

1 HOUSE BILL NO. 6

2 INTRODUCED BY STOLTZ, YARDLEY

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE LAWS
5 RELATING TO HOMESTEADS IN ORDER TO REMOVE SEXUAL
6 DISCRIMINATION FROM SUCH LAWS; AMENDING SECTIONS 33-102,
7 33-121, 33-125, 33-126, AND 33-127, R.C.M. 1947; AND
8 REPEALING SECTION 33-103, R.C.M. 1947."

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

11 Section 1. Section 33-102, R.C.M. 1947, is amended to
12 read as follows:

13 "33-102. From what it may be selected. If the claimant
14 be married, the homestead may be selected from the property
15 of ~~the-husband, or, with the consent of the wife, from her~~
16 ~~separate property~~ either spouse. When the claimant is not
17 married, but is head of a family, within the meaning of
18 section 33-125, the homestead may be selected from any of
19 his or her property."

20 Section 2. Section 33-121, R.C.M. 1947, is amended to
21 read as follows:

22 "33-121. After sale, money equal to homestead
23 exemption protected. The money paid to the claimant is
24 entitled, for the period of six months thereafter, to the
25 same protection against legal process and the voluntary

1 disposition of ~~the-husband~~ either spouse, which the law
2 gives to the homestead."

3 Section 3. Section 33-125, R.C.M. 1947, is amended to
4 read as follows:

5 "33-125. "Head of family" defined. The phrase "head of
6 a family" as used in this chapter, includes within its
7 meaning:

8 1. ~~The-husband, when the claimant is a married person,~~
9 ~~or the wife, where the husband fails to join in the~~
10 ~~declaration.~~ The husband and wife acting together or either
11 one of them if they do not join in the particular
12 transaction. In any given transaction which requires action
13 by the "head of a family" the spouse who undertakes the
14 transaction shall be deemed "head of the family" in regard
15 to that particular transaction.

16 2. Every person who has attained the age of sixty
17 years and who actually resides on the premises.

18 3. Every person who has residing on the premises with
19 him or her, and under his or her care and maintenance,
20 either:

21 First. His or her minor child, or the minor child of
22 his or her wife or husband, or former wife or husband;

23 Second. A minor grandchild, brother or sister, or
24 minor child of a brother or sister;

25 Third. A father, mother, grandfather, or grandmother;

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1 Fourth. The father, mother, grandfather, or
2 grandmother, of a husband or wife; or former husband or
3 wife;

4 Fifth. An unmarried sister, brother or any other of
5 the relatives mentioned in this section, who have attained
6 the age of majority and are unable to take care of or
7 support themselves."

8 Section 4. Section 33-126, R.C.M. 1947, is amended to
9 read as follows:

10 "33-126. Mode of selection. In order to select a
11 homestead, the ~~husband-or-other~~ head of a family, ~~or-in-case~~
12 ~~the-husband-has-not-made--such--selection--the--wife,~~ must
13 execute and acknowledge, in the same manner as a grant of
14 real property is acknowledged, a declaration of homestead,
15 and file the same for record."

16 Section 5. Section 33-127, R.C.M. 1947, is amended to
17 read as follows:

18 "33-127. Declaration of homestead--~~must~~ contain what.
19 The declaration of homestead must contain:

20 1. A statement, showing that the person making it is
21 the head of a family, ~~or, when the declaration--is--made--by~~
22 ~~the--wife,--showing--that--her--husband--has--not--made--such~~
23 ~~declaration--and--that--she--therefore--makes--the--declaration~~
24 ~~for--their--joint--benefit,~~ If both spouses join in the
25 declaration, this fact shall be stated;

1 2. A statement that the person making it is residing
2 on the premises, and claims them as a homestead;

3 3. A description of the premises;

4 4. An estimate of their actual cash value."

5 Section 6. Section 33-103, R.C.M. 1947, is repealed.

-End-

Approved by Committee
on Judiciary

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INTRODUCED BY STOLTZ, YARDLEY, KIMBLE,

BRADLEY, HUENNEKENS

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE LAWS
RELATING TO HOMESTEADS IN ORDER TO REMOVE SEXUAL
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33-121, 33-125, 33-126, AND 33-127, R.C.M. 1947; AND
REPEALING SECTION 33-103, R.C.M. 1947."

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

Section 1. Section 33-102, R.C.M. 1947, is amended to
read as follows:

"33-102. From what it may be selected. If the claimant
be married, the homestead may be selected from the property
of ~~the-husband, or, with the consent of the wife,--from--her
separate--property~~ either spouse. When the claimant is not
married, but is head of a family, within the meaning of
section 33-125, the homestead may be selected from any of
his or her property."

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exemption protected. The money paid to the claimant is
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same protection against legal process and the voluntary
disposition of ~~the--husband~~ either spouse, which the law
gives to the homestead."

Section 3. Section 33-125, R.C.M. 1947, is amended to
read as follows:

"33-125. "Head of family" defined. The phrase "head of
a family" as used in this chapter, includes within its
meaning:

1. ~~The-husband, when the claimant is a married person,
or the wife,--where--the--husband--fails--to--join--in--the
declaration;~~ The husband and wife acting together or either
one of them if they do not join in the particular
transaction. In any given transaction which requires action
by the "head of a family" the spouse who undertakes the
transaction shall be deemed "head of the family" in regard
to that particular transaction.

2. Every person who has attained the age of sixty
years and who actually resides on the premises.

3. Every person who has residing on the premises with
him or her, and under his or her care and maintenance,
either:

First. His or her minor child, or the minor child of
his or her wife or husband, or former wife or husband;

Second. A minor grandchild, brother or sister, or
minor child of a brother or sister;

1 Third. A father, mother, grandfather, or grandmother;

2 Fourth. The father, mother, grandfather, or
3 grandmother, of a husband or wife; or former husband or
4 wife;

5 Fifth. An unmarried sister, brother or any other of
6 the relatives mentioned in this section, who have attained
7 the age of majority and are unable to take care of or
8 support themselves."

9 Section 4. Section 33-126, R.C.M. 1947, is amended to
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14 execute and acknowledge, in the same manner as a grant of
15 real property is acknowledged, a declaration of homestead,
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23 ~~the--wife,--showing--that--her--husband--has--not--made--such~~
24 ~~declaration,--and--that--she--therefore--makes--the--declaration~~
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3 on the premises, and claims them as a homestead;

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22 First. His or her minor child, or the minor child of
23 his or her wife or husband, or former wife or husband;

24 Second. A minor grandchild, brother or sister, or
25 minor child of a brother or sister;

1 Third. A father, mother, grandfather, or grandmother;

2 Fourth. The father, mother, grandfather, or
3 grandmother, of a husband or wife; or former husband or
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22 the head of a family, ~~or, when the declaration is made by~~
23 ~~the wife, showing that her husband has not made such~~
24 ~~declaration, and that she therefore makes the declaration~~
25 ~~for their joint benefit.~~ If both spouses join in the

1 declaration, this fact shall be stated;

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24 Second. A minor grandchild, brother or sister, or
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1 Third. A father, mother, grandfather, or grandmother;

2 Fourth. The father, mother, grandfather, or
3 grandmother, of a husband or wife; or former husband or
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