

1 HOUSE BILL NO. 20

2 INTRODUCED BY E. HILL

3 BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING EITHER SPOUSE TO REQUEST RESTORATION OF
6 A FORMER NAME IN A DISSOLUTION PROCEEDING; AND AMENDING SECTIONS 40-4-108 AND 40-4-131,
7 MCA."

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

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11 **Section 1.** Section 40-4-108, MCA, is amended to read:

12 **"40-4-108. Decree.** (1) A decree of dissolution of marriage or of legal separation is final when entered,
13 subject to the right of appeal. An appeal from the decree of dissolution that does not challenge the finding that
14 the marriage is irretrievably broken does not delay the finality of that provision of the decree that dissolves the
15 marriage beyond the time for appealing from that provision, and either of the parties may remarry pending appeal.

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

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

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

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

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

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27 **Section 2.** Section 40-4-131, MCA, is amended to read:

28 **"40-4-131. Joint petition -- filing -- form -- contents.** (1) A proceeding for summary dissolution of
29 marriage is commenced by filing in the district court a joint petition in the form prescribed by the court.

30 (2) The petition must:

- 1 (a) be signed under oath by both parties;
- 2 (b) state that, as of the date of the filing of the joint petition, each condition set forth in 40-4-130 has been
- 3 met;
- 4 (c) state the mailing address of both parties; and
- 5 (d) state whether or not ~~the wife~~ a spouse elects to have ~~the wife's maiden or a~~ former name restored
- 6 and, if so, state the name to be restored."

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