

SENATE FILE NO. SF0100

Designation of spouses-revocation upon divorce or annulment.

Sponsored by: Senator(s) Barlow, Cooper and Nethercott and Representative(s) Crago and Olsen

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 the 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 person" means a person who has  
13 divorced from the person's spouse or whose marriage has  
14 been annulled;

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16 (iii) "Governing instrument" means an instrument  
17 executed by a divorced person before the divorce or  
18 annulment of the marriage to the person's former spouse  
19 that the divorced person could have revoked or amended;

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

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

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

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17 (b) Unless the express terms of a governing  
18 instrument provide 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 persons before or after the  
22 marriage, divorce or annulment states otherwise, the  
23 divorce or annulment of a marriage shall immediately:

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(i) Revoke any revocable:

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

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

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

(D) Nomination in a governing instrument that nominates the divorced person's former spouse or a relative of the divorced person'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 person and the former spouse  
3 at the time of the divorce or annulment as joint tenants  
4 with the right of survivorship and property held as tenants  
5 by the entirety. Property interests of the divorced person  
6 and former spouse severed under this paragraph shall become  
7 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 person unless a writing declaring the severance  
15 has been noted, registered, filed or recorded prior to the  
16 third party gaining an interest in the property in records  
17 appropriate to the kind and location of the property that  
18 are relied upon in the ordinary course of transactions  
19 involving property that are evidence of ownership.

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21           (d) Upon entry of an order of a divorce or annulment,  
22 provisions of a governing instrument shall be given effect  
23 as if the former spouse and relatives of the former spouse

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

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

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

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15 (g) A payor or other third party is not liable for  
16 having made a payment or transferred an item of property or  
17 any other benefit to a beneficiary designated in a  
18 governing instrument affected by a divorce, annulment or  
19 remarriage, or for having taken any other action in good  
20 faith reliance on the validity of the governing instrument,  
21 unless the payor or other third party received reasonable  
22 written notice of the divorce, annulment or remarriage. A  
23 payor or other third party shall not have a duty or

1 obligation to inquire as to the continued marital  
2 relationship between a divorced person and a beneficiary or  
3 to seek any evidence with respect to a marital  
4 relationship.

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

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

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13 **Section 4.** This act is effective July 1, 2023.

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(END)