage is a partnership, a contract, between two individuals. It also recognizes that there are some marriages that need to be dissolved without delay. This may be in the best interest of one of the individuals.

**Principle Four: Family Partnership and Empowerment**

The written materials provided by the policy treat the parties as partners in the service. They were published to teach the skills needed to have a more successful relationship. Covenant marriage is a broadening of the choices available to couples planning a marriage. It is an option that includes education and skill training. This will assist the parties in fulfilling their familial responsibilities. Program professionals are resource providers and can be mediators. Their primary role is to help the couple enhance their own relationship skills and conflict management techniques. Program professionals may also help the couple locate areas that may cause problems and have discussion before the problems actually arise.

**Principle Five: Family Diversity**

Covenant marriage explicitly states that the preferred family structure is a married man and woman. It is aimed at families in the newly forming stage of the family life cycle. That being said, it is possible for couples that are already married to switch their marriage to a covenant marriage. In the case of covenant marriage, normal family functioning is considered to be choosing one's spouse carefully and remaining with that spouse for a lifetime. It is also expected that couples are continuously working on their relationship and they will dedicate time and resources to maintaining the relationship and the family ties.

**Principle Six: Targeting Vulnerable Family**

This policy is not specifically targeted at vulnerable families. It is offered to all families and it is their choice to participate. This policy is aimed at preventing problems before they begin by providing premarital education. This education can help to identify problem areas before they arise. There are no sliding fee scales, but it is possible for families to receive lower cost education and counseling through their minister if that is part of their lifestyle.

**Conclusion**

Marriage has always been an institution in our society. In the majority of cases, it is indeed the beginning of a family. Maintaining this institution is a laudable goal, particularly when the implicit goal is to strengthen families through marital and parental commitment. Covenant marriage is an attempt at doing this. I have some concerns regarding the policy as written. It is my opinion that adultery should not be grounds for an immediate divorce. I do not think that it falls in the same lines of a felony conviction or abuse. It seems to imply more of a moral judgment than a breaking of any law. I believe that requiring counseling would be a more appropriate response. It is possible for couples to recover from such an event. I also found it curious that there is no specific mention of substance abuse in the Minnesota bill. I think this is a discrepancy. Substance abuse can put the spouse and dependents in jeopardy in many different ways. I also wonder how and if low-income families could afford the education and counseling component. If, during the marriage, they cannot afford it,

would the state step in and assist, as they are the ones requiring it? I also wonder about moving to a different state. What happens to the covenant if the couple moves across state lines? What if one of them moves and the other stays? And is this a step back to no-fault divorce? What effect would this have on women? These are questions that would need further consideration.

There are many problems in our society today. We are currently in a health care crisis. We have millions of people who are living in poverty. Many states are looking down the barrel of a budget shortfall. Our military is currently activated in Iraq. Strengthening families is very important, which I feel is a vital step in being a successful country. Covenant marriage will not be the only solution, if it is part of the solution at all. The solution has to come from a multi-disciplinary approach that works on all sides, not just the marriage angle. Families come in many forms and marriage is not always a part of them.

Marriage is a good thing and should be encouraged. It is good for most adults, children and families. Covenant marriage could be particularly effective with the education and counseling components. These components should be encouraged and studies should be done on the possibility of incorporating these components into current marriage and divorce law. Covenant marriage is also a choice. This is a good thing in a country that places high value on its choices and freedoms. From the majority of study findings, those who choose covenant marriage are likely to stay together a lifetime. They place a high value on commitment and take marriage quite seriously.

What is most important about covenant marriage is the recognition that a value needs to be placed on family formation. Lawmakers are recognizing that couples need to be better prepared for marriage to be successful at it. Even though the legislation did not pass in Minnesota, by introducing the bill, the legislature is recognizing the importance of the issue.

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