

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS CONCERNING MARRIED PERSONS TO INCLUDE MARRIED PERSONS OF THE SAME SEX; REPLACING THE TERMS "HUSBAND" AND "WIFE" WITH THE TERMS "SPOUSE" AND "SPOUSES"; AND AMENDING SECTIONS 1-1-219, 15-6-193, 15-7-307, 15-30-2132, 15-30-2602, 19-2-802, 19-20-717, 25-5-202, 26-1-602, 27-1-515, 27-1-601, 28-2-402, 32-2-416, 32-5-310, 33-15-401, 33-22-201, 35-18-311, 35-20-216, 40-2-101, 40-2-102, 40-2-105, 40-2-106, 40-2-201, 40-2-206, 40-2-301, 40-2-303, 40-2-311, 40-4-105, 40-4-108, 40-4-130, 40-4-131, 40-4-202, 40-4-251, 40-5-175, 40-7-310, 42-1-106, 49-1-103, 50-21-103, 53-6-144, 70-1-314, 70-19-102, 70-32-202, 70-32-301, 70-32-302, 72-2-812, AND 72-2-814, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 1-1-219, MCA, is amended to read:

"1-1-219. Relationship by affinity. (1) Unless the context requires otherwise, in this code "affinity" means the relation that one spouse has, by virtue of the marriage, to blood relatives of the other. Therefore, a person has the same relation by affinity to that person's spouse's blood relatives as that person's spouse has to them by consanguinity and vice versa.

(2) Degrees of relationship by affinity are computed in the same manner as degrees of relationship by consanguinity.

(3) Notwithstanding subsection (1), the term "affinity" includes the relation of ~~husband and wife~~ spouses. ~~Husband and wife~~ Spouses are considered to be related by affinity in the first degree."

Section 2. Section 15-6-193, MCA, is amended to read:

"15-6-193. Extended property tax assistance -- phasein. (1) For the purpose of mitigating extraordinary market value increases during revaluation cycles that begin after December 31, 2008, the rate of taxation of qualified residences is adjusted in this section for properties with extraordinary increases in market value with owners that meet income requirements.

(2) An annual application on a form provided by the department is required to receive a tax rate



1 adjustment under this section. The application must be signed under oath. A tax rate adjustment may be granted
2 only for the current tax year and may not be granted for a previous year.

3 (3) A rate adjustment may not be granted for:

4 (a) any property that was sold or for which the ownership was changed after December 31 of the last
5 year of the previous revaluation cycle unless the change in ownership is between ~~husband and wife~~ spouses or
6 parent and child with only nominal actual consideration or the change is pursuant to a divorce decree;

7 (b) the value of new construction, including remodeling, on the property occurring after December 31
8 of the last year of the previous revaluation cycle that is greater than 25% of the market value of the improvements;
9 or

10 (c) a land use change occurring after December 31 of the last year of the previous revaluation cycle that
11 increases the market value of the land by more than 25%.

12 (4) For the purposes of determining the adjustment in the class four property tax rate in this section, the
13 following provisions apply for revaluation cycles beginning after December 31, 2008:

14 (a) The change in taxable value before reappraisal is the 2008 tax year value adjusted for any new
15 construction or destruction that occurred in the 2008 tax year. The taxable value before reappraisal for the 2009
16 tax year and subsequent years is the same as the 2008 tax year value if no new construction, destruction, land
17 splits, land use changes, land reclassifications, land productivity changes, improvement grade changes, or other
18 changes are made to the property during 2008 or subsequent tax years.

19 (b) The percentage increase in taxable value is measured as the percentage change in taxable value
20 before reappraisal to the taxable value after reappraisal. The taxable value before reappraisal is calculated by
21 multiplying the value before reappraisal in 2009 times 0.66 times 0.0301. The taxable value after reappraisal is
22 calculated by multiplying the 2009 market value after reappraisal times 0.53 times 0.0247.

23 (c) The dollar increase in tax liability is measured as the change in tax liability before reappraisal to the
24 tax liability after reappraisal. The tax liability before reappraisal is calculated by multiplying the value before
25 reappraisal in 2009 times 0.66 times 0.0301 times the tax year 2008 mill levy applied to the property. The tax
26 liability after reappraisal is calculated by multiplying the 2009 market value after reappraisal times 0.53 times
27 0.0247 times the tax year 2008 mill levy applied to the property. The tax year 2008 mill levy is the total of all mills
28 applied to the property for fiscal year 2009.

29 (d) Total household income is the sum of the income of all members of the household and all other
30 persons who are owners of the property. Income, as used in this section, includes income from all sources,

1 including net business income and otherwise tax-exempt income of all types but not including social security
2 income paid directly to a nursing home. Net business income is gross income less ordinary expenses but before
3 deducting depreciation or depletion allowance, or both. For an entity, as defined in subsection (8), income also
4 includes the income of any natural person or entity that is a trustee of or controls 25% or more of the entity. A
5 household is an association of persons who live in the same dwelling, sharing its furnishings, facilities,
6 accommodations, and expenses. For single-family rental dwellings, total household income does not include the
7 income of the tenant.

8 (e) The phase-in value is the valuation change made pursuant to 15-7-111(3) since the last reappraisal.

9 (5) (a) If total household income is \$25,000 or less, the percentage increase in taxable value is greater
10 than 24%, and the dollar increase in taxable liability is \$250 or greater, then the property qualifies for an adjusted
11 tax rate as follows:

12 (i) For tax year 2009, the tax rate is 0.03269 times the value before reappraisal divided by the 2009
13 phase-in value.

14 (ii) For tax year 2010, the tax rate is 0.03546 times the value before reappraisal divided by the 2010
15 phase-in value.

16 (iii) For tax year 2011, the tax rate is 0.03823 times the value before reappraisal divided by the 2011
17 phase-in value.

18 (iv) For tax year 2012, the tax rate is 0.04115 times the value before reappraisal divided by the 2012
19 phase-in value.

20 (v) For tax year 2013, the tax rate is 0.04374 times the value before reappraisal divided by the 2013
21 phase-in value.

22 (vi) For tax year 2014 and after, the tax rate is 0.04648 times the value before reappraisal divided by the
23 2014 phase-in value.

24 (b) If total household income is greater than \$25,000 but less than or equal to \$50,000, the percentage
25 increase in taxable value is greater than 30%, and the dollar increase in taxable liability is \$250 or greater, then
26 the property qualifies for an adjusted tax rate as follows:

27 (i) For tax year 2009, the tax rate is 0.03301 times the value before reappraisal divided by the 2009
28 phase-in value.

29 (ii) For tax year 2010, the tax rate is 0.03612 times the value before reappraisal divided by the 2010
30 phase-in value.

1 (iii) For tax year 2011, the tax rate is 0.03925 times the value before reappraisal divided by the 2011
2 phase-in value.

3 (iv) For tax year 2012, the tax rate is 0.04257 times the value before reappraisal divided by the 2012
4 phase-in value.

5 (v) For tax year 2013, the tax rate is 0.0456 times the value before reappraisal divided by the 2013
6 phase-in value.

7 (vi) For tax year 2014 and after, the tax rate is 0.04873 times the value before reappraisal divided by the
8 2014 phase-in value.

9 (c) If total household income is greater than \$50,000 but less than or equal to \$75,000, the percentage
10 increase in taxable value is greater than 36%, and the dollar increase in taxable liability is \$250 or greater, then
11 the property qualifies for an adjusted tax rate as follows:

12 (i) For tax year 2009, the tax rate is 0.03332 times the value before reappraisal divided by the 2009
13 phase-in value.

14 (ii) For tax year 2010, the tax rate is 0.03678 times the value before reappraisal divided by the 2010
15 phase-in value.

16 (iii) For tax year 2011, the tax rate is 0.04028 times the value before reappraisal divided by the 2011
17 phase-in value.

18 (iv) For tax year 2012, the tax rate is 0.04399 times the value before reappraisal divided by the 2012
19 phase-in value.

20 (v) For tax year 2013, the tax rate is 0.04739 times the value before reappraisal divided by the 2013
21 phase-in value.

22 (vi) For tax year 2014 and after, the tax rate is 0.05098 times the value before reappraisal divided by the
23 2014 phase-in value.

24 (d) The adjusted tax rate computed under this subsection (5) must be rounded to the nearest 1/100 of
25 1%.

26 (6) A person who applies for a tax rate adjustment under this section shall provide the department with
27 documentation of total household income and other information that the department considers necessary to
28 determine the person's eligibility for the tax rate adjustment. Documents provided to the department to determine
29 eligibility for a tax rate adjustment are subject to the confidentiality provisions in 15-30-2618.

30 (7) A person who applies for a tax rate adjustment and submits a false or fraudulent application for a tax

1 rate adjustment is guilty of false swearing under 45-7-202.

2 (8) For the purposes of this section:

3 (a) "entity" means:

4 (i) a corporation, fiduciary, or pass-through entity, as those terms are defined in 15-30-2101; and

5 (ii) an association, joint-stock company, syndicate, trust or estate, or any other nonnatural person; and

6 (b) "qualified residence" means any class four residential dwelling in Montana that is a single-family
7 dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the
8 surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling actually occupied
9 by itself or in combination with another class four residential dwelling in Montana for at least 7 months a year."
10

11 **Section 3.** Section 15-7-307, MCA, is amended to read:

12 **"15-7-307. Certificate -- exceptions.** The certificate required by this part applies to all transfers.

13 However, the certificate filed for the following transfers need not disclose the consideration paid or to be paid for
14 the real estate transferred:

15 (1) an instrument recorded prior to July 1, 1975;

16 (2) the sale of agricultural land when the land is used for agricultural purposes;

17 (3) the sale of timberland when the land is used for producing timber;

18 (4) a transfer by the United States, this state, or any instrumentality, agency, or subdivision of the United
19 States or this state;

20 (5) an instrument that (without added consideration) confirms, corrects, modifies, or supplements a
21 previously recorded instrument;

22 (6) a transfer pursuant to a court decree;

23 (7) a transfer pursuant to mergers, consolidations, or reorganizations of corporations, partnerships, or
24 other business entities;

25 (8) a transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole
26 consideration of the cancellation or surrender of subsidiary stock;

27 (9) a transfer of decedents' estates;

28 (10) a transfer of a gift;

29 (11) a transfer between ~~husband and wife~~ spouses or parent and child with only nominal actual
30 consideration for the transfer;

- 1 (12) an instrument the effect of which is to transfer the property to the same party or parties;
 2 (13) a sale for delinquent taxes or assessments, a sheriff's sale, or a sale pursuant to a bankruptcy court
 3 order;
 4 (14) a transfer made in contemplation of death."

5
 6 **Section 4.** Section 15-30-2132, MCA, is amended to read:

7 **"15-30-2132. Standard deduction.** (1) A standard deduction equal to 20% of adjusted gross income
 8 is allowed if elected by the taxpayer on a return. The standard deduction is in lieu of all deductions allowed under
 9 15-30-2131. The minimum standard deduction is \$1,580, as adjusted under the provisions of subsection (2), or
 10 20% of adjusted gross income, whichever is greater, to a maximum standard deduction of \$3,560, as adjusted
 11 under the provisions of subsection (2). However, in the case of a single joint return of ~~husband and wife~~ spouses
 12 or in the case of a single individual who qualifies to file as a head of household on the federal income tax return,
 13 the minimum standard deduction is twice the amount of the minimum standard deduction for a single return, as
 14 adjusted under the provisions of subsection (2), or 20% of adjusted gross income, whichever is greater, to a
 15 maximum standard deduction of twice the amount of the maximum standard deduction for a single return, as
 16 adjusted under the provisions of subsection (2). The standard deduction may not be allowed to either ~~the husband~~
 17 ~~or the wife~~ spouse if the tax of one of the spouses is determined without regard to the standard deduction. For
 18 purposes of this section, the determination of whether an individual is married must be made as of the last day
 19 of the tax year unless one of the spouses dies during the tax year, in which case the determination must be made
 20 as of the date of death.

21 (2) By November 1 of each year, the department shall multiply both the minimum and the maximum
 22 standard deduction for single returns by the inflation factor for that tax year and round the product to the nearest
 23 \$10. The resulting adjusted deductions are effective for that tax year and must be used in calculating the tax
 24 imposed in 15-30-2103."

25
 26 **Section 5.** Section 15-30-2602, MCA, is amended to read:

27 **"15-30-2602. Returns and payment of tax -- penalty and interest -- refunds -- credits -- inflation**
 28 **adjustment.** (1) For both resident and nonresident taxpayers, each single individual and each married individual
 29 not filing a joint return with a spouse and having a gross income for the tax year of more than \$3,560, as adjusted
 30 under the provisions of subsection (6), and married individuals not filing separate returns and having a combined

1 gross income for the tax year of more than \$7,120, as adjusted under the provisions of subsection (6), are liable
2 for a return to be filed on forms and according to rules that the department may prescribe. The gross income
3 amounts referred to in this subsection (1) must be increased by \$1,900, as adjusted under the provisions of
4 15-30-2114(6), for each additional personal exemption allowance that the taxpayer is entitled to claim for the
5 taxpayer and the taxpayer's spouse under 15-30-2114(3) and (4).

6 (2) In accordance with instructions set forth by the department, each taxpayer who is married and living
7 with a ~~husband or wife~~ spouse and is required to file a return may, at the taxpayer's option, file a joint return with
8 the ~~husband or wife~~ spouse even though one of the spouses has neither gross income nor deductions. If a joint
9 return is made, the tax must be computed on the aggregate taxable income and, subject to 15-30-2646, the
10 liability with respect to the tax is joint and several. If a joint return has been filed for a tax year, the spouses may
11 not file separate returns after the time for filing the return of either has expired unless the department consents.

12 (3) If a taxpayer is unable to make the taxpayer's own return, the return must be made by an authorized
13 agent or by a guardian or other person charged with the care of the person or property of the taxpayer.

14 (4) All taxpayers, including but not limited to those subject to the provisions of 15-30-2502 and
15 15-30-2512, shall compute the amount of income tax payable and shall, on or before the date required by this
16 chapter for filing a return, pay to the department any balance of income tax remaining unpaid after crediting the
17 amount withheld, as provided by 15-30-2502, and any payment made by reason of an estimated tax return
18 provided for in 15-30-2512. However, the tax computed must be greater by \$1 than the amount withheld and paid
19 by estimated return as provided in this chapter. If the amount of tax withheld and the payment of estimated tax
20 exceed by more than \$1 the amount of income tax as computed, the taxpayer is entitled to a refund of the excess.

21 (5) If the department determines that the amount of tax due is greater than the amount of tax computed
22 by the taxpayer on the return, the department shall mail a notice to the taxpayer as provided in 15-30-2642 of the
23 additional tax proposed to be assessed, including penalty and interest as provided in 15-1-216.

24 (6) By November 1 of each year, the department shall multiply the minimum amount of gross income
25 necessitating the filing of a return by the inflation factor for the tax year. These adjusted amounts are effective
26 for that tax year, and persons who have gross incomes less than these adjusted amounts are not required to file
27 a return.

28 (7) Individual income tax forms distributed by the department for each tax year must contain instructions
29 and tables based on the adjusted base year structure for that tax year."

30

1 **Section 6.** Section 19-2-802, MCA, is amended to read:

2 **"19-2-802. Effect of no designation of beneficiary or no surviving statutory or designated**
3 **beneficiary.** (1) If a member or payment recipient fails to name a designated beneficiary or if a statutory or
4 designated beneficiary does not survive the member or payment recipient, the estate of the member or payment
5 recipient is entitled to any accrued lump-sum payment or accrued retirement benefit not received prior to the
6 member's or payment recipient's death. If the estate, as either a designated beneficiary or as a beneficiary by
7 default as provided in this subsection, would not be probated but for the amount due to the estate from the
8 retirement system, all of the amount due to the estate must be paid directly, without probate, to the surviving next
9 of kin of the deceased or the guardians of the survivor's estate, share and share alike.

10 (2) Payment must be made in the same order in which the following groups are listed:

11 (a) ~~husband or wife~~ spouse;

12 (b) children;

13 (c) father and mother;

14 (d) grandchildren;

15 (e) brothers and sisters; or

16 (f) nieces and nephews.

17 (3) A payment may not be made to a person included in any of the groups listed in subsection (2) if at
18 the date of payment there is a living person in any of the groups preceding the group of which the person is a
19 member, as listed. Payment must be made upon receipt from the person of an affidavit, upon a form supplied by
20 the board, that there are no living individuals in the groups preceding the group of which the person is a member
21 and that the estate of the deceased will not be probated.

22 (4) The payment must be in full and complete discharge and acquittance of the board and system on
23 account of the member's or payment recipient's death."

24

25 **Section 7.** Section 19-20-717, MCA, is amended to read:

26 **"19-20-717. Effect of no designation or no surviving beneficiary or joint annuitant.** (1) If a
27 beneficiary is not designated or if no designated beneficiary or joint annuitant survives the member or retired
28 member, the estate of the member or retired member is the beneficiary and is entitled to any lump-sum payment
29 or retirement benefit accrued but not received prior to the death of the member or retired member. If the estate
30 would not be probated but for the amount due from the retirement system, all of the amount due must be paid

1 directly, without probate, to the surviving next of kin of the deceased or to the personal representative or executor
2 of the survivor's estate.

3 (2) Payment must be made in the same order in which the following groups are listed:

4 (a) ~~husband or wife~~ spouse;

5 (b) children;

6 (c) father and mother;

7 (d) grandchildren;

8 (e) brothers and sisters; or

9 (f) nieces and nephews.

10 (3) A payment may not be made to a person included in any of the groups listed in subsection (2) if at
11 the date of payment there is a living person in any of the groups preceding the group of which the person is a
12 member, as listed. Payment must be made upon receipt from the person of an affidavit, upon a form supplied by
13 the system, that there are no living individuals in the groups preceding the group of which the person is a member
14 and that the estate of the deceased will not be probated.

15 (4) The payment must be in full and complete discharge and acquittance of the board and system on
16 account of the member's or payment recipient's death."

17

18 **Section 8.** Section 25-5-202, MCA, is amended to read:

19 **"25-5-202. Who may defend when spouse sued.** If a ~~husband and wife~~ spouses are sued together,
20 each spouse may defend for the spouse's own right, and if the other spouse fails to defend, the spouse who does
21 choose to defend may defend for the other spouse's right also."

22

23 **Section 9.** Section 26-1-602, MCA, is amended to read:

24 **"26-1-602. Disputable presumptions.** All other presumptions are "disputable presumptions" and may
25 be controverted by other evidence. The following are of that kind:

26 (1) A person is innocent of crime or wrong.

27 (2) An unlawful act was done with an unlawful intent.

28 (3) A person intends the ordinary consequence of the person's voluntary act.

29 (4) A person takes ordinary care of the person's own concerns.

30 (5) Evidence willfully suppressed would be adverse if produced.

- 1 (6) More satisfactory evidence would be adverse if weaker and less satisfactory evidence is offered and
2 it is within the power of the party to offer more satisfactory evidence.
- 3 (7) Money paid by one to another was due the latter.
- 4 (8) A thing delivered by one to another belonged to the latter.
- 5 (9) When the instrument evidencing an obligation has been delivered to the debtor, the obligation has
6 been paid.
- 7 (10) Prior rent or installments have been paid when a receipt for later rent or installments is produced.
- 8 (11) Things that a person possesses are owned by the person.
- 9 (12) A person is the owner of property if the person exercises acts of ownership over it or there is
10 common reputation of the person's ownership.
- 11 (13) A person in possession of an order on the person for the payment of money or the delivery of a thing
12 has paid the money or delivered the thing accordingly.
- 13 (14) A person acting in a public office was regularly appointed to it.
- 14 (15) Official duty has been regularly performed.
- 15 (16) A court or judge acting as such, whether in this state or any other state or country, was acting in the
16 lawful exercise of the court's or judge's jurisdiction.
- 17 (17) A judicial record, when not conclusive, does still correctly determine or set forth the rights of the
18 parties.
- 19 (18) All matters within an issue were laid before the jury and passed upon by them, and in like manner,
20 all matters within a submission to arbitration were laid before the arbitrators and passed upon by them.
- 21 (19) Private transactions have been fair and regular.
- 22 (20) The ordinary course of business has been followed.
- 23 (21) A promissory note or bill of exchange was given or endorsed for a sufficient consideration.
- 24 (22) An endorsement of a negotiable promissory note or bill of exchange was made at the time and place
25 of making the note or bill.
- 26 (23) A writing is truly dated.
- 27 (24) A letter duly directed and mailed was received in the regular course of the mail.
- 28 (25) There is an identity of persons when there is an identity of names.
- 29 (26) A person not heard from in 5 years is dead.
- 30 (27) Acquiescence followed from a belief that the thing acquiesced in was conformable to the right or fact.

- 1 (28) Things have happened according to the ordinary course of nature and the ordinary habits of life.
- 2 (29) Persons acting as partners have entered into a contract of partnership.
- 3 (30) ~~A man and a woman~~ Two persons deporting themselves as ~~husband and wife~~ spouses have entered
- 4 into a lawful contract of marriage.
- 5 (31) A child born in lawful wedlock is legitimate.
- 6 (32) A thing once proved to exist continues as long as is usual with things of that nature.
- 7 (33) The law has been obeyed.
- 8 (34) A printed and published book purporting to be printed or published by public authority was so printed
- 9 or published.
- 10 (35) A printed and published book purporting to contain reports of cases adjudged in the tribunals of the
- 11 state or country where the book is published contains correct reports of such cases.
- 12 (36) A trustee or other person whose duty it was to convey real property to a particular person has
- 13 actually conveyed the property to the particular person. This presumption applies when it is necessary to perfect
- 14 the title of the person or the person's successor in interest.
- 15 (37) When there has been uninterrupted use by the public of land for a burial ground for 5 years, with the
- 16 consent of the owner and without a reservation of rights, the owner intended to dedicate it to the public for that
- 17 purpose.
- 18 (38) There was a good and sufficient consideration for a written contract."

19

20 **Section 10.** Section 27-1-515, MCA, is amended to read:

21 **"27-1-515. Protection of personal relations -- abduction.** The rights of personal relations forbid:

- 22 (1) the abduction of a parent from a child;
- 23 (2) the abduction or enticement of a ~~wife from the wife's husband or a husband from the husband's wife~~
- 24 person from the person's spouse, of a child from a parent or from a guardian entitled to the child's custody, or
- 25 of a servant from a master."

26

27 **Section 11.** Section 27-1-601, MCA, is amended to read:

28 **"27-1-601. Cause of action for alienation of affections abolished.** All civil causes of action for

29 alienation of affections of ~~husband or wife~~ a spouse are hereby abolished."

30

1 **Section 12.** Section 28-2-402, MCA, is amended to read:

2 **"28-2-402. What constitutes duress.** Duress consists in:

- 3 (1) unlawful confinement of the person of the party, of the ~~husband or wife of such~~ spouse of the party,
4 or of an ancestor, descendant, or adopted child of ~~such party, husband, or wife~~ the party or spouse;
- 5 (2) unlawful detention of the property of ~~any such a~~ person described in subsection (1); or
- 6 (3) confinement of ~~such a~~ person described in subsection (1), lawful in form but fraudulently obtained
7 or fraudulently made unjustly harassing or oppressive."
8

9 **Section 13.** Section 32-2-416, MCA, is amended to read:

10 **"32-2-416. Joint ownership.** Any building and loan association may issue savings certificates and
11 shares to or in the name of two or more persons, whether ~~husband and wife~~ spouses or otherwise; withdrawal
12 by any one of ~~such the~~ persons and the receipt or acquittance of any one of ~~such the~~ persons shall be valid and
13 sufficient release and discharge to the association for ~~such~~ withdrawals, regardless of the death or disability of
14 any other ~~such~~ joint shareholder or certificate holder."
15

16 **Section 14.** Section 32-5-310, MCA, is amended to read:

17 **"32-5-310. Wage assignments -- limitations.** (1) Subject to the limitations in subsection (2), wage
18 assignments, which include salary, wages, commissions, and other compensation for services, are permitted and
19 any loan made subject to a wage assignment must be considered a loan secured by the wage assignment. The
20 amount by which the assignment exceeds the amount of the consideration actually paid, for the purposes of
21 regulation under this chapter, may not be considered interest on the loan and must be credited to the borrower.
22 Transactions subject to the provisions of this section are governed by and are subject to the provisions of this
23 chapter.

24 (2) Any assignment to a licensee or for the benefit of a licensee of salary, wages, commissions, or other
25 compensation for services may not exceed 10% of the salary, wages, commissions, or other compensation owing
26 at the time of the notice to the debtor's employer or that is subsequently owed. An assignment is not valid unless
27 it is in writing and is signed in person by the borrower or if the borrower is married is signed in person by both
28 ~~husband and wife~~ spouses, provided that written assent of a spouse is not required when ~~husband and wife~~ the
29 spouses have been and are living separate and apart when the assignment is made. Notice of the assignment
30 must be given to the debtor's employer only if the debtor defaults in payment of the whole or some part of the loan

1 for which the assignment is security. The notice must be served on the employer or a managing agent of the
2 employer, must be verified by the licensee or the licensee's agent, and must include:

3 (a) a correct copy of the assignment;

4 (b) a statement of the amount of the loan and the amount due and unpaid; and

5 (c) a copy of this section.

6 (3) The acceptance and honoring of any assignment must be at the option of the employer."
7

8 **Section 15.** Section 33-15-401, MCA, is amended to read:

9 **"33-15-401. Application required -- life and disability insurance.** No life or disability insurance
10 contract upon an individual, except a contract of group life insurance or of group or blanket disability insurance,
11 shall be made or effectuated unless at the time of the making of the contract the individual insured, being of
12 competent legal capacity to contract, applies therefor or has consented thereto in writing, except in the following
13 cases:

14 (1) A spouse may effectuate such insurance upon the other spouse.

15 (2) Any person having an insurable interest in the life of a minor or any person upon whom a minor is
16 dependent for support and maintenance may effectuate insurance upon the life of or pertaining to such minor.

17 (3) Family policies insuring any two or more members of a family may be issued on an application signed
18 by either parent, a stepparent, or by a ~~husband or wife~~ spouse."
19

20 **Section 16.** Section 33-22-201, MCA, is amended to read:

21 **"33-22-201. Format and content.** An individual policy of disability insurance may not be delivered or
22 issued for delivery to any person in this state unless it otherwise complies with this code and complies with the
23 following:

24 (1) The entire money and other considerations for the policy must be expressed in the policy.

25 (2) The time when the insurance takes effect and terminates must be expressed in the policy.

26 (3) The policy may insure only one person, except that a policy may insure, originally or by subsequent
27 amendment, upon the application of an adult member of a family who is the policyholder, any two or more eligible
28 members of that family, including ~~husband, wife~~ a spouse, dependent children or any children under a specified
29 age that may not exceed 25 years, and any other person dependent upon the policyholder.

30 (4) The style, arrangement, and overall appearance of the policy may not give undue prominence to any

1 portion of the text, and every printed portion of the text of the policy and of any endorsements or attached papers
 2 must be plainly printed in lightfaced type of a style in general use, the size of which must be uniform and not less
 3 than 10 point with a lowercase, unspaced alphabet length not less than 120 point.

4 (5) The "text" must include all printed matter except the name and address of the insurer, name or title
 5 of the policy, the brief description, if any, and captions and subcaptions.

6 (6) The exceptions and reductions of indemnity must be set forth in the policy and, other than those
 7 contained in 33-22-204 through 33-22-215 and 33-22-221 through 33-22-231, must be printed, at the insurer's
 8 option, either included with the benefit provision to which they apply or under an appropriate caption such as
 9 "Exceptions" or "Exceptions and Reductions", except that if an exception or reduction specifically applies only
 10 to a particular benefit of the policy, a statement of the exception or reduction must be included with the benefit
 11 provision to which it applies.

12 (7) The policy may not contain a provision purporting to make any portion of the charter, rules,
 13 constitution, or bylaws of the insurer a part of the policy unless the portion is set forth in full in the policy, except
 14 in the case of the incorporation of or reference to a statement of rates or classification of risks or short-rate table
 15 filed with the commissioner."

16

17 **Section 17.** Section 35-18-311, MCA, is amended to read:

18 **"35-18-311. Board of trustees -- number -- qualifications -- removal -- compensation -- husband**
 19 **and wife spouses.** (1) The business and affairs of a cooperative must be managed by a board of not less than
 20 five trustees, each of whom must be a member of the cooperative or of another cooperative that is a member of
 21 the cooperative. The bylaws must prescribe the number of trustees, their qualifications, other than those provided
 22 for in this chapter, the manner of holding meetings of the board of trustees and of the election of successors to
 23 trustees who resign, die, or are otherwise incapable of acting. The bylaws may also provide for the removal of
 24 trustees from office and for the election of their successors.

25 (2) Without approval of the membership, trustees:

26 (a) may not receive any salaries for their services as trustees, except trustees may receive the same
 27 insurance coverage provided to cooperative employees; and

28 (b) except in emergencies, may not be employed by the cooperative in any capacity involving
 29 compensation.

30 (3) The bylaws may provide that the board of trustees may establish a fixed sum, including expenses

1 of attendance, if any, to be allowed for:

2 (a) attendance at each meeting of the board of trustees or any committee of the board of trustees; or

3 (b) representing the cooperative at any meeting or on any business whenever representation has been

4 approved by the board.

5 (4) If ~~a husband and wife~~ spouses hold joint membership in a cooperative, either one but not both may
6 be elected a trustee.

7 (5) The policies of the cooperative may provide that benefits provided to employees may be extended
8 to trustees."

9

10 **Section 18.** Section 35-20-216, MCA, is amended to read:

11 **"35-20-216. Inalienability of lots.** (1) Whenever the land of an association is laid out in lots and the lots
12 or any of them are transferred to individual proprietors and there has been an interment in a transferred lot, that
13 lot from the time of interment is inalienable and must, upon the death of the proprietor, descend to to the
14 proprietor's heirs. However, any one or more of those heirs may release to any other of the heirs that individual's
15 or their interest in the lot. A copy of the release must be filed with the secretary of the association or with the
16 county clerk and recorder of the county within which the lot is situated. Except by consent of all persons having
17 an interest in the lot, the body of a deceased person may not be interred in that lot unless it is the body of:

18 (a) a person having an interest in that lot at the time of that person's death;

19 (b) a relative of some person having an interest;

20 (c) the ~~wife or husband~~ spouse of a person having an interest; or

21 (d) a relative of the ~~husband or wife~~ spouse.

22 (2) However, the person or persons in whom the title to the lot or lots or part of the lot or lots is vested
23 may at any time sell, convey, and release the lot or lots or parts of the lot or lots to the cemetery association
24 maintaining the cemetery in which the lots are situated. A copy of the instruments of conveyance must be filed
25 in the same manner provided for release from one heir to another. The cemetery association may use any funds
26 under its control for filing purposes and holds and may convey the lot or lots or parts of the lot or lots to other
27 purchasers in the same manner and with the same effect as it holds and conveys any other of its cemetery lots.
28 This subsection does not allow or authorize the conveyance to the cemetery association of a piece of ground in
29 which the body of a deceased person lawfully interred actually remains interred at the time of the attempted
30 conveyance."

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Section 19. Section 40-2-101, MCA, is amended to read:

"40-2-101. Mutual obligations of husband and wife spouses. ~~Husband and wife~~ Spouses contract toward each other obligations of mutual respect, fidelity, and support."

Section 20. Section 40-2-102, MCA, is amended to read:

"40-2-102. Duties of husband and wife spouses as to support. Insofar as each is able, ~~the husband and wife~~ spouses shall support each other out of their property and labor. As used in this section, the word "support" includes the nonmonetary support provided by a spouse as homemaker."

Section 21. Section 40-2-105, MCA, is amended to read:

"40-2-105. Husband and wife Spouses as joint tenants. ~~A husband and wife~~ Spouses may hold real or personal property together, jointly or in common."

Section 22. Section 40-2-106, MCA, is amended to read:

"40-2-106. Liability for acts or debts of spouse. (1) A ~~husband or wife~~ spouse, solely on the basis of being a spouse, is not answerable for the acts of the other spouse or liable for the debts contracted by the other spouse, except that the expenses for necessities of the family and of the education of the spouses' children are chargeable upon the property of both ~~the husband and wife~~ spouses, or either of them, and in relation to those expenses, the ~~husband and wife~~ spouses may be sued jointly or separately.

(2) The period prescribed for commencing an action to recover expenses described in subsection (1) incurred by either spouse is governed by the provisions of 27-2-202."

Section 23. Section 40-2-201, MCA, is amended to read:

"40-2-201. When husband's and wife's spouses' interests separate. Neither ~~husband nor wife~~ spouse has any interest in the property of the other, except as mentioned in 40-2-102, but neither can be excluded from the other's dwelling unless enjoined by a court."

Section 24. Section 40-2-206, MCA, is amended to read:

"40-2-206. Earnings and accumulations -- when separated. The earnings and accumulations of a

1 married person and of the person's minor children living with the person or in the person's custody, while the
 2 person is living separate from the person's spouse, are the individual property of that person except that, to the
 3 extent that a mutual duty of support between ~~the husband and wife~~ spouses as established by 40-2-102 still
 4 exists, the earnings and accumulations are liable for debts incurred for necessary articles procured for the use
 5 and benefit of the married person, the person's spouse, or minor children."
 6

7 **Section 25.** Section 40-2-301, MCA, is amended to read:

8 **"40-2-301. ~~Husband and wife~~ Spouses may contract.** Either ~~husband or wife~~ spouse may enter into
 9 any engagement or transaction with the other or with any other person respecting property which either might,
 10 if unmarried, subject in transactions between themselves to the general rules which control the actions of persons
 11 occupying confidential relations with each other, as defined by the provisions of this code relative to trusts."
 12

13 **Section 26.** Section 40-2-303, MCA, is amended to read:

14 **"40-2-303. Alteration of legal relation by contract -- separation agreement.** ~~A husband and wife~~
 15 Spouses cannot by any contract with each other alter their legal relation, except as to property and except that
 16 they may agree, in writing, to an immediate separation and may make provision for the support of either of them
 17 and of their children during ~~such a~~ a separation."
 18

19 **Section 27.** Section 40-2-311, MCA, is amended to read:

20 **"40-2-311. Rights of ~~husband and wife~~ spouses -- how governed.** The property rights of the ~~husband~~
 21 ~~and wife~~ spouses are governed by parts 1 through 3 of this chapter, unless there is a marriage settlement
 22 containing contrary stipulations ~~contrary thereto~~."
 23

24 **Section 28.** Section 40-4-105, MCA, is amended to read:

25 **"40-4-105. Procedure -- commencement -- pleadings -- abolition of existing defenses.** (1) The
 26 verified petition in a proceeding for dissolution of marriage or legal separation must allege that the marriage is
 27 irretrievably broken and must set forth:

- 28 (a) the age, occupation, and residence of each party and the party's length of residence in this state;
 29 (b) the date of the marriage and the place at which it was registered;
 30 (c) that the jurisdictional requirements of 40-4-104 exist and that the marriage is irretrievably broken in

1 that either:

2 (i) the parties have lived separate and apart for a period of more than 180 days preceding the
3 commencement of this proceeding; or

4 (ii) there is serious marital discord that adversely affects the attitude of one or both of the parties towards
5 the marriage, and there is no reasonable prospect of reconciliation;

6 (d) the names, ages, and addresses of all living children of the marriage and whether ~~the wife~~ a spouse
7 is pregnant;

8 (e) any arrangements as to support of the children and maintenance of a spouse;

9 (f) a proposed parenting plan, if applicable; and

10 (g) the relief sought.

11 (2) Either or both parties to the marriage may initiate the proceeding.

12 (3) If a proceeding is commenced by one of the parties, the other party must be served in the manner
13 provided by the Montana Rules of Civil Procedure and may within 21 days after the date of service file a verified
14 response. A decree may not be entered until 21 days after the date of service.

15 (4) Previously existing defenses to divorce and legal separation, including but not limited to condonation,
16 connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

17 (5) The court may join additional parties proper for the exercise of its authority to implement this chapter.

18 [(6) The social security number, if known, of a person subject to a decree of dissolution or a support
19 order must be recorded in the records relating to the matter. The social security number may be included in the
20 state case registry and vital statistics reporting form filed pursuant to 40-5-908(1). The recordkeeper shall keep
21 the social security number from this source confidential, except that the number may be provided to the
22 department of public health and human services for use in administering Title IV-D of the Social Security Act.]

23 (7) Documents filed before the court containing financial account information must comply with the
24 privacy protection requirements of Rule 5.2 of the Montana Rules of Civil Procedure. (Bracketed language
25 terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999; sec. 12, Ch. 88, L. 2013.)"

26

27 **Section 29.** Section 40-4-108, MCA, is amended to read:

28 **"40-4-108. Decree.** (1) A decree of dissolution of marriage or of legal separation is final when entered,
29 subject to the right of appeal. An appeal from the decree of dissolution that does not challenge the finding that
30 the marriage is irretrievably broken does not delay the finality of that provision of the decree that dissolves the

1 marriage beyond the time for appealing from that provision, and either of the parties may remarry pending appeal.

2 (2) No earlier than 6 months after entry of a decree of legal separation, the court on motion of either party
3 shall convert the decree to a decree of dissolution of marriage.

4 (3) The clerk of the court shall give notice of the entry of a decree of dissolution:

5 (a) if the marriage is registered in this state, to the clerk of the district court of the county where the
6 marriage is registered, who shall enter the fact of dissolution in the book in which the marriage license and
7 certificate are recorded; or

8 (b) if the marriage is registered in another jurisdiction, to the appropriate official of that jurisdiction, with
9 the request that the official enter the fact of dissolution in the appropriate record.

10 (4) Upon request by a ~~wife~~ spouse whose marriage is dissolved or declared invalid, the court shall order
11 ~~the wife's maiden name or a~~ spouse's former name restored."

12

13 **Section 30.** Section 40-4-130, MCA, is amended to read:

14 **"40-4-130. Summary dissolution -- conditions necessary at commencement of proceedings.** A

15 marriage may be dissolved by the summary dissolution procedure specified in 40-4-130 through 40-4-136 if all
16 of the following conditions exist on the date the proceeding is commenced:

17 (1) Each party has met the requirements of 40-4-104 with regard to dissolution of marriage.

18 (2) Irreconcilable differences have caused the irretrievable breakdown of the marriage, and both parties
19 agree that the marriage should be dissolved.

20 (3) ~~The wife~~ A spouse is not pregnant and:

21 (a) there are no children from the relationship born before or during the marriage or adopted by the
22 parties during the marriage; or

23 (b) the parties have executed an agreed-upon parenting plan and the child support and medical support
24 have been determined by judicial or administrative order for all children from the relationship born before or during
25 the marriage or adopted by the parties during the marriage.

26 (4) (a) Except as provided in subsection (4)(b), neither party has any interest in real property.

27 (b) The limitation of subsection (4)(a) does not apply to the lease of a residence occupied by either party
28 if the lease does not include an option to purchase and if it terminates within 1 year from the date of the filing of
29 the petition.

30 (5) There are no unpaid, unsecured obligations in excess of \$8,000 incurred by either or both of the

1 parties after the date of their marriage.

2 (6) The total fair market value of assets, excluding secured obligations, is less than \$25,000.

3 (7) The parties have executed an agreement setting forth the division of assets and the assumption of
4 liabilities and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary
5 to effectuate the agreement.

6 (8) The parties waive any right to maintenance.

7 (9) The parties, upon entry of final judgment of dissolution of marriage, irrevocably waive their respective
8 rights to appeal the terms of the dissolution and their rights to move for a new trial on the dissolution.

9 (10) The parties have read and state that they understand the contents of the summary dissolution
10 brochure provided for in 40-4-136.

11 (11) The parties desire that the court dissolve the marriage."
12

13 **Section 31.** Section 40-4-131, MCA, is amended to read:

14 **"40-4-131. Joint petition -- filing -- form -- contents.** (1) A proceeding for summary dissolution of
15 marriage is commenced by filing in the district court a joint petition in the form prescribed by the court.

16 (2) The petition must:

17 (a) be signed under oath by both parties;

18 (b) state that, as of the date of the filing of the joint petition, each condition set forth in 40-4-130 has been
19 met;

20 (c) state the mailing address of both parties; and

21 (d) state whether or not ~~the wife~~ a spouse elects to have the ~~wife's maiden or spouse's~~ former name
22 restored and, if so, state the name to be restored."
23

24 **Section 32.** Section 40-4-202, MCA, is amended to read:

25 **"40-4-202. Division of property.** (1) In a proceeding for dissolution of a marriage, legal separation, or
26 division of property following a decree of dissolution of marriage or legal separation by a court that lacked
27 personal jurisdiction over the absent spouse or lacked jurisdiction to divide the property, the court, without regard
28 to marital misconduct, shall, and in a proceeding for legal separation may, finally equitably apportion between
29 the parties the property and assets belonging to either or both, however and whenever acquired and whether the
30 title to the property and assets is in the name of ~~the husband or wife~~ either spouse or both. In making

1 apportionment, the court shall consider the duration of the marriage and prior marriage of either party, the age,
2 health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and
3 needs of each of the parties, custodial provisions, whether the apportionment is in lieu of or in addition to
4 maintenance, and the opportunity of each for future acquisition of capital assets and income. The court shall also
5 consider the contribution or dissipation of value of the respective estates and the contribution of a spouse as a
6 homemaker or to the family unit. In dividing property acquired prior to the marriage, property acquired by gift,
7 bequest, devise, or descent, property acquired in exchange for property acquired before the marriage or in
8 exchange for property acquired by gift, bequest, devise, or descent, the increased value of property acquired prior
9 to marriage, and property acquired by a spouse after a decree of legal separation, the court shall consider those
10 contributions of the other spouse to the marriage, including:

- 11 (a) the nonmonetary contribution of a homemaker;
- 12 (b) the extent to which the contributions have facilitated the maintenance of the property; and
- 13 (c) whether or not the property division serves as an alternative to maintenance arrangements.

14 (2) In a proceeding, the court may protect and promote the best interests of the children by setting aside
15 a portion of the jointly and separately held estates of the parties in a separate fund or trust for the support,
16 maintenance, education, and general welfare of any minor, dependent, or incompetent children of the parties.

17 (3) Each spouse is considered to have a common ownership in marital property that vests immediately
18 preceding the entry of the decree of dissolution or declaration of invalidity. The extent of the vested interest must
19 be determined and made final by the court pursuant to this section.

20 (4) The division and apportionment of marital property caused by or incident to a decree of dissolution,
21 a decree of legal separation, or a declaration of invalidity is not a sale, exchange, transfer, or disposition of or
22 dealing in property but is a division of the common ownership of the parties for purposes of:

- 23 (a) the property laws of this state;
 - 24 (b) the income tax laws of this state; and
 - 25 (c) the federal income tax laws.
- 26 (5) Premarital agreements must be enforced as provided in Title 40, chapter 2, part 6.

27 (6) The court shall seal any qualified domestic relations order, as defined in section 414(p) of the Internal
28 Revenue Code, 26 U.S.C. 414(p), that is issued under this part except for access by the pension plan
29 administrator of the plan for which benefits are being distributed by the order, the child support enforcement
30 division, the parties, and each party's counsel of record."

1

2 **Section 33.** Section 40-4-251, MCA, is amended to read:

3 **"40-4-251. Definitions.** As used in 40-4-251 through 40-4-258, the following definitions apply:

4 (1) "Asset" includes but is not limited to any real or personal property of any nature however and
5 whenever acquired, whether the property is tangible or intangible, whether the property is currently existing or
6 contingent, and whether the title is in the name of ~~the husband or wife~~ either spouse, or both.

7 (2) "Default judgment" does not include a stipulated judgment or any judgment pursuant to a marital
8 settlement agreement.

9 (3) "Earnings and accumulations" includes income from any source.

10 (4) "Expenses" includes but is not limited to all personal living expenses, but does not include
11 business-related expenses.

12 (5) "Liability" includes but is not limited to any debt or obligation, however and whenever acquired,
13 whether the debt or obligation is currently existing or contingent or is in the name of ~~the husband or wife~~ either
14 spouse, or both.

15 (6) "Marital estate" includes all assets and liabilities."
16

17 **Section 34.** Section 40-5-175, MCA, is amended to read:

18 **"40-5-175. Special rules of evidence and procedure.** (1) The physical presence of the petitioner in
19 a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support
20 order or for the rendition of a judgment determining parentage.

21 (2) A verified petition, affidavit, or document substantially complying with federally mandated forms and
22 a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is
23 admissible in evidence if given under oath by a party or witness residing in another state.

24 (3) A copy of the record of child support payments certified as a true copy of the original by the custodian
25 of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is
26 admissible to show whether payments were made.

27 (4) Copies of bills for testing for parentage and for prenatal and postnatal health care of the mother and
28 child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount
29 of the charges billed and that the charges were reasonable, necessary, and customary.

30 (5) Documentary evidence transmitted from another state to a tribunal of this state by telephone,

1 telecopier, or other means that do not provide an original writing may not be excluded from evidence on an
2 objection based on the means of transmission.

3 (6) In a proceeding under this part, a tribunal of this state may permit a party or witness residing in
4 another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a
5 designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other
6 states in designating an appropriate location for the deposition or testimony.

7 (7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may
8 be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

9 (8) A privilege against disclosure of communications between spouses does not apply in a proceeding
10 under this part.

11 (9) The defense of immunity based on the relationship of ~~husband and wife~~ spouses or parent and child
12 does not apply in a proceeding under this part."
13

14 **Section 35.** Section 40-7-310, MCA, is amended to read:

15 **"40-7-310. Hearing and order.** (1) Unless the court issues a temporary emergency order pursuant to
16 40-7-204, upon a finding that a petitioner is entitled to the physical custody of the child immediately, the court shall
17 order the child delivered to the petitioner unless the respondent establishes that:

18 (a) the child custody determination has not been registered and confirmed under 40-7-305 and that:

19 (i) the issuing court did not have jurisdiction under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and
20 part 2 of this chapter;

21 (ii) the child custody determination for which enforcement is sought has been vacated, stayed, or modified
22 by a court of a state having jurisdiction to do so under 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and part
23 2 of this chapter or federal law; or

24 (iii) the respondent was entitled to notice, but notice was not given in accordance with the standards of
25 40-7-106, in the proceedings before the court that issued the order for which enforcement is sought; or

26 (b) the child custody determination for which enforcement is sought was registered and confirmed under
27 40-7-305, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under
28 40-7-105, 40-7-107 through 40-7-110, 40-7-112, and part 2 of this chapter or federal law.

29 (2) The court shall award the fees, costs, and expenses authorized under 40-7-312 and may grant
30 additional relief, including a request for the assistance of law enforcement officials, and may set a further hearing

1 to determine whether additional relief is appropriate.

2 (3) If a party called to testify refuses to answer on the ground that the testimony may be
3 self-incriminating, the court may draw an adverse inference from the refusal.

4 (4) A privilege against disclosure of communications between spouses and a defense of immunity based
5 on the relationship of ~~husband and wife~~ spouses or parent and child may not be invoked in a proceeding under
6 this part."

7

8 **Section 36.** Section 42-1-106, MCA, is amended to read:

9 **"42-1-106. Who may adopt.** The following individuals who otherwise meet the requirements of this title
10 are eligible to adopt a child:

11 (1) ~~a husband and wife~~ spouses jointly or either ~~the husband or wife~~ spouse if the other spouse is a
12 parent of the child;

13 (2) an unmarried individual who is at least 18 years of age; or

14 (3) a married individual at least 18 years of age who is legally separated from the other spouse or whose
15 spouse has judicially been declared incompetent."

16

17 **Section 37.** Section 49-1-103, MCA, is amended to read:

18 **"49-1-103. Right to use force.** Any necessary force may be used to protect from wrongful injury the
19 person or property of one's self, of a ~~wife, husband~~ spouse, child, parent, or other relative or member of one's
20 family, or of a ward, servant, master, or guest."

21

22 **Section 38.** Section 50-21-103, MCA, is amended to read:

23 **"50-21-103. Limitations on right to perform autopsy or dissection.** The right to perform an autopsy,
24 dissect a human body, or make any postmortem examination involving dissection of any part of a body is limited
25 to cases in which:

26 (1) specifically authorized by law;

27 (2) a coroner is authorized to hold an inquest and then only to the extent that the coroner may authorize
28 dissection or autopsy;

29 (3) authorized by a written statement of the deceased, whether the statement is of a testamentary
30 character or otherwise;

1 (4) authorized by the ~~husband, wife,~~ spouse or next of kin responsible by law for burial to determine the
2 cause of death and then only to the extent authorized;

3 (5) the decedent died in a hospital operated by the United States department of veterans affairs,
4 Montana school for the deaf and blind, or an institution in the department of corrections or the department of
5 public health and human services, leaving no surviving ~~husband, wife,~~ spouse or next of kin responsible by law
6 for burial and the manager or superintendent of the hospital or institution where death occurred obtains authority
7 on order of the district court to determine the cause of death and then only to the extent authorized by court order;

8 (6) the decedent died in the state, was a resident, but left no surviving ~~husband, wife,~~ spouse or next of
9 kin charged by law with the duty of burial and the attending physician obtains authority on order of the district
10 court for the purpose of ascertaining the cause of death and then only to the extent authorized by court order after
11 it has been shown that the physician made diligent search for the next of kin responsible by law for burial."
12

13 **Section 39.** Section 53-6-144, MCA, is amended to read:

14 **"53-6-144. Relative's responsibility.** Except as otherwise provided in 53-6-167 through 53-6-169,
15 53-6-171 through 53-6-189, and the provisions of other parts of this title, the only relatives that may be held
16 responsible for payment of medical assistance under the program are the ~~husband or wife~~ spouse of the
17 individual, the parents of children under 18 years of age, and the parents of blind or disabled persons over 18
18 years of age."
19

20 **Section 40.** Section 70-1-314, MCA, is amended to read:

21 **"70-1-314. Interest in common -- how created.** Every interest created in favor of several persons in
22 their own right, including ~~husband and wife~~ spouses, is an interest in common unless acquired by them in
23 partnership for partnership purposes or unless declared in its creation to be a joint interest, as provided in
24 70-1-307."
25

26 **Section 41.** Section 70-19-102, MCA, is amended to read:

27 **"70-19-102. Action affecting title or possession -- filing as constructive notice.** (1) In an action
28 affecting the title or right of possession of real property or in an action between ~~husband and wife~~ spouses, the
29 plaintiff, at the time of filing the complaint, and the defendant, at the time of filing the answer, when affirmative
30 relief is claimed in the answer, or at any time afterward may file in the office of the clerk and recorder of the county

1 in which the property is situated a notice of the pendency of the action containing the names of the parties and
 2 the object of the action or defense and a description of the property in that county affected by the action or
 3 defense.

4 (2) From the time of filing of the notice only is a purchaser or encumbrancer of the property affected
 5 considered to have constructive notice of the pendency of the action and only of its pendency against parties
 6 designated by their real names."

7

8 **Section 42.** Section 70-32-202, MCA, is amended to read:

9 **"70-32-202. Execution allowed under certain judgments.** The homestead is subject to execution or
 10 forced sale in satisfaction of judgments obtained:

11 (1) on debts secured by construction or vendors' liens upon the premises;

12 (2) on debts secured by mortgages on the premises, executed and acknowledged by the ~~husband and~~
 13 ~~wife~~ spouses or by an unmarried claimant; or

14 (3) on debts secured by mortgages on the premises, executed and recorded before the declaration of
 15 homestead was filed for record."

16

17 **Section 43.** Section 70-32-301, MCA, is amended to read:

18 **"70-32-301. How conveyed or encumbered -- instrument.** The homestead of a married person cannot
 19 be conveyed or encumbered unless the instrument by which it is conveyed or encumbered is executed and
 20 acknowledged by both ~~husband and wife~~ spouses."

21

22 **Section 44.** Section 70-32-302, MCA, is amended to read:

23 **"70-32-302. How abandoned -- declaration.** A homestead can be abandoned only by a declaration of
 24 abandonment or a grant thereof executed and acknowledged by:

25 (1) the ~~husband and wife~~ spouses if the claimant is married;

26 (2) the claimant if unmarried."

27

28 **Section 45.** Section 72-2-812, MCA, is amended to read:

29 **"72-2-812. Effect of divorce, annulment, or decree of separation.** (1) An individual who is divorced
 30 from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless by

1 virtue of a subsequent marriage the individual is married to the decedent at the time of death. A decree of
2 separation that does not terminate the status of ~~husband and wife~~ spouses is not a divorce for purposes of this
3 section.

4 (2) For purposes of chapter 2, parts 1 through 4, and of 72-3-501 through 72-3-508, a surviving spouse
5 does not include:

6 (a) an individual who obtains or consents to a final decree or judgment of divorce from the decedent or
7 an annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless
8 subsequently they participate in a marriage ceremony purporting to marry each to the other or live together as
9 ~~husband and wife~~ spouses;

10 (b) an individual who, following an invalid decree or judgment of divorce or annulment obtained by the
11 decedent, participates in a marriage ceremony with a third individual; or

12 (c) an individual who was a party to a valid proceeding concluded by an order purporting to terminate
13 all marital property rights."

14

15 **Section 46.** Section 72-2-814, MCA, is amended to read:

16 **"72-2-814. Revocation of probate and nonprobate transfers by divorce -- no revocation by other**
17 **changes of circumstances.** (1) As used in this section, the following definitions apply:

18 (a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit
19 to a beneficiary designated in a governing instrument.

20 (b) "Divorce or annulment" means any divorce, annulment, or dissolution or declaration of invalidity of
21 a marriage that would exclude the spouse as a surviving spouse within the meaning of 72-2-812. A decree of
22 separation that does not terminate the status of ~~husband and wife~~ spouses is not a divorce for purposes of this
23 section.

24 (c) "Divorced individual" includes an individual whose marriage has been annulled.

25 (d) "Governing instrument" means a governing instrument executed by the divorced individual before
26 the divorce or annulment of the individual's marriage to the individual's former spouse.

27 (e) "Relative of the divorced individual's former spouse" means an individual who is related to the
28 divorced individual's former spouse by blood, adoption, or affinity and who, after the divorce or annulment, is not
29 related to the divorced individual by blood, adoption, or affinity.

30 (f) "Revocable", with respect to a disposition, appointment, provision, or nomination, means one under

1 which the divorced individual, at the time of the divorce or annulment, was alone empowered, by law or under
2 the governing instrument, to cancel the designation in favor of the individual's former spouse or former spouse's
3 relative, whether or not the divorced individual was then empowered to designate the divorced individual in place
4 of the individual's former spouse or in place of the former spouse's relative and whether or not the divorced
5 individual then had the capacity to exercise the power.

6 (2) Except as to a retirement system established in Title 19 or as provided by the express terms of a
7 governing instrument, a court order, or a contract relating to the division of the marital estate made between the
8 divorced individuals before or after the marriage, divorce, or annulment, the divorce or annulment of a marriage:

9 (a) revokes any revocable:

10 (i) disposition or appointment of property made by a divorced individual to the individual's former spouse
11 in a governing instrument and any disposition or appointment created by law or in a governing instrument to a
12 relative of the divorced individual's former spouse;

13 (ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the
14 divorced individual's former spouse or on a relative of the divorced individual's former spouse; and

15 (iii) nomination in a governing instrument that nominates a divorced individual's former spouse or a
16 relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity, including
17 a personal representative, executor, trustee, conservator, agent, or guardian; and

18 (b) severs the interests of the former spouses in property held by them at the time of the divorce or
19 annulment as joint tenants with the right of survivorship and transforms the interests of the former spouses into
20 tenancies in common.

21 (3) A severance under subsection (2)(b) does not affect any third-party interest in property acquired for
22 value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless
23 a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind
24 and location of the property, which records are relied upon, in the ordinary course of transactions involving such
25 property, as evidence of ownership.

26 (4) Provisions of a governing instrument are given effect as if the former spouse and relatives of the
27 former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a
28 fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately
29 before the divorce or annulment.

30 (5) Provisions revoked solely by this section are revived by the divorced individual's remarriage to the

1 former spouse or by a nullification of the divorce or annulment.

2 (6) No change of circumstances other than as described in this section and in 72-2-813 effects a
3 revocation.

4 (7) (a) A payor or other third party is not liable for having made a payment or transferred an item of
5 property or any other benefit to a beneficiary designated in a governing instrument affected by a divorce,
6 annulment, or remarriage, or for having taken any other action in good faith reliance on the validity of the
7 governing instrument, before the payor or other third party received written notice of the divorce, annulment, or
8 remarriage. A payor or other third party does not have a duty or obligation to inquire as to the continued marital
9 relationship between the decedent and a beneficiary or to seek any evidence with respect to a marital
10 relationship. A payor or other third party is only liable for actions taken 2 or more business days after the actual
11 receipt by the payor or other third party of written notice. The payor or other third party may be liable for actions
12 taken pursuant to the governing instrument only if the form of service is that described in subsection (7)(b).

13 (b) The written notice must indicate the name of the decedent, the name of the person asserting an
14 interest, the nature of the payment or item of property or other benefit, and a statement that a dissolution,
15 annulment, or remarriage of the decedent and the designated beneficiary occurred. Written notice of the divorce,
16 annulment, or remarriage under subsection (7)(a) must be mailed to the payor's or other third party's main office
17 or home by certified mail, return receipt requested, or served upon the payor or other third party in the same
18 manner as a summons in a civil action. Upon receipt of written notice of the divorce, annulment, or remarriage,
19 a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or
20 with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings
21 have been commenced, to or with the court having jurisdiction of probate proceedings relating to decedents'
22 estates located in the county of the decedent's residence. In addition to the actions available under this section,
23 the payor or other third party may take any action authorized by law or the governing instrument. If probate
24 proceedings have not been commenced, the payor or other third party shall file with the court a copy of the written
25 notice received by the payor or other third party, with the payment of funds or transfer or deposit of property. The
26 court may not charge a filing fee to the payor or other third party for the payment to the court of amounts owed
27 or transferred to or deposited with the court or any item of property. The court shall hold the funds or item of
28 property and, upon its determination under this section, shall order disbursement or transfer in accordance with
29 the determination. A filing fee, if any, may, in the discretion of the court, be charged upon disbursement either
30 to the recipient or against the funds or property on deposit with the court. Payments, transfers, or deposits made

1 to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or
2 items of property transferred to or deposited with the court.

3 (8) (a) A bona fide purchaser who purchases property from a former spouse, relative of a former spouse,
4 or any other person or who receives from a former spouse, relative of a former spouse, or any other person a
5 payment or other item of property in partial or full satisfaction of a legally enforceable obligation is neither
6 obligated under this section to return the payment, item of property, or benefit nor liable under this section for the
7 amount of the payment or the value of the item of property or benefit. However, a former spouse, relative of a
8 former spouse, or other person who, not for value, received a payment, item of property, or other benefit to which
9 that person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is
10 personally liable for the amount of the payment or the value of the item of property or benefit, to the person who
11 is entitled to it under this section.

12 (b) If this section or any part of this section is preempted by federal law, other than the federal Employee
13 Retirement Income Security Act of 1974, as amended, with respect to a payment, an item of property, or any
14 other benefit covered by this section, a former spouse, relative of the former spouse, or any other person who,
15 not for value, received a payment, item of property, or other benefit to which that person is not entitled under this
16 section is obligated to return that payment, item of property, or benefit, or is personally liable for the amount of
17 the payment or the value of the item of property or benefit, to the person who would have been entitled to it were
18 this section or part of this section not preempted."

19

- END -