

## HOUSE BILL NO. HB0078

Designation of spouses-revocation upon divorce or annulment.

Sponsored by: Representative(s) Barlow, MacGuire and Stith and Senator(s) Nethercott

A BILL

for

1 AN ACT relating to wills and probate; specifying the  
2 revocation of probate and nonprobate transfers to a spouse  
3 upon divorce or annulment; defining terms; specifying the  
4 role and use of governing instruments for revocations;  
5 repealing existing provisions concerning revocation of  
6 transfers upon divorce or annulment; specifying  
7 applicability; and providing for an effective date.

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9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11 **Section 1.** W.S. 2-6-125 is created to read:

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13 **2-6-125. Revocation of probate and nonprobate**  
14 **transfers by divorce or annulment; effect; revival; other**  
15 **changes excluded.**

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2 (a) As used in this section:

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4 (i) "Divorce" or "annulment" means any  
5 dissolution of marriage through a divorce or annulment that  
6 results in the exclusion of the spouse as a surviving  
7 spouse for purposes of probate and nonprobate transfers  
8 upon death of the spouse. A decree of separation that does  
9 not terminate the status of husband and wife is not a  
10 divorce or annulment for purposes of this section;

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12 (ii) "Divorced individual" means a person who  
13 has divorced from his spouse or whose marriage has been  
14 annulled;

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16 (iii) "Governing instrument" means a revocable  
17 instrument executed by a divorced individual before the  
18 divorce or annulment of the marriage to the individual's  
19 former spouse;

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21 (iv) "Relative of the divorced individual's  
22 former spouse" or "former spouse's relative" means any  
23 person who is related to the divorced individual's former

1 spouse by blood, adoption or affinity and who, after the  
2 divorce or annulment, is not related to the divorced  
3 individual by blood, adoption or affinity;

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5 (v) "Revocable" means a disposition,  
6 appointment, provision or nomination under which the  
7 divorced individual, at the time of the divorce or  
8 annulment, was alone empowered by law or under the terms of  
9 a governing instrument to cancel the designation in favor  
10 of the divorced individual's former spouse or former  
11 spouse's relative regardless of whether the divorced  
12 individual was then empowered to designate himself in place  
13 of his former spouse or former spouse's relative and  
14 regardless of whether the divorced individual then had the  
15 capacity to exercise the power of designation.

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17 (b) Unless the express terms of a governing  
18 instrument provides for the disposition to a former spouse  
19 after divorce or unless a governing law, court order or  
20 contract relating to the division of the marital estate  
21 made between two (2) divorced individuals before or after  
22 the marriage, divorce or annulment state otherwise, the  
23 divorce or annulment of a marriage shall:

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(i) Revoke any revocable:

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(A) Disposition or appointment of property made by a divorced individual to the former spouse in a governing document;

(B) Disposition or appointment created by law or in a governing document to a relative of the divorced individual's former spouse;

(C) Provision in a governing instrument that confers a general or special power of appointment on the divorced individual's former spouse or on a relative of the divorced individual's former spouse;

(D) Nomination in a governing instrument that nominates the divorced individual's former spouse or a relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity including a personal representative, executor, trustee, conservator, agent or guardian.

1           (ii) Sever the interests of the former spouse in  
2 property held by the divorced individual and the former  
3 spouse at the time of the divorce or annulment as joint  
4 tenants with the right of survivorship and property held as  
5 tenants by the entirety. Property interests of the divorced  
6 individual and former spouse severed under this paragraph  
7 shall become tenancies in common.

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9           (c) A severance of interests under paragraph (b)(ii)  
10 of this section shall not affect any third-party interest  
11 in property acquired for value and in good faith reliance  
12 on an apparent title by survivorship in the survivor or in  
13 the name of the survivor of the former spouse of the  
14 divorced individual unless a writing declaring the  
15 severance has been noted, registered, filed or recorded  
16 prior to the third party gaining an interest in the  
17 property in records appropriate to the kind and location of  
18 the property that are relied upon in the ordinary course of  
19 transactions involving property that are evidence of  
20 ownership.

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22           (d) Upon a divorce or annulment, provisions of a  
23 governing instrument shall be given effect as if the former

1 spouse and relatives of the former spouse disclaimed all  
2 provisions revoked by this section. For nominations in a  
3 fiduciary or representative capacity revoked by this  
4 section, provisions of a governing instrument shall be  
5 given effect as if the former spouse and relatives of the  
6 former spouse died immediately before the divorce or  
7 annulment.

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9 (e) Provisions that are revoked solely by operation  
10 of this section shall be revived upon the divorced  
11 individual's remarriage to the former spouse.

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13 (f) No change of circumstances other than as  
14 described in this section revokes a will.

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16 **Section 2.** W.S. 2-6-118 is repealed.

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18 **Section 3.** The provisions of this act shall apply to  
19 all wills and revocable governing instruments as defined in  
20 section 1 of this act that are in effect before, on and  
21 after the effective date of this act.

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1       **Section 4.** This act is effective July 1, 2021.

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(END)