

State Must Wake Up, Slay 'Covenant Marriage' Dragon

By Fred Silberberg

For those of you who read last month about covenant marriage ("No Wedding Bells: Covenant Marriage Chimes Toll of Doom," Feb. 23 Daily Journal) and thought the idea was reserved for those backwoods people from the South — it's time for a wake-up call.

Covenant marriage is en route to a courthouse near you, and sooner than you think. The version now playing in the California Assembly makes the Arkansas law discussed last month look like child's play. It appears that Arkansas Gov. Mike Huckabee's publicity stunt had its intended effect: getting the law to catch on in some form from coast to coast.

We can thank Assemblyman Chuck DeVore, a Republican from Orange County, for introducing the "Marriage Choice Act of 2005" to California. AB 1236 would require California couples who marry after its enactment to choose, at the time they apply for a marriage license, whether they would, in the event of a split, obtain a "no-fault" divorce.

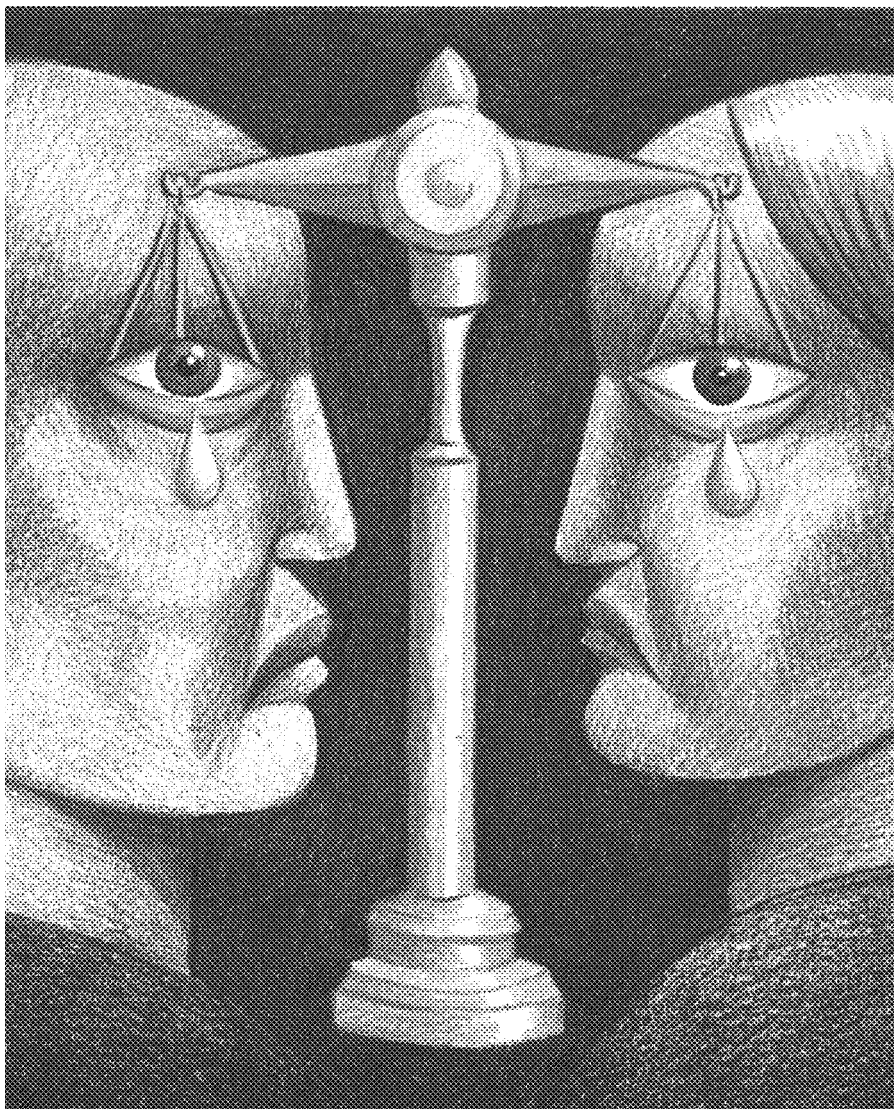
To do so, the parties would complete a "choice form" attached to their application. On that form, they would have to select from two options. The options are to waive a no-fault divorce so long as they had children under the age of 19 and still in high school, or to opt for a no-fault divorce.

The form would be filed with the county clerk, and the parties would be bound by the terms that they selected. As the adage goes, "love is blind" — and one can only imagine the consequences that will befall millions of Californians who, caught up in the moment, rush out to get marriage licenses and fail to select the correct option for a future they cannot begin to predict.

In his proposed legislation, DeVore clearly sets out the purpose behind his bill. The findings set out in the legislation are a bit shocking; included in the litany of reasons for enactment of this bill are that:

- "Current divorce laws have created a situation that does not further the general welfare, but rather degrades it."
- "Divorced men smoke more, drink more, and have more unhealthy diets than their married counterparts."
- "The various cultural neuroses that are directly attributable to divorce and its byproducts are a large part of why the entitlements in our budget are growing at such a rapid rate."
- "Several studies of children in broken homes found that they had higher occurrences of psychiatric illness, substance abuse, suicide attempts and pre-marital sexual activity."
- "Additionally, a child who repeats a grade is more likely to come from a family shattered by divorce."

But wait, there's more. According to the legislation, because they are products of divorce, many "18- to 34-year-olds are



marrying at greatly reduced rates ... they are afraid that if they marry, they too will get divorced, the odds are they will. Consequently, many couples live together out of wedlock, which creates several other problems. Those who cohabit are 50 percent more likely to divorce when they do marry and have a higher rate of pregnancy complications compared to those who are legally wed."

The bill goes on to rationalize the need for this medieval-like process as a means by which we can save a "significant outlay of taxpayer funds."

This tax-saving scheme gets even more bizarre at closer glance. Once the "choice form" has been executed in the manner intended, any "choice" of getting divorced is quite limited. The only means for getting divorced at that point — if there are children in the home who are still in high school — is by mutual consent after the completion of a "counseling and consideration period."

This "period" commences when one spouse delivers a "marriage help request notice to the other spouse." At that point, the parties have to commence "marriage education or skills training," which can be given by any number of people or institutions. County clerks would assemble a list

of such providers, making their names available on the Internet.

Oddly enough, the bill designates certain governmental agencies or institutions as pre-approved providers. Those include, of all things, The U.S. Department of Agriculture Cooperative Extension Service, and the U.S. Department of Defense. How fortunate that DeVore has found a way for our married and enlisted servicemen and women to avail themselves of the "marriage help request notice" while serving in Iraq.

And for those civilians who don't have time to seek out an approved provider, the bill conveniently refers them to a Web site, www.smartmarriages.com, to obtain such assistance.

Under this rather peculiar scheme, if one spouse refuses to consent to divorce even after "marriage help" has failed (not an unlikely scenario considering the vindictive manner in which people often behave in these situations), a divorce is available only on certain grounds.

In addition to the run-of-the-mill "A-letter" grounds we used to have in California (adultery, abandonment, addiction and abuse) this bill would graciously allow a divorce in the event one spouse was infected with a sexually transmitted disease, or a "fatal disease when the

spouse seeking the dissolution of marriage did not know at the time of marriage that the other spouse was infected with the disease."

The bill does not address what happens if both spouses did not know that one was "infected" with a fatal disease — but perhaps DeVore can ask for an amendment to cover that as his bill progresses through the Legislature.

Considering all of our state's current problems, it is incredible that our Legislature is spending time considering the enactment of a bill such as this. According to the California legislative information Web site, the bill has made its way to the Judiciary Committee where it is scheduled to be heard Friday.

This bill is the first major step resulting from years of rumbling by conservatives that we need to return the fault system of divorce to California. While the use of the "choice form" might appear to give people an option about how they wish to proceed in the future, in reality, the form is intended to limit their choices.

No one thinks about divorce when applying for a marriage license. No one can predict the future, and it is unfair to place people in the position of deciding now about things they can't foresee or that may not occur for 20 or more years.

People contemplating marriage, especially young people entering first marriages, are often giddy with emotion. AB 1236 takes advantage of that, forcing people to make decisions based on reasoning that is more emotional than intellectual. The consequences of such choices can be disastrous.

While most everyone agrees that divorce is a less-than-optimal situation for children, that is not always the case. Pity those children that are subjected to daily strife because their parents cannot get along and cannot get divorced. Pity those children and the parent who are subjected to an ongoing abusive relationship because they cannot prove grounds, and the perpetrator of the abuse will not consent to the divorce.

It is common knowledge that spousal abuse rarely occurs in the presence of witnesses. This law can essentially trap adults and children in situations of quiet, painful desperation for which there is no possibility of relief until the youngest child graduates from high school.

If this bill is enacted, the next step will be to take away the "choice form" and put everyone back under the fault system that we had prior to 1972.

California is usually seen as a progressive state. Unless we speak up to the members of our Legislature quickly, when it comes to divorce we will have taken a huge step back in time.

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