ı	HOUSE BILL NO. 14
2	INTRODUCED BY KVAALEN
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4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS RELATING TO MARRIAGE, HUSBAND AND WIFE,
6	RECONCILIATION, DISSOLUTION OF MARRIAGE, SUPPORT, PARENT AND
7	CHILD, AND ADOPTION; INCLUDING EXTENDING THE POWER TO
8	SOLEMNIZE MARRIAGES TO MAYORS AND JUSTICES OF THE PEACE.*
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 25-232, R.C.M. 1947, is amended to
12	read as follows:
13	#25-232. Fees of clerk of district court. (1) At the
14	commencement of each action or proceeding, the clerk must
15	collect from the plaintiff the sum of ten-dollars-(\$10). and
io	for filing a complaint in intervention the clerk must
17	collect from the intervenor the sum of ten-dollars-(\$10);
18	121 And-the Ing defendant, on his appearance, must pay
19	the sum of five-dollars-(\$5)-(which-includes-all-the-fees-to
20	be-paid-up-to-the-entry-of-judgment).
21	(3) On the entry of judgment in favor of plaintiff, he
	the plaintiff must pay the additional sum of fivedollars
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23	†\$5††±
24	(4) Andif On the entry of judgment in favor of
25	defendant, the defendant must pay the sum of tendollars

1	f\$107x twhich
2	15) Items (1) through (4) *netudes include all th
3	clerk's costs for all services rendered in any action o
4	proceeding, except <u>for</u> issuing <u>an</u> execution or order o
5	sale <del>v-and-the-fees or</del> for <u>issuing a</u> transcript on appeal
6	If the action is dismissed, no fee for the entry of judgmen
7	need be paid, unless the party desires the entry of suc
8	judgment).
9	(6) For filing the papers and transcript on appea
10	from a justice or other inferior court or other tribunal
11	the party appealing must pay the sum of tendollars(\$10)
12	twhich includes all costs up to the entry of judgment?.
13	(7) For entry of judgment in favor of party appealing
14	he must pay the sum of five-dollars-(\$5).
15	181 For entry of judgment in favor of the other-party
16	or respondent, he must pay the sum of ten-dollars-(\$10).
17	(9) Items (6) through (8) twhich-includesinclude al
18	$\underline{\mathfrak{o}}\underline{\mathfrak{f}}$ the clerk's costs for all services rendered on suc
19	appeal†•
20	(10) The clerk must collect the following fees:

page in excess of two-hundred-(200) pages#:

(a) For for certifying transcripts on appeal, where if

(b) And--where if he prepares such transcript, in

the same are not prepared by him, five-dollars-(\$5), and in

addition thereto, five 5 cents (\$v05)-per a page for each

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- addition thereto, per folio, fifteen 15 cents (\$#15)\*1
- 2 (c) For for preparing copies of papers in his office,
- 3 per folio, fifteen 15 cents (\$\$\displays15\), when-certified-toy and
- 4 in addition thereto, when certified, fifty 50 cents (\$\*50)
- 5 for certificate and seal\*:
- 6 (d) For for certificate with seal, fifty 50 cents
- (\$=50)=i
- 8 <u>(e)</u> for for oath and jurat, with seal, fifty 50 cents
- 9 (\$=50)=;
- 10 (f1 for for administering oath, twenty-five 25 cents
- 11 (\$#25)#;
- 12 (a) For for taking depositions, per folio, twenty 20
- 13 cents (\$#20)#:
- 14 (h) For for filing and docketing transcript of
- 15 judgment from all other courts and issuing execution
- thereon, two-dollars-and-fifty-cents-{\$2.50}\*i
- 17 (i) For for issuing execution and all services
- 18 connected therewith, one-dollar-t\$1;
- 19 <u>fil</u> for for issuing execution or order of sale on
- 20 foreclosure of liens, one-dollar-(\$1) and in addition
- 21 per folio: twenty 20 cents (\$#20)#1
- 22 <u>(k) For for searching records of files for each year</u>,
- 23 except for suitors or their attorneys, twenty-five 25 cents
- 24 (\$+25)+:
- 25 <u>(1)</u> For for transmission of records or files or

- transfer of cases to other courts, two-dollars-and-fifty
- 2 cents-(\$2.50)=1
- 3 (m) For for filing and entering papers on transfer
- 4 from other courts, five-dollars-(\$5)+;
- 5 (n) For for making, acknowledging, and procuring the
- 6 signature of judge to deed of lot in townsite, four--dollars
- 7 +547=1
- 8 (o) for for issuing a marriage license, five-dollars
- 9 +45+ \$15.
- 10 (11) One-quarter-(1/4) One-fourth of all fees collected
- 11 by said the clerk of the district court must be paid to the
- 12 secretary of the public employees retirement system board
- 13 to be credited to the judges' retirement fund."
- 14 Section 2. Section 36-204, R.C.M. 1947, is amended to
- 15 read as follows:
- 16 #36-204. Procedure. (1) Whenever any controversy
- 17 exists between the spouses which may, unless a
- 18 reconciliation is achieved, result in the dissolution or
- 19 annulment of the marriage or in the disruption of the
- 20 household, and there is any minor child of the spouses or of
- 21 either of them whose welfare might be affected thereby, the
- 22 conciliation court shall have jurisdiction over the
- 23 controversy\* and over the parties thereto and all persons
- 24 having any relation to the controversy as further provided
- 25 in this chapter.

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1	(2) Prior to the filing of any action for <del>divorce</del>
2	dissolution, annulments or separate maintenance, either
3	spouse $_{\Psi}$ or both spouses $_{\Psi}$ may file in the conciliation court
4	a petition invoking the jurisdiction of the court for the
5	purpose of preserving the marriage by effecting a
6	reconciliation between the partiesy or for amicable
7	settlement of the controversy between the spouses $\overline{\mathbf{v}}$ so as to
8	avoid further litigation over the issue involved.
9	(3) The petition shall be captioned substantially as
10	follows:
11	District Court of the State of Montana
12	For the County of ••••
13	Upon the petition of Petition for Conciliation
14	
15	Petitioner Court Law)
16	And concerning
17	•••••• and
18	***************************************
19	Respondents.
20	To the Conciliation Court:
21	(4) The petition shall:

- 1 (b) State <u>state</u> the name and age of each minor child 2 whose welfare may be affected by the controversymi
  - (c) State state the name and address of the petitioners or the names and addresses of the petitioners :
- 5 (d) If if the petition is presented by one spouse 6 only, name the other spouse as a respondent, and state the 7 address of that spouse.
- 8 (e) \*\*\*so also name as a respondent any other person
  9 who has any relation to the controversy\* and state the
  10 address of the person, if known to the petitioner\*:
- (f) State <u>State</u> such other information as the court
  may by rule require.
- 13 (5) The clerk of the court shall provide, at the 14 expense of the county, blank forms for petitions for filing pursuant to this chapter. The probation officers of the 15 county and the attaches and employees of the conciliation 16 17 court shall assist any person in the preparation and presentation of any such petition, when any person requests 18 such assistance. All public officers in each county shall 19 refer to the conciliation court all petitions and complaints 20 21 made to them in respect to controversies within the 22 jurisdiction of the conciliation court.
- 23 (6) No-Fees+ No fee shall may be charged by any
  24 officer for filing the petition\* nor shall may any fee be
  25 charged by any officer for the performance of any duty

(a) Allege allege that a controversy exists between

or an amicable settlement of the

the spouses and request the aid of the court to effect a

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1 pursuant to this chapter.

- (7) Time--and-Place-of-Hearings. The court shall fix a reasonable time and place for hearing on the petition, and shall cause such notice of the filing of the petition and the time and place of the hearing as it deems considers necessary to be given to the respondents. The court may, when it deems considers it necessary, issue a citation to any respondent requiring him to appear at the time and place stated in the citation, and may require the attendance of witnesses as in other civil cases.
- (8) for the purpose of conducting hearings pursuant to this chapter, the conciliation court may be convened at any time and place within the district, and the hearing may be had in chambers or otherwise, except that the time and place for hearing shall may not be different from the time and place provided by law for the trial of civil actions if any party, prior to the hearing, objects to any different time or place.
- (9) Hearings—Informat: The hearing shall be conducted informatly as a conference or series of conferences to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues of the controversy. To facilitate and promote the purposes of this act chapter: the court may, with the consent of both of the parties to the proceeding, recommend or invoke the aid of physicians:

- er psychiatrists, er other specialists or scientific experts, or ef the pastor or director of any religious denomination to which the parties may belong. Such aid, however, shall not be at the expense of the court or of the county, unless the county commissioners of the county specifically provide and authorize such aid.
- At or after hearing, the court may make such orders in respect to the conduct of the spouses and the subject matter of the controversy as the court deems considers necessary to preserve the marriage or to implement the reconciliation of the spouses, but in no event shall may such orders be effective for more than thirty-(30) days from the hearing of the petition, unless the parties mutually consent to a continuation of such time. Any reconciliation agreement between the parties may be reduced to writing, and, with the consent of the parties, a court order may be made requiring the parties to comply fully therewith.
- (11) During a period beginning upon the filing of the petition for conciliation and continuing until thirty--(30) days after the hearing of the petition for conciliation, neither spouse shall file any action for divorce dissolution, annulment of marriage, or separate maintenance. Ify--howevery after the expiration of such period, the controversy between the spouses has not been terminated,

either spouse may institute proceedings for divorce dissolution, annulment of marriage, or separate maintenance. The pendency of a divorce dissolution, annulment, or separate maintenance action shall may not operate as a bar to the instituting of proceedings for conciliation under this chapter.

Petition—Filed—First» Whenever any action for divorce dissolution, annulment of marriage, or separate maintenance is filed in the district court, and it appears to the court at any time during the pendency of the action that there is any minor child of the spouses or of either of them whose welfare may be adversely affected by the dissolution or annulment of the marriage of or the disruption of the household, and that there appears to be some reasonable possibility of a reconciliation being effected, the case may be transferred to the conciliation court for proceedings for reconciliation of the spouses or amicable settlement of issues in controversy, in accordance with the provisions of this chapter.

application is made to the conciliation court for conciliation proceedings in respect to a controversy between spousesy or a contested action for divorce dissolution, annulment, or separate maintenancey but there is no minor

child whose welfare may be affected by the results of the controversyy and it appears to the court that reconciliation of the spouses or amicable adjustment of the controversy can probably be achieved, and that the work of the court in cases involving children will not be seriously impeded by acceptance of the case, the court may accept and dispose of the case in the same manner as similar cases involving the welfare of children are disposed of. In the event of such application and acceptance, the court shall have the same jurisdiction over the controversy and the parties thereto or having any relation thereto that it has under this chapter in similar cases involving the welfare of children."

Section 3. Section 48-126, R.C.N. 1947, is amended to read as follows:

#48-126. Certificate and copy prime-facie prima\_facie evidence. The original certificate of marriagev--made--as prescribed--in--this--chapterv and the record thereof by the clerk of the district courtv or a copy of such record duly certified by the clerk of the district courtv shall be received by all courts in all places as presumptive evidence of such marriage.\*

Section 4. Section 48-134, R.C.M. 1947, is amended to read as follows:

24 \*\*48-134. Proof of age \*\*-premarital-test and medical 25 certificate required of--applicants--for--marriage--license.

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ı (1) Before a persony who is authorized by law to issue 2 marriage licensesy-shall may issue a marriage license, each 3 applicant therefor shall exhibit to him a birth certificate 4 or other satisfactory evidence of age, and, if such 5 applicant is a minor, the-consent-required-oy-section-48-118 6 the approval required by 48-308, and shall else file with 7 him a medical certificate from a duly qualified physician, licensed to practice medicine and surgery in any state or 9 United States territory, or any other person authorized by 10 laws of Montana to make such a medical certificate, which 11 certificate shall state that the applicant has been given such an examination, including a standard serological test, 12 13 made not more than twenty-- (20) days before the date of 14 issuance of the license, and that the report of the results 15 of the serological test has been exhibited to the applicant 16 and that each party to the proposed marriage contract has 17 examined the report of the serological test of the other 18 party to the proposed contract.

(2) A person who by law is validly able to obtain a marriage license in this state is also validly able to give his-or-her consent to any examinations and tests required by this act section. In submitting the blood specimen to the laboratory, the physiciany or any other person authorized by the laws of Montana to make such a medical certificatey shall designate that it is a premarital test."

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Section 5. Section 48-135, R.C.M. 1947, is amended to read as follows:

3 #48-135. Contents and form of medical certificate. (1)
4 The medical certificate shall contain a statementy from the
5 person in charge of the laboratory making the test or
6 authorized to make such reports, setting forth:

- (a) the name of the testy:
- 8 (b) the date it was made;

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9 (c) the name and address of the physiciany or to--any
10 other person authorized under the laws of Montana to make
11 the testy:

12 (d) to whom the test was sent; and

13 <u>(e)</u> the name and address of the person whose blood was 14 tested.

15 <u>(21)</u> In the event that an error is discovered in the 16 results of the test, such results will be expunged from the 17 records of the department of health and environmental 18 sciences.

form to be provided and distributed by the department of health and environmental sciences to all county clerks of the court in the state and to laboratories in this state approved by the department of—health—and-environmental sciences. This form is hereinafter referred to in this act as "the certificate form="a"."

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Section 6. Section 48-137, R.C.M. 1947, is amended to 1 2 read as follows:

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"48-137. Definition of test -- rules and--regulations. 3 For the purpose of this act, a standard serological test shall be a test for syphifisy rubella immunityy and syphilise as approved by the department of health and environmental sciences. An approved laboratory shall be the laboratory of the department of-health-and-environmental seiences or a laboratory approved by that department. Any 10 other statey or United States public health service or 11 United States armed forces laboratory shall be considered 12 approved for the purposes of this act. Such laboratory test may be made on request at the laboratory of the department 13 of health and environmental sciences. Reasonable rules for 14 15 reports to be submitted by any laboratory making tests and the manner of furnishing the reports to the certifying 16 17 physician and the state shall be adopted by the department of health and environmental sciences." 18

Section 7. Section 48-139, R.C.M. 1947, is amended to 19 20 read as follows:

\*48-139. Penalties. (1) Any An applicant for a marriage license, a physiciany or other person authorized by the laws of Montana to make such a medical certificate or any person in charge of or authorized to make such reports or statements for a laboratory who shall misrepresent

misrepresents his identity or any of the facts called for by 1 2 the certificate form prescribed by this actts or any licensing officer who shall-issue issues a marriage license 3 without having received the certificate form or who shall have has reason to believe that any of the facts on the certificate form have been misrepresentedy and shall nevertheless issue issues a marriage licensets or any person 7 who shall otherwise fail fails to comply with the provisions 9 of this act shall-be is guilty of a misdemeanory and upon 10 convictiony shall be punished by a fine of not more than one 11 hundred-dollars-t\$100+001.

121 Certificates Medical certificates, laboratory statements or reports, and applications, -- in--this--act referred to in this act and-the--information---therein contoinedy--shall--be are confidential and shall may not be divulged to or open to inspection by any person other than state or local health officers or their duly-authorized representatives. Any A person who shall--divulge divulges such information or open opens to inspection such certificates, statements, or reports, or applications, without authority, to any person not by law entitled to the samey-snotl--be is quilty of a misdemeanory and upon convictiony shall be punished by a fine of not more than one hundred-dollars-(\$100×88)."

25 Section 8. Section 48-146, R.C.M. 1947, is amended to LC 0035/01 LC 0035/01

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read as follows:

\*48-146. License required--for---marriage--place---of ceremony--county--where--license-issued application. (1) No Montana resident shalf may be joined in marriage within this state until a license has been obtained for that purpose from the clerk of the district court of the county in which one of the parties has resided for at least five---(5) days immediately prior to making application therefor.

- 12) A license so issued shall authorize a marriage ceremony to be performed in the county where the license is issued or in any other county of this state.
- 13) If both parties be are nonresidents of the state, such the license may be obtained from the clerk of the district court of the county where the marriage ceremony is to be performed. If one of such the persons is a nonresident of the county where such the license is to issue, his part of the application may be completed and sworn to (or affirmed) before the person authorized to accept such applications in the county and state in which he resides."
- 20 Section 9. Section 48-309, R.C.M. 1947, is amended to read as follows:
- marriage may be solemnized by a judge of a court of record,
  by a public official whose powers include solemnization of
  marriages, by a mayor or justice of the peace, or in

accordance with any mode of solemnization recognized by any religious denomination. Indian nation or tripe, or native group. Either the person solemnizing the marriage, or, if no individual acting alone solemnized the marriage, a party to the marriage, shall complete the marriage certificate form and forward it to the clerk of the district court.

- (2) If a party to a marriage is unable to be present at the solemnization, he may authorize in writing a third person to act as his proxy. If the person solemnizing the marriage is satisfied that the absent party is unable to be present and has consented to the marriage, he may solemnize the marriage by proxy. If he is not satisfied, the parties may petition the district court for an order permitting the marriage to be solemnized by proxy.
- 15 (3) Upon receipt of the marriage certificate, the 16 clerk of the district court shall register the marriage.
- 17 (4) The solemnization of the marriage is not
  18 invalidated by the fact that the person solemnizing the
  19 marriage was not legally qualified to solemnize it, if
  20 either party to the marriage believed him to be so
  21 gualified.\*\*
- 22 Section 10. Section 48-317, R.C.M. 1947, is amended to 23 read as follows:
- 24 "48-317. Procedure -- commencement -- pleadings -25 abolition of existing defenses. (1)--All--proceedings--under

1	this-act-are-commenced-in-the-manner-provided-by-the-Montana
2	rules-of-civil-procedure

t2)(1) The verified petition in a proceeding for dissolution of marriage or legal separation shall allege that the marriage is irretrievably broken and shall set forth:

- 7 (a) the age, occupation, and residence of each party8 and his length of residence in this state;
- 9 (b) the date of the marriage and the place at which it 10 was registered;
- 11 (c) that the jurisdictional requirements of <del>section</del> 12 48-316 exist and that the marriage is irretrievably broken 13 in that either:
  - (i) the parties have lived separate and apart for a period of more than one-hundred--eighty--t180; days next preceding the commencement of this proceedings; or
  - (ii) that there is serious marital discord which adversely affects the attitude of one or both of the parties towards the marriage, and that there is no reasonable prospect of reconciliation;
  - (d) the names, ages, and addresses of all living children of the marriage, and whether the wife is pregnant;
- (e) any arrangements as to support, custody, andvisitation of the children and maintenance of a spouse; and
- 25 (f) the relief sought.

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- the parties, the other party must be served in the manner provided by the Montana rules of civil procedure and may within twenty—(20) days after the date of service file a verified response. No decree may be entered until twenty t20) days after the date of service.
- 9 (5)(4) Previously existing defenses to divorce and legal separation, including but not limited to condonation, linear continuous connivance, collusion, recrimination, insanity, and lapse of time, are abolished.
- 13 (6)(5) The court may join additional parties proper 14 for the exercise of its authority to implement this act.\*\*
- Section 11. Section 48-331, R.C.M. 1947, is amended to 16 read as follows:
- 17 "48-331. Jurisdiction -- commencement of proceedings.
- 18 (1) A court of this state competent to decide child custody
- 19 matters has jurisdiction to make a child custody
- 20 determination by initial or modification decree if:
- 21 (a) this state:
- 22 (i) is the home state of the child at the time of
- 23 commencement of the proceedings vi or
- 24 (ii) had been the child's home state within six--f6}
- 25 months before commencement of the proceeding and the child

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- is absent from this state because of his removal or retention by a person claiming his custody or for other reason, and a parent or person acting as parent continues to live in this state; or
- 5 (b) it is in the best interest of the child that a 6 court of this state assume jurisdiction because:
- 7 (i) the child and his parents or the child and at
  8 least one contestant have a significant connection with
  9 this state; and
- 10 (ii) there is available in this state substantial
  11 evidence concerning the child's present or future care,
  12 protection, training, and personal relationships; or
- 13 (c) the child is physically present in this state and:
  - (i) has been abandoned; or

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- (ii) it is necessary in an emergency to protect him because he has been subjected to or threatened with mistreatment or abuse or is neglected or dependent; or
- (d) (i) no other state has jurisdiction under prerequisites substantially in accordance with paragraphs subsections (11(a), (11(b), or (11(c)) of this section or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine custody of the child+; and
- 24 (ii) it is in his best interest that the court assume
  25 jurisdiction.

- (2) Except under paragraphs subsections (1)(c) and
  (1)(d) of subsection-(t) this section, physical presence in
  this state of the childy or of the child and one of the
  contestants, is not alone sufficient to confer jurisdiction
  on a court of this state to make a child custody
  determination.
- 7 (3) Physical presence of the child, while desirable,
   B is not a prerequisite for jurisdiction to determine his
   9 custody.
- 10 (4) A child custody proceeding is commenced in the
- 12 (a) by a parent, by filing a petition:

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- (i) for dissolution or legal separation; or
- (ii) for custody of the child in the county in which heis permanently resident or found; or
- 16 (b) by a person other than a parent, by filing a
  17 petition for custody of the child in the county in which he
  18 is permanently resident or found, but only if he is not in
  19 the physical custody of one of his parents.
- given to the child's parent, guardian, and or custodian, who may appear, be heard, and file a responsive pleading. The court, upon a showing of good cause, may permit intervention of other interested parties."
- 25 Section 12. Section 48-333, R.C.M. 1947, is amended to

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1 read as follows:

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"48-333. Temporary orders. (1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in section 48-340. The court may award temporary custody under the standards of section 48-332 after a hearing or, if there is no objection, solely on the basis of the affidavits.

- 10 legal separation is dismissed, any temporary custody order
  11 is vacated unless a parent or the child's custodian moves
  12 that the proceeding continue as a custody proceeding and the
  13 court finds, after a hearing, that the circumstances of the
  14 parents and the best interest of the child requires require
  15 that a custody decree be issued.
- 16 (3) If a custody proceeding commenced in the absence
  17 of a petition for dissolution of marriage or legal
  18 separation under-subsection-(a)(ii)-or-(b)-of-section-48-331
  19 is dismissed, any temporary custody order is vacated."
- Section 13. Section 61-105, R.C.M. 1947, is amended to read as follows:
- 22 m61-i05. Custody of-legitimates services and earnings
  23 of child. The father and mother of an unmarried minor child
  24 are equally entitled to its the custody, services, and

- or refuse <u>refuses</u> to take the custody\* or has abandoned his or her family, the other is entitled to \*te the custody\*
- 3 services, and earnings of the child.
- Section 14. Section 61-109, R=C.M. 1947, is amended to read as follows:
- direct an allowance to parent. The proper court may
  direct an allowance to be made to the parent of a childy out
  of its the child's propertyy for its the past or future
  support and education of the child, on such conditions as
  may be proper, whenever such direction is for its the
  child's benefit."
- 12 Section 15. Section 61-113, R.C.M. 1947, is amended to read as follows:
- 14 "61-113. Remedy when a parent dies without providing 15 for the support of his child. If a parent chargeable with the support of a child dies, leaving it the child chargeable 16 17 to the county and leaving an estate sufficient for its the 18 child's support, the county commissioners of the county may 19 claim provision for its the child's support from the 20 parent's estate by civil action, and for this purpose may have the same remedies as any creditors against that estate, 21 22 and against the heirs, devisees, and the next of kin of the parent." 23
- 24 Section 16. Section 61-118, R.C.M. 1947, is amended to read as follows:

earnings of the child. If either parent be deady or unabley

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1	#61-118. Compensation and support of adultchild
2	person after attaining majority. Where a child person, after
3	attaining majority, continues to serve and to be supported
4	by the parent, neither party is entitled to compensation, in
5	the absence of an agreement therefor."
6	Section 17. Section 61-122, R.C.N. 1947, is amended to
7	read as follows:
8	*61-122. Gustody When custody may be awarded without
9	divorce <u>dissolution</u> proceedings when-parents-separated. When
10	a husband and wife live in a state of separation, without
11	beingdivorced the marriage being dissolved, any court of
12	competent jurisdiction, upon application of either, if an
13	inhabitant of this state, may inquire into the custody of
14	any unmarried minor child of the marriage, and may award the
15	custody of such child to either for such time and under such
16	regulations as the case may require. The $-decisionofthe$
17	courtmustbeguidedbythe-rules-prescribed-in-section
18	91-4515**

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read as follows:

petitioners, and shall specify:

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the marriagewi

(b) When when the petitioners acquired or intend to acquire custody of the child and from what person or agency\*i (c) The the date and place of birth of child, if known\*: (d) The the name used for the child in the proceedings and, if a change in name is desired, the new name: (e) That that it is the desire of the petitioners that the relationship of parent and child be established between them and the child\*: (f) \* a full description and statement of value of all property owned or possessed by the child\*: (q) Facts facts, if any, which excuse consent on the part of a parenty to the adoption. (2) One copy of the petition shall be retained by the court. The other shall be sent to the state department of social and rehabilitation services. and An additional copy shall be sent to any agency participating in the adoption proceeding. (3) Any written consent required by this act may be attached to the petitiony or may be filedy after the filing of the petition, with the consent of the court."

of the petitioners, and, if married, the place and date of

Section 18. Section 61-208. R.C.M. 1947. is amended to

\*61-208. Petition for adoption. (1) A petition for

(a) The the full names, ages, and place of residence

adoption shall be filed in duplicate, verified by the

\*61-211. Interlocutory and final decree. [1] Upon examination of the report described in section 61-209, if such report has been deemed considered necessary by said the court. and after hearing, the court may issue an interlocutory decree giving the care and custody to the petitioners pending the further order of the court.

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12) When a petition has been filed seeking the adoption of a child, the court must cause service of process to be made on the parent or parents of the child, except in those cases hereinafter provided, in the following manner:

tal The court shall order a citation to issue to the parent or parents in the name of the state of Montana and under the seal of the courty directing such parent or parents to appear in court at a time to be fixed by the courty and show cause why said the petition should not be granted.

(b) Such citation, together with a copy of the petition for adoption, shall be personally served upon such parent or parents. If, however, any such parent or parents cannot be found within this state, service may be had by publication of a copy of said the citation in the manner provided for the publication of summons by Rule 4, MaRacivaPa

131 If after completion of such service, any parent so served does not appear, the court may act upon the petition and the order of the court thereon shall be binding upon all persons so served; provided that any such person shall—have—the—right—to may appeal from the order in the manner and form provided for appeals from a judgment in civil actions.

The petitioners and the child shall appear at said
the hearing, unless the presence of the child is waived by
the court.

[5] Service of process, as aforesaid, need not be made 10 on a parent who has consented in writing to an adoption+-or on-the-father-of-an-illegitimate-child; or on any parent 11 whose consent to adoption is not required under the 12 13 provisions of section 61-205+ or 61-325; and service of 14 process shall not be made on any parent who has relinquished his child to the state department of social and 15 rehabilitation services or an adoption agency licensed by 16 the state department of-social-and-rehabilitation-services. 17

(6) After an interlocutory decreey-as--aforesaidy has 18 been issued by the court, the investigator, if any, shall 19 20 observe the child in his adoptive home and report in writing 21 to the court within six-(6) months on any circumstances or 22 conditions which may have a bearing on the adoption. After 23 six-(6) months from the date of the interlocutory decree. the petitioners may apply to the court for a final decree of 24 25 adoption. The court shall thereupon set a time and place for

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ì final hearing. Notice of the time and date of the hearing 2 shall be served on the state department of social and 3 rehabilitation services, and the investigator, if any. The investigator, if any, shall file with the court a written 4 5 report of his findings and recommendations and certify that 6 the described investigation, if any, has been made since the 7 granting of the interlocutory decree. After hearing on said application, at which the petitioners and the child shall 9 appear, unless the presence of the child is waived by the 10 court, the court may enter a final decree of adoption if 11 satisfied that the adoption is for the best interests of the 12 child. If the adoption is denied, an appropriate order shall be made as to the future custody of said the child."

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read as follows:

\*61-214. Appeal. An appeal may be taken from any final order. judgments or decree rendered hereunder to in the district court by any person aggrieved thereby, in the manner provided for appeals from said the court in other civil matters."

Section 20. Section 61-214, R.C.M. 1947, is amended to

21 Section 21. Section 61-309, R.C.M. 1947, is amended to read as follows: 22

23 \*61-309. Jurisdiction -- venue. (1) The district court 24 has jurisdiction of an action brought under this act. The 25 action may be joined with an action for divorce dissolution,

annulment, separate maintenance, support, or adoption.

(2) For purposes of an action brought under this act: personal jurisdiction is established in the courts of this state over any person who has had sexual intercourse in this state which has resulted in the birth of a child who is the subject of such proceedings. In addition to any other method provided by rule or statute, including-Rule--4B--of--the Montana -- Rules - of - Civil-Procedure, personal jurisdiction may be acquired by service in accordance with Rule 4B of the Montana Rules rules of Eivil-Procedure civil procedure.

(3) The action may be brought in the county in which the child or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced."

Section 22. Section 61-323, R.C.M. 1947, is amended to read as follows:

\*61-323. Promise to render support. (1) Any promise in writing to furnish support for a Childy growing out of a supposed or alleged father and child relationshipy does not require consideration and is enforceable according to its terms, subject to section 61-307(4).

(2) In the best interest of the child or the mother. the court may, and upon the provision's <u>promisor's</u> request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on

- behalf of the child all amounts paid in performance of the promise  $\bullet$  m
- 3 Section 23. Section 93-505, R.C.M. 1947, is amended to 4 read as follows:
- #93-505. Sittings of court -- when private. In an action for divorce dissolution of marriage, criminal conversation, or seduction, -- of -- breach -- of -- promise -- of marriage, the court may direct the trial of any issue of 9 fact joined therein to be privatey and exclude all persons except the officers of the court, the parties, their 10 11 witnesses, and counselts providedy that in any cause the 12 court may, in the exercise of a sound discretion, during the examination of a witness, exclude any or all witnesses in 13 14 the cause.\*
- 15 Section 24. Section 93-2601-60, R.C.M. 1947, is 16 amended to read as follows:
- 17 #93-2601-60. Hearing and continuance. If the oblique is not present at the hearing and the obligor denies owing 18 19 the duty of support alleged in the petition or offers 20 evidence constituting a defense; the court, upon request of 21 either party, may continue the hearing to permit evidence 22 relative to the duty to be adduced by either party by 23 deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a 24 25 person before whom a deposition may be taken."

- Section 25. Repealer. Sections 36-110, 36-130, 36-131,
- 2 48-112, 48-123, 48-144, and 93-2201-6, R.C.M. 1947, are
- 3 repealed.

-End-

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LC 0035

1977 Legialture Code Commissioner Bill - Summary

House Bill No. 14

TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO MARRIAGE, HUSBAND AND WIFE, RECONCILIATION, DISSOLUTION OF MARRIAGE, SUPPORT, PARENT AND CHILD, AND ADOPTION.

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 25-232. Changed the amount of the marriage license fee to \$15, to conform with 48-306, the later statute.

Section 2. <u>36-204(12)</u>. Changed "of" to "or" to correct obvious grammatical error.

Section 3. 48-126. Deleted "made as prescribed in this chapter" since the marriage certificate is no longer prescribed by chapter 1 of Title 48, but rather by the director of the department of health and environmental sciences pursuant to 48-305.

Section 4. 48-134. Premarital test. The language "... the consent required by section 41-118 ... " is obsolete because 41-118 has been repealed. It is changed to read "... the approval required by 48-308" which permits judicial approval as well as parental consent. Also the word "certificate" has been changed to "medical certificate" to avoid possible confusion with "marriage certificate".

Section 5. 48-135. Changed "certificate" to medical certificate" for above reason. In (1)(c) deleted "to any" to correct apparent grammatical error.

- Section 6. 48-137. Changed "... syphilis, rubella immunity, approved by the department ... " to "... rubella immunity and syphilis, as approved by the department ... " for grammatical clarity. Added "or" for same reason.
- Section 7. 48-139. Changed "certificate" to "medical certificate". Added "applications" in second sentence of second paragraph to make it conform to 1st sentence.
- Section 8.  $\underline{48-146}$ . In (3) added an "and" for grammatical reasons.
- Section 9. 48-309. Added mayors and justices of the peace to the list of persons who may solemnize marriages. Those officers were apparently inadvertently deprived of such authority upon the adoption in 1975 of the uniform marriage and divorce act.
- Section 10. 48-317(1). This subsection is deleted as it is merely redundant to 48-315(1).
- Section 11.  $\underline{48-331(5)}$ . Changed "and" to "or" in this subsection since it would be impossible generally to notify all three (parent, guardian, and custodian).
- Section 12. <u>48-333(3)</u>. Deleted reference to "(a)(ii) or (b)" as unnecessary and ambiguous. The proper reference seems to be "(4)(a)(ii) or (4)(b)", however "(1)(a)(ii) or (1)(b)" might also be relevant. Best alternative is to delete the reference.
- Section 13, 14, and 15. 61-105, 61-109, 61-113. Children are referred to as "it" in these sections. Changed references to "the child" instead.
- Section 16. 61-118. Changed references to "adult child" and "child, after attaining majority" to "person, after attaining majority" to avoid reference to the impossible person.
- Section 17. 61-122. Deleted the last sentence because 91-4515 has been repealed. The bill which repealed that section did not replace its provisions, however other provisions for determination of custody are set forth in the uniform marriage and divorce act. If desired, the reference to "91-4515" could probably be replaced with "48-332 through 48-340", or "this chapter".
- Section 18. 61-208(2). This subsection contemplates two copies of the petition, one to be retained by the court, and the other to be sent to several different parties, a task which would require the services of a magician. The second sentence is amended to provide for additional copies when needed to be sent to additional parties.

- Section 19. 61-211. The fifth paragraph states that in the case of adoption of an illegitimate child, service of process is not required on the father. This seems to conflict with 61-325, which requires notice be given unless and until a decree is entered terminating such father's parental rights. Amended by striking "... or on the father of an illegitimate child ... " and adding "61-325" after "... or on any parent whose consent to adoption is not required under the provisions of section 61-205 or 61-325
- Section 20.  $\underline{61-214}$ . Changed "to" to "in" for grammatical reasons. Orders, etc. are rendered " $\underline{in}$ " a court, not "to" a court.
- Section 21. 61-309. Deleted "... including rule 4B of the Montana Rules of Civil Procedure ... " as compliance with rule 4B is required later in the same sentence. Use of the words is awkward and redundant.
- Section 22. 61-323(2). Changed "... provision's request ... " to "promisor's request ... " to correct apparent error.
- Section 23. 93-505. Deleted "breach of promise of marriage" since by authority of 17-1202 such actions may no longer be brought.
- Section 24. 93-2601-60. Added "may" to correct apparent error. The alternative substitution would be "shall".
  - Section 25. Repealers.
- 36-110. This section and 36-128 are redundant. Repealed this section.
- 36-130. This section and 36-105 are redundant. Repealed this section.
- 36-131. This section disallowing courtesy is replaced by 91A-2-112 of the uniform probate code.
- 48-112. Lack of chastity as releasing a party from a contract to marry. This section is probably obsolete and at any rate would seem to be impliedly repealed by 17-1202, which abolishes the cause of action for breach of a promise to marry, hence the marriage contract. It should be noted that 17-1202, which is the later statute, although disallowing action for breach of marriage promise, still preserves actions based on fraud or unjust enrichment.

- 48-123, 48-144. Form of marriage certificate and license. The Uniform Marriage and Divorce Act requires the director of the department of health and environmental sciences to prescribe the forms for the marriage certificate and license (48-305), hence these forms previously prescribed by the legislature are impliedly inapplicable.
- 93-2201-6. Admission of adultery. Adultery is no longer a ground, per se, for divorce (see 48-316), hence this section is obsolete.

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Approved by Gommittee on Judiciary

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4	A BILL POR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIPY THE LAWS RELATING TO MARRIAGE, HUSBAND AND WIFE,
6	RECONCILIATION, DISSOLUTION OF MARRIAGE, SUPPORT, PARENT AND
7	CHILD, AND ADOPTION; INCLUDING EXTENDING THE POWER TO
8	SOLEMNIZE MARRIAGES TO MAYORS AND JUSTICES OF THE PEACE."
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10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11	Section 1. Section 25-232, R.C.H. 1947, is amended to
12	read as follows:
13	*25-232. Fees of clerk of district court. (1) At the
14	commencement of each action or proceeding, the clerk must
15	collect from the plaintiff the sum of ten dellars-(\$10), and
16	for filing a complaint in intervention the clerk must
17	collect from the intervenor the sum of tea-dollars-(\$10)+.
18	42) And the The defendant, on his appearance, ■ust pay
19	the sum of five dellars (\$5) (which includes all the fees to
20	be paid up-to-the-ontry of judgment).
2 1	(3) On the entry of judgment in favor of plaintiff, be
22	the plaintiff must pay the additional sum of five dollars
23	<del>(\$5)+</del> .
24	(4) And if On the entry of judgment in favor of
25	defendant, the defendant must pay the sum of ten dellare

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INTRODUCED BY KVAALEN

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2 (5) Items (1) through (4) isolude include all the
3 clerk's costs for all services rendered in any action or
4 proceeding, except for issuing an execution or order of
5 sale, and the fees or for issuing a transcript on appeal.
6 If the action is dismissed, no fee for the entry of judgment
7 need be paid, unless the party desires the entry of such
8 judgment.

- 9 (6) For filing the papers and transcript on appeal
  10 from a justice or other inferior court or other tribunal,
  11 the party appealing must pay the sum of ten dollars (\$10),
  12 twhich includes all costs up to the entry of judgment.
- 13 (7) For entry of judgment in favor of party appealing,
  14 he must pay the sum of five-dellars (\$5).
- 15 (8) For entry of judgment in favor of the other party,

  16 or respondent, he must pay the sum of ten dollars (\$10).
- 17 <u>(9) Items (6) through (8) (which isoludesinclude</u> all
  18 <u>of</u> the clerk's costs for all services rendered on such
  19 appeal).

## 20 <u>(10) The clerk must collect the following fees:</u>

- 21 <u>(a) For for certifying transcripts on appeal, where if</u>
  22 the same are not prepared by him, five dollars (\$5), and in
  23 addition thereto, five 5 cents (\$-05) per a page for each
  24 page in excess of two hundred (200) pages.
- 25 (b) and where if he prepares such transcript, in

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addition thereto, per folio, fifteen 15 cents (\$.15).;

(c) For for preparing copies of papers in his office,

per folio, fifteen 15 cents (\$.15), when certified to, and

in addition thereto, when certified, fifty 50 cents (\$.50)

5 for certificate and seal+;

6 (d) Per for certificate with seal, fifty 50 cents
7 (\$-50)-:

8 (e) Fer for oath and jurat, with seal, fifty 50 cents
9 (8-50).:

10 <u>(f) For for</u> administering oath, twenty five 25 cents 11 <del>(5.25).</del>:

12 <u>(q) For for</u> taking depositions, per folio, twenty <u>20</u>
13 cents (\$-20).

14 <u>(h)</u> For <u>for</u> filing and docketing transcript of 15 judgment from all other courts and issuing execution 16 thereon, two dollars and fifty coats (\$2.50).

17 <u>(i)</u> For <u>for</u> issuing execution and all services
18 connected therewith, <del>one-dellar (\$1)-i</del>

19 (i) For for issuing execution or order of sale on
20 foreclosure of liens, one dellar (\$1), and and in addition
21 per folio, twenty 20 cents (\$-20).

22 (k) Per for searching records of files for each year,
23 except for suitors or their attorneys, tweaty-five 25 cents
24 (\$\displaystyle{1}{2}\displaystyle{1}{2}\displaystyle{1}{2}

25 (1) For for transmission of records or files or

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transfer of cases to other courts, two-dellars and fifty

coats (\$2.50);

3 (a) For for filing and entering papers on transfer
4 from other courts, five dellars (\$5).

5 (n) Per for making, acknowledging, and procuring the 6 signature of judge to deed of lot in townsite, four dellars
7 (\$4)-1

8 <u>(o)</u> For <u>for</u> issuing a marriage license, <del>five dellars</del>
9 <del>(85)</del> \$15.

10 (11) One-quarter (1/4) One-fourth of all fees collected

11 by said the clerk of the district court must be paid to the

12 secretary of the public employees' retirement system board

13 to be credited to the judges' retirement fund."

14 Section 2. Section 36-204, R.C.M. 1947, is amended to 15 read as follows:

16 #36-204. Procedure. (1) Whenever any controversy 17 exists between the spouses which may, unless a 18 reconciliation is achieved, result in the dissolution or 19 annulment of the marriage or in the disruption of the 20 household, and there is any minor child of the spouses or of 21 either of them whose welfare might be affected thereby, the 22 conciliation court shall have jurisdiction over the 23 controversy, and over the parties thereto and all persons 24 having any relation to the controversy as further provided

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25 in this chapter.

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1	(2) Prior to the filing of any action for diverse
2	dissolution, annulment, or separate maintenance, either
3	$spouse_{m{ au}}$ or both $spouses_{m{ au}}$ may file in the conciliation court
4	a petition inwoking the jurisdiction of the court for the
5	purpose of preserving the marriage by effecting a
6	reconciliation between the parties, or for amicable
7	settlement of the controversy between the spouses, so as to
8	avoid further litigation over the issue involved.
9	(3) The petition shall be captioned substantially as
10	follows:
11	District Court of the State of Montana
12	For the County of
13	Upon the petition of Petition for Conciliation
14	(Under the Conciliation
15	Petitioner Court Law)
16	And concerning
17	and
18	***************************************
19	Respondents.
20	To the Conciliation Court:
21	(4) The petition shall:
22	(a) Allege allege that a controversy exists between

- (b) State state the name and age of each minor child whose welfare may be affected by the controversy-;
- (c) State state the name and address of the petitioners or the names and addresses of the petitioners:
- 5 (d) If if the petition is presented by one spouse
  6 only, name the other spouse as a respondent, and state the
  7 address of that spouse.
- 8 (e) \*lise also name as a respondent any other person
  9 who has any relation to the controversy, and state the
  10 address of the person, if known to the petitioner,:
- (f) State state such other information as the court
   may by rule require.
  - (5) The clerk of the court shall provide, at the expense of the county, blank forms for petitions for filing pursuant to this chapter. The probation officers of the county and the attaches and employees of the conciliation court shall assist any person in the preparation and presentation of any such petition, when any person requests such assistance. All public officers in each county shall refer to the conciliation court all petitions and complaints made to them in respect to controversies within the jurisdiction of the conciliation court.
- 23 (6) Re-Fees. No fee shall may be charged by any
  24 officer for filing the petition, nor shall may any fee be
  25 charged by any officer for the performance of any duty

or an amicable settlement of the

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reconciliation

controversy+:

the spouses and request the aid of the court to effect a

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1 pursuant to this chapter.

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- 2 (7) Fine and Place of Rearings. The court shall fix a 3 reasonable time and place for hearing on the petition- and shall cause such notice of the filing of the petition and 5 the time and place of the hearing as it deems considers necessary to be given to the respondents. The court may. 7 when it deems considers it necessary, issue a citation to any respondent requiring him to appear at the time and place stated in the citation- and may require the attendance of witnesses as in other civil cases.
  - (8) For the purpose of conducting hearings pursuant to this chapter, the conciliation court may be convened at any time and place within the district, and the hearing may be had in chambers or otherwise, except that the time and place for hearing shall may not be different from the time and place provided by law for the trial of civil actions if any party, prior to the hearing, objects to any different time or place.
  - (9) Hearings Informal. The hearing shall be conducted informally as a conference or series of conferences to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues of the controversy. To facilitate and promote the purposes of this act chapter. the court may, with the consent of both of the parties to the proceeding, recommend or invoke the aid of physicians,

- 1 or psychiatrists, or other specialists or scientific experts, or of the pastor or director of any religious 2 denomination to which the parties may belong. Such aid, however, shall not be at the expense of the court or of the county, unless the county commissioners of the county specifically provide and authorize such aid.
- 7 (10) Orders -- Effective-Time -- Beconciliation - Agreement -At or after hearing, the court may make such orders in 9 respect to the conduct of the spouses and the subject matter of the controversy as the court deems considers necessary to 10 11 preserve the marriage or to implement the reconciliation of 12 the spouses, but in no event shall may such orders be 13 effective for more than thirty (30) days from the hearing of 14 the petition, unless the parties nutually consent to a 15 continuation of such time. Any reconciliation agreement 16 between the parties may be reduced to writing, and, with the 17 consent of the parties, a court order may be made requiring 18 the parties to comply fully therewith.
- 19 (11) During a period beginning upon the filing of the 20 petition for conciliation and continuing until thirty---(30) 21 days after the hearing of the petition for conciliation, 22 neither spouse shall file any action for diverse 23 dissolution, annulment of marriage, or separate maintenance. 24 If, between after the expiration of such period, the controversy between the spouses has not been terminated.

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read as follows:

of such marriage."

either spouse may institute proceedings for divorce

dissolution, annulment of marriage, or separate maintenance.

The pendency of a divorce dissolution, annulment, or

separate maintenance action shall may not operate as a bar

to the instituting of proceedings for conciliation under

this chapter.

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- Petition—Filed—First. Whenever any action for diverse dissolution, annulment of marriage, or separate maintenance is filed in the district court, and it appears to the court at any time during the pendency of the action that there is any minor child of the spouses or of either of them whose welfare may be adversely affected by the dissolution or annulment of the marriage of or the disruption of the household, and that there appears to be some reasonable possibility of a reconciliation being effected, the case may be transferred to the conciliation court for proceedings for reconciliation of the spouses or amicable settlement of issues in controversy, in accordance with the provisions of this chapter.
- (13) Jurisdiction Shere to Minors Involved. Whenever application is made to the conciliation court for conciliation proceedings in respect to a controversy between spouses, or a contested action for divorce dissolution, annulment, or separate maintenance, but there is no minor

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- child whose welfare may be affected by the results of the controversy, and it appears to the court that reconciliation 3 of the spouses or amicable adjustment of the controversy can probably be achieved, and that the work of the court in cases involving children will not be seriously impeded by acceptance of the case, the court may accept and dispose of 7 the case in the same manner as similar cases involving the welfare of children are disposed of. In the event of such 9 application and acceptance, the court shall have the same 10 furisdiction over the controversy and the parties thereto or 11 having any relation thereto that it has under this chapter 12 in similar cases involving the welfare of children."
- 15 "48-126. Certificate and copy prima-facie prima facie
  16 evidence. The original certificate of marriage, made as
  17 prescribed in this chapter, and the record thereof by the
  18 clerk of the district court, or a copy of such record duly
  19 certified by the clerk of the district court, shall be
  20 received by all courts in all places as presumptive evidence

Section 3. Section 48-126, R.C.M. 1947, is amended to

- 22 Section 4. Section 48-134, R.C.4. 1947, is amended to 23 read as follows:
- 24 \*\*M48-134. Proof of age \*\*—premarital tost and medical
   25 certificate required \*\*ef-applicants-for-marriage-license.

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(1) Before a person, who is authorized by law to issue 1 2 marriage licenses, shall may issue a marriage license, each applicant therefor shall exhibit to him a birth certificate 3 or other satisfactory evidence of age, and, if such 5 applicant is a minor, the consent required by gestion 48 118 the approval required by 48-308, and shall also file with 7 him a medical certificate from a duly qualified physician, 8 licensed to practice medicine and surgery in any state or United States territory, or any other person authorized by 10 laws of Montana to make such a medical certificate, which 11 certificate shall state that the applicant has been given 12 such an examination, including a standard serological test. 13 made not more than twenty -- (20) days before the date of 14 issuance of the license, and that the report of the results 15 of the serological test has been exhibited to the applicant 16 and that each party to the proposed marriage contract has 17 examined the report of the serological test of the other 18 party to the proposed contract.

19 (2) A person who by law is validly able to obtain a marriage license in this state is also validly able to give 21 his or her consent to any examinations and tests required by 22 this ask section. In submitting the blood specimen to the 23 laboratory, the physician, or any other person authorized by the laws of Montana to make such a medical certificater 25 shall designate that it is a premarital test."

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Section 5. Section 48-135, R.C.M. 1947, is amended to read as follows:

\*48-135. Contents and form of medical certificate. (1) 3 The medical certificate shall contain a statement, from the person in charge of the laboratory making the test or 5 authorized to make such reports, setting forth:

- (a) the name of the test-:
- (b) the date it was made.: 8

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- 9 (c) the name and address of the physician, or to-any 10 other person authorized under the laws of Montana to make 11 the testy:
- 12 (d) to whom the test was sent; and
- 13 (e) the name and address of the person whose blood was 14 tested.
- 15 (2) In the event that an error is discovered in the 16 results of the test, such results will be expunded from the 17 records of the department of health and environmental 18 sciences.
- 19 (3) The said certificate and statement shall be on a 20 form to be provided and distributed by the department of 21 health and environmental sciences to all county clerks of 22 the court in the state and to laboratories in this state 23 approved by the department of bealth-and environmental 24 beinges. This form is hereinafter referred to in this act 25 as "the certificate form+"."

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1 Section 6. Section 48-137, R.C.m. 1947, is amended to 2 read as follows:

"48-137. Definition of test - rules and-regulations. 3 For the purpose of this act, a standard serological test shall be a test for syphilia, rubella immunity, and 5 syphilis, as approved by the department of health and environmental sciences. An approved laboratory shall be the laboratory of the department of health-and-environmental sciences or a laboratory approved by that department. Any 10 other state, or United States public health service or 11 United States armed forces laboratory shall be considered approved for the purposes of this act. Such laboratory test 12 13 may be made on request at the laboratory of the department 14 of health and environmental sciences. Reasonable rules for reports to be submitted by any laboratory making tests and 15 16 the manner of furnishing the reports to the certifying 17 physician and the state shall be adopted by the department of health and environmental sciences." 18

19 Section 7. Section 48-139, R.C.M. 1947, is amended to 20 read as follows:

21 #48-139. Penalties. (1) hay An applicant for a
22 marriage license, a physician, or other person authorized by
23 the laws of Montana to make such a medical certificate, or
24 any person in charge of, or authorized to make such reports
25 or statements for a laboratory who shall misrepresent

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misrepresents his identity or any of the facts called for by
the certificate form prescribed by this act to be any
licensing officer who shall issue issues a marriage license
without having received the certificate form or who shall
bere has reason to believe that any of the facts on the
certificate form have been misrepresented, and shall
nevertheless issue issues a marriage license, or any person
who shall otherwise fail fails to comply with the provisions
of this act shall be is guilty of a misdemeanor, and, upon
conviction, shall be punished by a fine of not more than one
hundred dellars (\$100.00).

12 (2) Cortificates Medical certificates, laboratory 13 statements or reports, and applications, in this act referred to in this act and the information therein 14 15 contained, shall be are confidential and shall may not be divalged to or open to inspection by any person other than state or local health officers or their duly authorized 17 18 representatives. Any A person who shall-divulge divulges such information or epen opens to inspection such certificates, statements, or applications, 20 21 without authority, to any person not by law entitled to the 22 same, shall be is quilty of a misdemeanor, and, upon 23 conviction, shall be punished by a fine of not more than ene 24 hundred dellars (\$100-00)."

25 Section 8. Section 48-146, R.C.M. 1947, is amended to

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read as follows:

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with 146. License required for marriage place of serement sound; where license issued application. (1) No sontana resident shall may be joined in marriage within this state until a license has been obtained for that purpose from the clerk of the district court of the county in which one of the parties has resided for at least five (5) days immediately prior to making application therefor.

- 9 (2) A license so issued shall authorize a marriage
  10 ceremony to be performed in the county where the license is
  11 issued or in any other county of this state.
  - (3) If both parties be are nonresidents of the state, such the license may be obtained from the clerk of the district court of the county where the marriage ceremony is to be performed. If one of such the persons is a nonresident of the county where such the license is to issue, his part of the application may be completed and sworn to (or affirmed) before the person authorized to accept such applications in the county and state in which he resides."
- 20 Section 9. Section 48-309, B.C.M. 1947, is amended to read as follows:
- 22 \*\*48-309. Solemnization and registration. (1) A
  23 marriage may be solemnized by a judge of a court of record,
  24 by a public official whose powers include solemnization of
  25 marriages, by a mayor or justice of the peace, or in

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- accordance with any mode of solemnization recognized by any religious denomination, Indian nation or tribe, or native group. Either the person solemnizing the marriage, or, if no individual acting alone solemnized the marriage, a party to the marriage, shall complete the marriage certificate form and forward it to the clerk of the district court.
- 7 (2) If a party to a marriage is unable to be present
  8 at the solemnization, he may authorize in writing a third
  9 person to act as his proxy. If the person solemnizing the
  10 marriage is satisfied that the absent party is unable to be
  11 present and has consented to the marriage, he may solemnize
  12 the marriage by proxy. If he is not satisfied, the parties
  13 may petition the district court for an order permitting the
  14 marriage to be solemnized by proxy.
- 15 (3) Opon receipt of the marriage certificate, the clerk of the district court shall register the marriage.
- 17 (4) The solemnization of the marriage is not
  18 invalidated by the fact that the person solemnizing the
  19 marriage was not legally qualified to solemnize it, if
  20 either party to the marriage believed him to be so
  21 qualified."
- 22 Section 10. Section 48-317, R.C.M. 1947, is amended to read as follows:
- 24 "48-317. Procedure -- commencement -- pleadings --
- 25 abolition of existing defenses. (1) -- all -- proceedings -- under

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this act are commensed in the manner provided by the Montana

3 (2)(1) The verified petition in a proceeding for 4 dissolution of marriage or legal separation shall allege 5 that the marriage is irretrievably broken and shall set 6 forth:

- 7 (a) the age, occupation, and residence of each party 8 and his length of residence in this state:
- 9 (b) the date of the marriage and the place at which it 10 was registered:
- 11 (c) that the jurisdictional requirements of section
  12 48-316 exist and that the marriage is irretrievably broken
  13 in that either:
- 14 (i) the parties have lived separate and apart for a
  15 period of more than one hundred eighty (180) days next
  16 preceding the commencement of this proceeding; or
  - (ii) that there is serious marital discord which adversely affects the attitude of one or both of the parties towards the marriage, and that there is no reasonable prospect of reconciliation;
- 21 (d) the names, ages, and addresses of all living 22 children of the marriage, and whether the wife is prequent:
- 23 (e) any arrangements as to support, custody, and 24 visitation of the children and maintenance of a spouse; and
- 25 (f) the relief sought.

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1 (3)(2) Either or both parties to the marriage may initiate the proceeding.

(4) (3) If a proceeding is commenced by one of the

parties, the other party must be served in the manner provided by the Montana rules of civil procedure and may within twenty—{20} days after the date of service file a verified response. No decree may be entered until twenty {20} days after the date of service.

9 (5)(4) Previously existing defenses to divorce and
10 legal separation, including but not limited to condonation,
11 connivance, collusion, recrimination, insanity, and lapse of

13 (6) (5) The court may join additional parties proper 14 for the exercise of its authority to implement this act."

15 Section 11. Section 48-331, R.C.M. 1947, is amended to read as follows:

17 "48-331. Jurisdiction -- commencement of proceedings.

18 (1) A court of this state competent to decide child custody
 19 matters has jurisdiction to make a child custody

20 determination by initial or modification decree if:

21 (a) this state:

time, are abolished.

22 (i) is the home state of the child at the time of 23 commencement of the proceedings; or

(ii) had been the child's home state within six—{6}
25 months before commencement of the proceeding and the child

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- 1 is absent from this state because of his removal or
  2 retention by a person claiming his custody or for other
  3 reason, and a parent or person acting as parent continues to
  4 live in this state: or
- 5 (b) it is in the best interest of the child that a 6 court of this state assume furisdiction because:
- 7 (i) the child and his parents, or the child and at 8 least one contestant, have a significant connection with this state; and
- 10 (ii) there is available in this state substantial
  11 evidence concerning the child's present or future care,
  12 protection, training, and personal relationships; or
- 13 (c) the child is physically present in this state and:
  - (i) has been abandoned; or

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- 15 (ii) it is necessary in an emergency to protect him
  16 because he has been subjected to or threatened with
  17 mistreatment or abuse or is neglected or dependent; or
- 18 (d) (i) no other state has jurisdiction under
  19 prerequisites substantially in accordance with paragraphs
  20 <u>subsections (1) (a), (1) (b), or (1) (c), of this section</u> or
  21 another state has declined to exercise jurisdiction on the
  22 ground that this state is the more appropriate forum to
  23 determine custody of the child, and
- 24 (ii) it is in his best interest that the court assume 25 jurisdiction.

- 1 (2) Except under paragraphs subsections (1) (c) and
  2 (1) (d) of subsection (1) this section, physical presence in
  3 this state of the childray or of the child and one of the
  4 contestants is not alone sufficient to confer jurisdiction
  5 on a court of this state to make a child custody
  6 determination.
- 7 (3) Physical presence of the child, while desirable,
  8 is not a prerequisite for jurisdiction to determine his
  9 custody.
- 10 (4) A child custody proceeding is commenced in the
  11 district court:
- 12 (a) by a parent, by filing a petition:

- (i) for dissolution or legal separation; or
- 14 (ii) for custody of the child in the county in which he 15 is permanently resident or found; or
- 16 (b) by a person other than a parent, by filing a
  17 petition for custody of the child in the county in which he
  18 is persanently resident or found, but only if he is not in
  19 the physical custody of one of his parents.
- 20 (5) Notice of a child custody proceeding shall be
  21 given to the child's parent, guardian, and of AND custodian,
  22 who may appear, be heard, and file a responsive pleading.
  23 The court, upon a showing of good cause, may permit
  24 intervention of other interested parties."
- 25 Section 12. Section 48-333, R.C.M. 1947, is amended to

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read as follows:

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#48-333. Temporary orders. (1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in section 48-340. The court may award temporary custody under the standards of section 48-332 after a hearing, or, if there is no objection, solely on the basis of the affidavits.

- (2) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interest of the child requires require that a custody decree be issued.
- (3) If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation under subsection (a) (ii) or (b) of section 48-334 is dismissed, any temporary custody order is vacated."
- 20. Section 13. Section 61-105, R.C.B. 1947, is amended to read as follows:
- 22 \*\*61-105. Custody of legitimate, services, and earnings
  23 of child. The father and mother of an unmarried minor child
  24 are equally entitled to its the custody, services, and
  25 earnings of the child. If either parent be deady or unabley

- or refuse refuses to take the custody, or has abandoned his or her family, the other is entitled to its the custody,
- Section 14. Section 61-109, R.C.S. 1947, is amended to read as follows:

services, and earnings of the child."

- 6 "61-109. Allowance to parent. The proper court may
  7 direct an allowance to be made to the parent of a child, out
  8 of its the child's property, for its the past or future
  9 support and education of the child, on such conditions as
  10 may be proper, whenever such direction is for its the
  11 child's benefit."
- 12 Section 15. Section 61-113, R.C.M. 1947, is amended to 13 read as follows:
  - for the support of his child. If a parent chargeable with the support of a child dies, leaving it the child chargeable to the county, and leaving an estate sufficient for its the child's support, the county commissioners of the county may claim provision for its the child's support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditors against that estate, and against the heirs, devisees, and the next of kin of the

"61-113. Remedy when a parent dies without providing

Section 16. Section 61-118, R.C.M. 1947, is amended to read as follows:

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parent."

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*(	51-118.	Compen	sation	and	support	of	adult-	-child
person	after a	ttainin	g major	<u>ity</u> . W	here a	<del>child</del>	person.	after
attaini	ing mag	ority,	contin	nes to	serve	and to	be sup	ported
by the	parent,	neithe	r party	is en	titled	to co	pensati	on, in
the abs	ence of	an agr	eement	tberef	or."			

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- 6 Section 17. Section 61-122, R.C.H. 1947, is amended to read as follows:
  - "61-122. Gustedy When custody may be awarded without diverce dissolution proceedings when parents separated. When a husband and wife live in a state of separation, without being diverced the marriage being dissolved, any court of competent jurisdiction, upon application of either, if an inhabitant of this state, may inquire into the custody of any unmarried minor child of the marriage, and may award the custody of such child to either for such time and under such regulations as the case may require. The decision of the court must be guided by the rules prescribed in section 91-45-15."
- 19 Section 18. Section 61-208, R.C.M. 1947, is amended to read as follows:
- 21 \*\*61-208. Petition for adoption. (1) A petition for 22 adoption shall be filed in duplicate, verified by the 23 petitioners, and shall specify:
- 24 (a) The the full names, ages, and place of residence 25 of the petitioners, and, if married, the place and date of

-23-

- the marriage+:
- 2 (b) When when the petitioners acquired or intend to
  3 acquire custody of the child and from what person or
  4 agency-:
- 5 (c) The the date and place of birth of child, if 6 known:
- 7 (d) The the name used for the child in the proceeding.
  8 and, if a change in name is desired, the new name.
- 9 (e) That that it is the desire of the petitioners that
  10 the relationship of parent and child be established between
  11 them and the child-:
- 12 (f) & a full description and statement of value of all
  13 property owned or possessed by the child.:
- 14 (g) Facts facts, if any, which excuse consent on the
  15 part of a parent, to the adoption.
- 16 (2) One copy of the petition shall be retained by the
  17 court. The other shall be sent to the state department of
  18 social and rehabilitation services, and an additional copy
  19 shall be sent to any agency participating in the adoption
  20 proceeding.
- 21 (3) Any written consent required by this act may be
  22 attached to the petition, or may be filed, after the filing
  23 of the petition, with the consent of the court."
- 24 Section 19. Section 61-211, R.C.M. 1947, is amended to 25 read as follows:

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"61-211. Interlocutory and final decree. (1) Upon examination of the report described in section 61-209, if such report has been doesed considered necessary by said the court, and after hearing, the court may issue an interlocutory decree giving the care and custody to the petitioners pending the further order of the court.

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(2) When a petition has been filed seeking the adoption of a child, the court must cause service of process to be made on the parent or parents of the child, except in those cases hereinafter provided, in the following manner:

[a] The court shall order a citation to issue to the parent or parents in the name of the state of Montana and under the seal of the courty directing such parent or parents to appear in court at a time to be fixed by the court, and show cause why said the petition should not be granted.

(b) Such citation, together with a copy of the petition for adoption, shall be personally served upon such parent or parents. If, however, any such parent or parents cannot be found within this state, service may be had by publication of a copy of said the citation in the manner provided for the publication of summons by Rule 4, M.R.Civ.P.

(3) If, after completion of such service, any parent 24 so served does not appear, the court may act upon the 25

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petition- and the order of the court thereon shall be binding upon all persons so served; provided that any such

person shall have the right to may appeal from the order in 3

the manner and form provided for appeals from a judgment in

civil actions.

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(4) The petitioners and the child shall appear at said the hearing, unless the presence of the child is waived by the court.

9 (5) Service of process, as aforesaid, need not be made 10 on a parent who has consented in writing to an adoption -- or 11 en the father of an illegitisate child; or on any parent 12 whose consent to adoption is not required under the 13 provisions of section 61-205+ or 61-325, and service of 14 process shall not be made on any parent who has relinquished 15 his child to the state department of social and 16 rehabilitation services or an adoption agency licensed by 17 the state department of social and rehabilitation -services.

(6) After an interlocutory decree, as aforesaid, has been issued by the court, the investigator, if any, shall observe the child in his adoptive home and report in writing 21 to the court within six-(6) months on any circumstances or 22 conditions which may have a bearing on the adoption. After 23 six- (6) months from the date of the interlocutory decree.

the petitioners may apply to the court for a final decree of 24

adoption. The court shall thereupon set a time and place for

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1 final hearing. Notice of the time and date of the hearing shall be served on the state department of social and 2 rehabilitation services, and the investigator, if any. The 3 investigator, if any, shall file with the court a written report of his findings and recommendations and certify that 6 the described investigation, if any, has been made since the 7 granting of the interlocutory decree. After hearing on said application, at which the petitioners and the child shall 9 appear, unless the presence of the child is waived by the 10 court, the court may enter a final decree of adoption if 11 satisfied that the adoption is for the best interests of the 12 child. If the adoption is denied, an appropriate order 13 shall be made as to the future custody of said the child."

\*61-214. Appeal. An appeal may be taken from any final order, judgment, or decree rendered hereunder to in the district court by any person aggrieved thereby, in the manner provided for appeals from said the court in other civil matters.\*

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read as follows:

Section 20. Section 61-214, R.C.M. 1947, is amended to

21 Section 21. Section 61-309, R.C.M. 1947, is amended to 22 read as follows:

23 "61-309. Jurisdiction - venue. (1) The district court 24 has jurisdiction of an action brought under this act. The action may be joined with an action for divorce dissolution,

annulment, separate maintenance, support, or adoption.

2 (2) For purposes of an action brought under this act, personal jurisdiction is established in the courts of this state over any person who has had sexual intercourse in this state which has resulted in the birth of a child who is the subject of such proceedings. In addition to any other method provided by rule or statute, isoluding Rule 48 of the Montana Bulos of Civil Procedure, personal jurisdiction may be acquired by service in accordance with Rule 4B of the Montana Bules rules of Civil Precedure civil procedure.

11 (3) The action may be brought in the county in which 12 the child or the alleged father resides or is found or, if 13 the father is deceased, in which proceedings for probate of 14 his estate have been or could be commenced."

15 Section 22. Section 61-323, R.C.M. 1947, is amended to 16 read as follows:

17 "61-323. Promise to render support. (1) Any promise in 18 writing to furnish support for a child, growing out of a 19 supposed or alleged father and child relationship, does not 20 require consideration and is enforceable according to its 21 terms, subject to section 61-307(4).

22 (2) In the best interest of the child or the mother, 23 the court may, and upon the provision's promisor's request 24 shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on

- 1 behalf of the child all amounts paid in performance of the 2 promise."
- 3 Section 23. Section 93-505, R.C.M. 1947, is amended to
- 4 read as follows:
- 5 #93-505. Sittings of court - when private. In an
- 6 action for divorce dissolution of marriage, criminal
- 7 conversation, or seduction, or breach of prosice of
- 8 marriage, the court may direct the trial of any issue of
- fact joined therein to be private, and exclude all persons
- 10 except the officers of the court, the parties, their
- 11 witnesses, and counsely, provided, that in any cause the
- 12 court may, in the exercise of a sound discretion, during the
- 13 examination of a witness, exclude any or all witnesses in
- 14 the cause."
- 15 Section 24. Section 93-2601-60, R.C.M. 1947, is
- 16 amended to read as follows:
- 17 \*93-2601-60. Hearing and continuance. If the oblique
- 18 is not present at the hearing and the obligor denies owing
- 19 the duty of support alleged in the petition or offers
- evidence constituting a defense, the court, upon request of 20
- either party, may continue the hearing to permit evidence 21
- 22 relative to the duty to be adduced by either party by
- 23 deposition or by appearing in person before the court. The
- 24 court may designate the judge of the initiating court as a
- 25 person before whom a deposition may be taken."

- 1 Section 25. Repealer. Sections 36-110, 36-130, 36-131,
- 48-112, 48-123, 48-144, and 93-2201-6, R.C.M. 1947, are

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repealed.

-End-

1	ROUSE BILL NO. 14
2	INTRODUCED BY KVAALEN
3	
4	A BILL FOR AN ACT ENTITLED: MAN ACT TO GENERALLY REVISE AND
5	CLARIPY THE LAWS RELATING TO MARRIAGE, HUSBAND AND WIFE,
6	RECONCILIATION, DISSOLUTION OF MARRIAGE, SUPPORT, PARENT AND
7	CHILD, AND ADOPTION; INCLUDING EXTENDING THE POWER TO
8	SOLEHNIZE MARRIAGES TO MAYORS AND JUSTICES OF THE PEACE."
9	
0	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1	Section 1. Section 25-232, R.C.B. 1947, is amended to
2	read as follows:
3	*25-232. Fees of clerk of district court. (1) At the
4	commencement of each action or proceeding, the clerk must
5	collect from the plaintiff the sum of ten dellaws (\$10), and
16	for filing a complaint in intervention the clerk must
7	collect from the intervenor the sum of ten dollars (\$10)+.
18	(2) And the The defendant, on his appearance, must pay
9	the sum of five-dellars (\$5) (which includes all the fees to
0	be-paid-up-to-the ontry of judgment).
:1	(3) On the entry of judgment in favor of plaintiff, he
22	the plaintiff must pay the additional sum of five dollars
23	485 <del>) 1</del> .
4	(4) And if On the entry of judgment in favor of
25	defendant, the defendant must pay the sum of ten dellars
There	are no changes in # 3 ,, and due to length will not

4\$ 10}. (which 2 (5) Items (1) through (4) include all the 3 clerk's costs for all services rendered in any action or proceeding, except for issuing an execution or order of saley-and the fees or for issuing a transcript on appeal. If the action is dismissed, no fee for the entry of judgment need be paid, unless the party desires the entry of such judgment. 9 (6) For filing the papers and transcript on appeal 10 from a justice or other inferior court or other tribunal. 11 the party appealing must pay the sum of ten-dellars (\$10). 12 {which includes all costs up to the entry of judgment}. 13 17) For entry of judgment in favor of party appealing, 14 he must pay the sum of five-dollars (\$5). 15 [8] For entry of judgment in favor of the other party. 16 er respondent, he must pay the sum of ten dellars (\$10). 17 (9) Items (6) through (8) (which includes include all 18 of the clerk's costs for all services rendered on such 19 appeal+. 20 (10) The clerk must collect the following fees: 21 (a) Per for certifying transcripts on appeal, where if the same are not prepared by him, five dollars (\$5), and in 22 23 addition thereto, five 5 cents (\$.05) per a page for each 24 page in excess of two hundred (200) pages:

(b) and whore if he prepares such transcript, in

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1	addition thereto, per folio, fifteen 15 cents (\$-15)-;
2	(c) For for preparing copies of papers in his office,
3	per folio, fifteen 15 cents (\$.15), when certified to, and
4	in addition thereto, when certified, fifty 50 cents (\$.50)
5	for certificate and seal+;
6	(d) For for certificate with seal, fifty 50 cents
7	<del>(\$+50)+</del> ≟
8	(e) For for oath and jurat, with seal, fifty 50 cents
9	<del>(\$=50}=</del> ;
10	(f) For for administering oath, twenty five 25 cents
11	<del>(\$-25)-</del> ;
12	(g) For for taking depositions, per folio, twenty 20
13	cents (\$+20)+:
14	(h) Per for filing and docketing transcript of
15	judgment from all other courts and issuing execution
16	thereon, two dollars and fifty seats (\$2.50).
17	(i) For for issuing execution and all services
18	connected therewith, eas-dellar (\$1).
19	(1) For for issuing execution or order of sale on
20	foreclosure of liens, one dellar-(\$1). And and in addition
21	per folio, twenty 20 cents (\$-20)-;
22	(k) For for searching records of files for each year,

except for suitors or their attorneys, twenty-five 25 cents

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(1) For for transmission of records or files or

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conts-{\$2.50}-: (a) For for filing and entering papers on transfer 3 from other courts, five dellars (\$5) -: (n) For for making, acknowledging, and procuring the signature of judge to deed of lot in townsite, four-dellare 7 454b-: (o) For for issuing a marriage license, five dellars <del>(\$5)</del> \$15. (11) One-quarter (1/4) One-fourth of all fees collected 10 11 by said the clerk of the district court must be paid to the 12 secretary of the public employees' retirement system board to be credited to the judges' retirement fund." 13 18 Section 2. Section 36-204, R.C.H. 1947, is amended to read as follows: 15 16 \*36-204. Procedure. (1) Whenever any controversy exists between the spouses which may, unless a 17 reconciliation is achieved, result in the dissolution or 18 annulment of the marriage or in the disruption of the 19 household, and there is any minor child of the spouses or of either of them whose welfare might be affected thereby, the 21 conciliation court shall have jurisdiction over the 22 23 controversy, and over the parties thereto and all persons having any relation to the controversy as further provided 24 in this chapter. **HB 14** 

transfer of cases to other courts, two dellars and fifty

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1	BOUSE BILL NO. 14
2	INTRODUCED BY KVAALEN
3	
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5	CLARIFY THE LAWS RELATING TO MARRIAGE, HUSBARD AND WIFE,
6	RECORCILIATION, DISSOLUTION OF MARRIAGE, SUPPORT, PARENT AM
7	CHILD, AND ADOPTION; INCLUDING EXTENDING THE POWER TO
8	SOLEMBIZE MARRIAGES TO MAYORS AND JUSTICES OF THE PEACE. "
9	
10	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HOWFARA:
11	Section 1. Section 25-232, R.C.M. 1947, is amended to
12	read as follows:
13	"25-232. Fees of clerk of district court. (1) At the
14	commencement of each action or proceeding, the clerk must
15	collect from the plaintiff the sum of ten dollars - (\$10), and
16	for filing a complaint in intervention the clerk must
17	collect from the intervenor the sum of ten dollars (\$10)+.
18	12) and the The defendant, on his appearance, must pay
19	the sum of five dellare (\$5) (which includes all the fees to
20	be-paid-up-to-the-entry-of-judgment).
21	[3] On the entry of judgment in favor of plaintiff, be
22	the plaintiff must pay the additional sum of five dellar
23	<del>(</del> \$5 <del>)+</del> ±

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(\$10), (which (5) Items (1) through (4) includes include all the clerk's costs for all services rendered in any action or proceeding, except for issuing an execution or order of sale, and the fees or for issuing a transcript on appeal. If the action is dismissed, no fee for the entry of judgment need be paid, unless the party desires the entry of such judgment). (6) For filing the papers and transcript on appeal from a justice or other inferior court or other tribunal, the party appealing must pay the sum of ten-dellars (\$10), {which includes all costs up to the entry of judgment}. 13 (7) For entry of judgment in favor of party appealing, he must pay the sum of five dellars (\$5). (8) For entry of judgment in favor of the other-party, er respondent, he must pay the sum of ten-dellars-(\$10)\_1 17 (9) Items (6) through (8) (which includes include all of the clerk's costs for all services rendered on such appeal+. (10) The clerk must collect the following fees: 21 (a) For for certifying transcripts on appeal, where if 22 the same are not prepared by him, five-dellars-(\$5), and in addition thereto, five 5 cents (\$.05) per a page for each 23 24 page in excess of two-hundred-(200) pages-:

(b) And where if he prepares such transcript, in

(4) and if On the entry of judgment in favor of

defendant, the defendant must pay the sum of ten-dellars

addition thereto, per folio, fifteen 15 cents (\$-15)-:

- 2 (c) For for preparing copies of papers in his office,
  3 per folio. fifteen 15 cents (5.15), when partified to and
- 3 per folio, <u>fifteen 15</u> cents (\$\frac{\\$\tau\$-15}{\}\), when sertified to, and
  4 in addition thereto, when certified, fifty 50 cents (\$\frac{\\$\tau\$-50}{\}\)
- 5 for certificate and seal+:

- 6 (d) For for certificate with seal, fifty 50 cents
  7 (6.50).:
- 8 <u>(e)</u> Por <u>for</u> oath and jurat, with seal, <u>fifty 50</u> cents
- 10 <u>(f)</u> For <u>for</u> administering oath, <del>twenty five</del> 25 cents 11 <del>(\$-25)-</del>:
- 12 <u>(g)</u> For for taking depositions, per folia. twenty 20
  13 cents (\$\delta 20) =:
- 14 <u>(h)</u> For <u>for</u> filing and docketing transcript of 15 judgment from all other courts and issuing execution 16 thereon, two dollars and fifty coats (\$2.50).
- 17 <u>(i)</u> For <u>for</u> issuing execution and all services

  18 connected therewith, ene-dellar (\$1).
- 19 <u>(1) For for</u> issuing execution or order of sale on 20 foreclosure of liens, one dellar—(\$1)-, and and in addition 21 per folio, twenty 20 cents (\$-20)-;
- 22 (k) Per for searching records of files for each year,
  23 except for suitors or their attorneys, twenty-five 25 cents
  24 (\$-25).
- 25 (1) For for transmission of records or files or

- transfer of cases to other courts, two dellars and fifty

  gents (\$2.50).
- 3 (P) For for filing and entering papers on transfer
- from other courts, five dellars (\$5).:
- 5 (n) For for making, acknowledging, and procuring the
- 6 signature of judge to deed of lot in townsite, four-dollars
- 7 (\$4)-:
- 8 <u>(0)</u> For <u>for</u> issuing a marriage license, <del>five dellars</del>
- 9 (\$5) \$15.
- 10 (11) One-quarter (1/4) One-fourth of all fees collected
- 11 by said the clerk of the district court must be paid to the
- 12 secretary of the public employees' retirement system board
- 13 to be credited to the judges' retirement fund."
- 14 Section 2. Section 36-204, R.C.M. 1947, is amended to
- 15 read as follows:
- 16 "36-204. Procedure. (1) Whenever any controversy
- 17 exists between the spouses which may, unless a
- 18 reconciliation is achieved, result in the dissolution or
- 19 annulment of the marriage or in the disruption of the
- 20 household, and there is any minor child of the spouses or of
- 21 either of them whose welfare might be affected thereby, the
- 22 conciliation court shall have jurisdiction over the
- 23 controversy, and over the parties thereto and all persons
- 24 having any relation to the controversy as further provided
- 25 in this chapter.

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- (2) Prior to the filing of any action for diverse dissolution, annulment, or separate maintenance, either spouse, or both spouses, may file in the conciliation court a petition invoking the jurisdiction of the court for the purpose of preserving the marriage by effecting a reconciliation between the parties, or for amicable settlement of the controversy between the spouses, so as to avoid further litigation over the issue involved.
- 9 (3) The petition shall be captioned substantially as 10 follows:

11 District Court of the State of Montana

12 For the County of ....

13 Upon the petition of Petition for Conciliation

14 ..... (Under the Conciliation

15 Petitioner Court Law)

16 And concerning

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17 ..... and

19 Respondents.

20 To the Conciliation Court:

- (4) The petition shall:
- 22 (a) <u>Allege allege</u> that a controversy exists between
  23 the spouses and request the aid of the court to effect a

24 reconciliation or an amicable settlement of the

25 controversy-;

(b) State state the name and age of each minor child whose welfare may be affected by the controversy:

(c) <u>State</u> the name and address of the petitioners—:

(d) if the petition is presented by one spouse only, name the other spouse as a respondent, and state the address of that spouse.

- (e) <u>Also also</u> name as a respondent any other person who has any relation to the controversy, and state the address of the person, if known to the petitioner,:
- 11 (f) State state such other information as the court
  12 may by rule require.
- 13 (5) The clerk of the court shall provide, at the 14 expense of the county, blank forms for petitions for filing 15 pursuant to this chapter. The probation officers of the 16 county and the attaches and employees of the conciliation 17 court shall assist any person in the preparation and 18 presentation of any such petition, when any person requests 19 such assistance. All public officers in each county shall 20 refer to the conciliation court all petitions and complaints made to them in respect to controversies within the 21 22 jurisdiction of the conciliation court.
- 23 (6) No Fees. No fee shall may be charged by any
  24 officer for filing the petition, nor shall may any fee be
  25 charged by any officer for the performance of any duty

pursuant to this chapter.

- (7) Time and Place of Hearings. The court shall fix a reasonable time and place for hearing on the petition, and shall cause such notice of the filing of the petition and the time and place of the hearing as it deems considers necessary to be given to the respondents. The court may, when it deems considers it necessary, issue a citation to any respondent requiring him to appear at the time and place stated in the citation, and may require the attendance of witnesses as in other civil cases.
- (8) For the purpose of conducting hearings pursuant to this chapter, the conciliation court may be convened at any time and place within the district, and the hearing may be had in chambers or otherwise, except that the time and place for hearing shall may not be different from the time and place provided by law for the trial of civil actions if any party, prior to the hearing, objects to any different time or place.
- (9) Rearings—Informal. The hearing shall be conducted informally as a conference or series of conferences to effect a reconciliation of the spouses or an amicable adjustment or settlement of the issues of the controversy. To facilitate and promote the purposes of this act Chapter: the court may, with the consent of both of the parties to the proceeding, recommend or invoke the aid of physicians,

experts, or ef the p stor or director of any religious
denomination to which the parties may belong. Such aid,
however, shall not be at the expense of the court or of the
county, unless the county commissioners of the county
specifically provide and authorize such aid.

- (10) Orders - Effective Time - Reconsiliation Agreement. At or after hearing, the court may make such orders in respect to the conduct of the spouses and the subject matter of the controversy as the court deems considers necessary to preserve the marriage or to implement the reconciliation of the spouses, but in no event shall may such orders be effective for more than thirty (30) days from the hearing of the petition, unless the parties autually consent to a continuation of such time. Any reconciliation agreement between the parties may be reduced to writing, and, with the consent of the parties, a court order may be made requiring the parties to comply fully therewith.
- 19 (11) During a period beginning upon the filing of the
  20 petition for conciliation and continuing until thirty (30)
  21 days after the hearing of the petition for conciliation,
  22 neither spouse shall file any action for divorce
  23 dissolution, annulment of marriage, or separate maintenance.
  24 Ify—herever, after the expiration of such period, the
  25 controversy between the spouses has not been terminated,

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either spouse may institute proceedings for divorce

dissolution, annulment of marriage, or separate maintenance.

The pendency of a divorce dissolution, annulment, or
separate maintenance action shall may not operate as a bar
to the instituting of proceedings for conciliation under
this chapter.

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- Potition Filed First. Whenever any action for divorce dissolution, annulment of marriage, or separate maintenance is filed in the district court, and it appears to the court at any time during the pendency of the action that there is any minor child of the spouses or of either of them whose welfare may be adversely affected by the dissolution or annulment of the marriage of or the disruption of the household, and that there appears to be some reasonable possibility of a reconciliation being effected, the case may be transferred to the conciliation court for proceedings for reconciliation of the spouses or amicable settlement of issues in controversy, in accordance with the provisions of this chapter.
- (13) Jurisdiction where No Minors Involved. Whenever application is made to the conciliation court for conciliation proceedings in respect to a controversy between spouses, or a contested action for divorce dissolution, annulment, or separate maintenance, but there is no minor

- child whose welfare may be affected by the results of the 2 controversy, and it appears to the court that reconciliation 3 of the spouses or amicable adjustment of the controversy can probably be achieved, and that the work of the court in 5 cases involving children will not be seriously impeded by acceptance of the case, the court may accept and dispose of the case in the same manner as similar cases involving the welfare of children are disposed of. In the event of such application and acceptance, the court shall have the same 10 jurisdiction over the controversy and the parties thereto or 11 having any relation thereto that it has under this chapter in similar cases involving the welfare of children. \*
- 13 Section 3. Section 48-126, R.C.M. 1947, is amended to 14 read as follows:
- 15 \*\*48-126. Certificate and copy prima facie prima facie
  16 evidence. The original certificate of marriage, made as
  17 prescribed in this chapter, and the record thereof by the
  18 clerk of the district court, or a copy of such record duly
  19 certified by the clerk of the district court, shall be
  20 received by all courts in all places as presumptive evidence
  21 of such marriage."
- 22 Section 4. Section 48-134, R.C.M. 1947, is amended to 23 read as follows:
- 24 "48-134. Proof of age presarital test and medical
  25 certificate required of applicants for marriage lisense.

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1 (1) Before a person, who is authorized by law to issue marriage licensesy-shall may issue a marriage license, each applicant therefor shall exhibit to him a birth certificate 3 or other satisfactory evidence of age, and, if such applicant is a minor, the consent required by section 48-118 the approval required by 48-308, and shall also file with 7 him a <u>medical</u> certificate from a duly qualified physician, licensed to practice medicine and surgery in any state or 9 United States territory, or any other person authorized by 10 laws of Montana to make such a medical certificate, which certificate shall state that the applicant has been given 11 such an examination, including a standard serological test, 12 13 made not more than twenty-420+ days before the date of 14 issuance of the license, and that the report of the results of the serological test has been exhibited to the applicant 15 16 and that each party to the proposed marriage contract has 17 examined the report of the serological test of the other 18 party to the proposed contract.

(2) A person who by law is validly able to obtain a marriage license in this state is also validly able to give his-or-her consent to any examinations and tests required by this act section. In submitting the blood specimen to the laboratory, the physician, or any other person authorized by the laws of Montana to make such a medical certificate, shall designate that it is a premarital test.\*

1 Section 5. Section 48-135, R.C.M. 1947, is amended to
2 read as follows:
3 \*\*48-135. Contents and form of medical certificate. [1]

The <u>medical</u> certificate shall contain a statement, from the person in charge of the laboratory making the test or authorized to make such reports, setting forth:

(a) the name of the test;

(b) the date it was made;

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9 (c) the name and address of the physician, or te-any
10 other person authorized under the laws of Bontana to make
11 the test,:

12 (d) to whom the test was sent; and

13 <u>(e)</u> the name and address of the person whose blood was tested.

15 <u>(2)</u> In the event that an error is discovered in the 16 results of the test, such results will be expunged from the 17 records of the department of health and environmental 18 sciences.

19 (3) The said certificate and statement shall be on a
20 form to be provided and distributed by the department of
21 health and environmental sciences to all county clerks of
22 the court in the state and to laboratories in this state
23 approved by the department of health and environmental
24 sciences. This form is hereinafter referred to in this act
25 as "the certificate form,"."

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Section 6. Section 48-137, R.C.H. 1947, is amended to 1 read as follows: 2

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#48-137. Definition of test -- rules and -regulations. For the purpose of this act, a standard serological test shall be a test for syphilis, rubella immunity, and syphilis, as approved by the department of health and environmental sciences. An approved laboratory shall be the laboratory of the department of health-and-onvironmental sciences or a laboratory approved by that department. Any other state, or United States public health service or United States armed forces laboratory shall be considered approved for the purposes of this act. Such laboratory test may be made on request at the laboratory of the department of health and environmental sciences. Reasonable rules for reports to be submitted by any laboratory making tests and the manner of furnishing the reports to the certifying physician and the state shall be adopted by the department of health and environmental sciences."

Section 7. Section 48-139, R.C.H. 1947, is amended to 19 20 read as follows:

\*48-139. Penalties. (1) Any An applicant for a marriage license, a physician, or other person authorized by the laws of Montana to make such a medical certificate, or any person in charge of, or authorized to make such reports or statements for a laboratory who shall misrepresent 25

misrepresents his identity or any of the facts called for by 2 the certificate form prescribed by this actt, or any licensing officer who shall-issue issues a Marriage license 3 without having received the certificate form or who shall 5 have has reason to believe that any of the facts on the 6 certificate form have been misrepresented, and shall nevertheless issues a marriage license, or any person who shall otherwise fail fails to comply with the provisions q of this act shall be is quilty of a misdemeanor, and, upon 10 conviction, shall be punished by a fine of not more than one hundred-dellars-(\$100-00).

(2) Certificates Medical certificates, laboratory statements or reports, and applications, in this est referred to in this act and the information therein contained, shall be are confidential and chall may not be divulged to or open to inspection by any person other than state or local health officers or their duly authorized representatives. Asy A person who shall-divulge divulges such information or epen opens to inspection such certificates, statements, er reports, or applications, without authority, to any person not by law entitled to the samey-shall-be is quilty of a misdemeanory and upon conviction, shall be punished by a fine of not wore than eae hundred-dollars-(\$100-00)."

25 Section 8. Section 48-146, R.C.R. 1947, is amended to

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read as follows:

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"48-146. License required for marriage place of Geremony Gounty where license issued application. [1] No Montana resident shall may be joined in marriage within this state until a license has been obtained for that purpose from the clerk of the district court of the county in which one of the parties has resided for at least five (5) days immediately prior to making application therefor.

- (2) A license so issued shall authorize a marriage ceremony to be performed in the county where the license is issued or in any other county of this stat?.
- (3) If both parties be are nonresiden's of the state, such the license may be obtained from the clark of the district court of the county where the marriage ceremony is to be performed. If one of such the persons is a nonresident of the county where such the license is to issue, his part of the application may be completed and sworn to (or affirmed) before the person authorized to accept such applications in the county and state in which he resides.
- 20 Section 9. Section 48-309, R.C.M. 1947, is amended to read as follows:
- 22 \*\*48-309. Solemnization and registration. (1) A
  23 marriage may be solemnized by a judge of a court of record,
  24 by a public official whose powers include solemnization of
  25 marriages, by a mayor or justice of the peace, or in

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- accordance with any mode of solemnization recognized by any religious denomination. Indian nation or tribe, or native group. Either the person solemnizing the marriage, or, if no individual acting alone solemnized the marriage, a party to the marriage, shall complete the marriage certificate form and forward it to the clerk of the district court.
- 7 (2) If a party to a marriage is unable to be present
  8 at the solemnization, he may authorize in writing a third
  9 person to act as his proxy. If the person solemnizing the
  10 marriage is satisfied that the absent party is unable to be
  11 present and has consented to the marriage, he may solemnize
  12 the marriage by proxy. If he is not satisfied, the parties
  13 may petition the district court for an order permitting the
  14 marriage to be solemnized by proxy.
- 15 (3) Upon receipt of the marriage certificate, the clerk of the district court shall register the marriage.
- 17 (4) The solemnization of the marriage is not
  18 invalidated by the fact that the person solemnizing the
  19 marriage was not legally qualified to solemnize it, if
  20 either party to the marriage believed him to be so
  21 qualified."
- 22 Section 10. Section 48-317, R.C.H. 1947, is amended to 23 read as follows:
- 24 #48-317. Procedure -- commencement -- pleadings -25 abolition of existing defenses. (1) -- All proceedings -- under

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1 this act-are seamenced in the sames - provided by the Hentans
2 rules of civil procedure.

3 (2)(1) The verified petition in a proceeding for 4 dissolution of marriage or legal separation shall allege 5 that the marriage is irretrievably broken and shall set 6 forth:

- 7 (a) the age, occupation, and residence of each party 8 and his length of residence in this state:
- 9 (b) the date of the marriage and the place at which it 10 was registered;
- 11 (c) that the jurisdictional requirements of section
  12 48-316 exist and that the marriage is irretrievably broken
  13 in that either:
  - (i) the parties have lived separate and apart for a period of more than ene hundred eighty—(180) days next preceding the commencement of this proceeding.
- 17 (ii) that there is serious marital discord which
  18 adversely affects the attitude of one or both of the parties
  19 towards the marriage, and that there is no reasonable
  20 prospect of reconciliation;
- (d) the names, ages, and addresses of all living
   children of the marriage, and whether the wife is pregnant;
- 23 (e) any arrangements as to support, custody, and
  24 visitation of the children and maintenance of a spouse; and
  - (f) the relief sought.

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1 (3)(2) Either or both parties to the marriage may
2 initiate the proceeding.

(4)(3) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Montana rules of civil procedure and may within twenty—(20) days after the date of service file a verified response. We decree may be entered until twenty—(20) days after the date of service.

9 (5) (4) Previously existing defenses to divorce and
10 legal separation, including but not limited to condonation,
11 connivance, collusion, recrimination, insanity, and lapse of
12 time, are abolished.

13 (6)(5) The court may join additional parties proper 14 for the exercise of its authority to implement this act."

15 Section 11. Section 48-331, R.C.M. 1947, is amended to 16 read as follows:

- 17 M48-331. Jurisdiction -- commencement of proceedings.
- 18 (1) A court of this state competent to decide child custody
- 19 matters has jurisdiction to make a child custody
- 20 determination by initial or modification decree if:
- 21 (a) this state:
- 22 (i) is the home state of the child at the time of commencement of the proceedings; or
- 24 (ii) had been the child's home state within sim--(6)
  25 months before commencement of the proceeding and the child

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1 is absent from this state because of his removal or
2 retention by a person claiming his custody or for other
3 reason, and a parent or person acting as parent continues to
4 live in this state; or

- 5 (b) it is in the best interest of the child that a 6 court of this state assume jurisdiction because:
- 7 (i) the child and his parents, or the child and at 8 least one contestant, have a significant connection with 9 this state, and
- 10 (ii) there is available in this state substantial

  11 evidence concerning the child's present or future care,

  12 protection, training, and personal relationships; or
- 13 (c) the child is physically present in this state and:
  - (i) has been abandoned; or

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- (ii) it is necessary in an emergency to protect him because he has been subjected to or threatened with mistreatment or abuse or is neglected or dependent: or
- (d) (i) no other state has jurisdiction under prerequisites substantially in accordance with paragraphs subsections (1)(a), (1)(b), or (1)(c), of this section or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine custody of the child; and
- 24 (ii) it is in his best interest that the court assume 25 jurisdiction.

- 1 (2) Except under paragraphs subsections (1) (c) and
  2 (1) (d) of subsection (f) this section, physical presence in
  3 this state of the child, or of the child and one of the
  4 contestants, is not alone sufficient to confer jurisdiction
  5 on a court of this state to make a child custody
  6 determination.
- 7 (3) Physical presence of the child, while desirable, 8 is not a prerequisite for jurisdiction to determine his 9 custody.
- 10 (4) A child custody proceeding is commenced in the
- 12 (a) by a parent, by filing a petition:
- 13 (i) for dissolution or legal separation; or
- 14 (ii) for custody of the child in the county in which he 15 is permanently resident or found: or
- 16 (b) by a person other than a parent, by filing a
  17 petition for custody of the child in the county in which he
  18 is permanently resident or found, but only if he is not in
  19 the physical custody of one of his parents.
- 20 (5) Notice of a child custody proceeding shall be
  21 given to the child's parent, guardian, and or AND custodian,
  22 who may appear, be heard, and file a responsive pleading.
- 23 The ccurt, upon a showing of good cause, may permit
- 24 intervention of other interested parties."
- 25 Section 12. Section 48-333, R.C.M. 1947, is amended to

1 read as follows:

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proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in section 48-340. The court may award temporary custody under the standards of section 48-332 after a hearing, or, if there is no objection, solely on the basis of the affidavits.

- (2) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interest of the child requires require that a custody decree be issued.
- (3) If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation under subsection (a) (ii) or (b) of section 48-331 is dismissed, any temporary custody order is vacated."
- 20 Section 13. Section 61-105, R.C.H. 1947, is amended to read as follows:
- 22 \*\*61-105. Custody of logitimate\_services, and earnings
  23 of child. The father and mother of an unmarried minor child
  24 are equally entitled to its the custody, services, and
  25 earnings of the child. If either parent be deady or unabley

or her family, the other is entitled to its the custody,
services, and earnings of the child."

Section 14. Section 61-109, R.C.B. 1947, is amended to read as follows:

direct an allowance to parent. The proper court may
direct an allowance to be made to the parent of a child, out
of its the child's property, for its the past or future
support and education of the child, on such conditions as
may be proper, whenever such direction is for its the
child's benefit."

12 Section 15. Section 61-113, R.C.E. 1947, is amended to 13 read as follows:

14 \*61-113. Remedy when a parent dies without providing 15 for the support of his child. If a parent chargeable with the support of a child dies, leaving it the child chargeable 16 to the county, and leaving an estate sufficient for its the 17 child's support, the county commissioners of the county may 18 19 claim provision for its the child's support from the parent's estate by civil action, and for this purpose may 20 have the same remedies as any creditors against that estate, 21 and against the heirs, devisees, and the next of kin of the 22 23 parent."

Section 16. Section 61-118, B.C.M. 1947, is amended to read as follows:

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1 \*\*61-118. Compensation and support of adult shild
2 person after attaining majority. Where a shild person, after
3 attaining majority, continues to serve and to be supported
4 by the parent, neither party is entitled to compensation, in
5 the absence of an agreement therefor.

Section 17. Section 61-122, R.C.H. 1947, is amended to read as follows:

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"61-122. Gastedy When custody may be awarded without diverse dissolution proceedings when parents separated. When a husband and wife live in a state of separation, without being diversed the marriage being dissolved, any court of competent jurisdiction, upon application of either, if an inhabitant of this state, may inquire into the custody of any unmarried minor child of the marriage, and may award the custody of such child to either for such time and under such regulations as the case may require. The decision of the court such be gaided by the rules processibed in section 01-4545."

19 Section 18. Section 61-208, R.C.B. 1947, is amended to 20 read as follows:

\*\*61-208. Petition for adoption. (1) A petition for adoption shall be filed in duplicate, verified by the petitioners, and shall specify:

24 (a) the the full names, ages, and place of residence 25 of the petitioners, and, if married, the place and date of the marriage<del>,</del>

2 (b) When when the petitioners acquired or intend to
3 acquire custody of the child and from what person or
4 agency:

- 5 (c) The the date and place of birth of child, if 6 known:
- 7 (d) The the name used for the child in the proceeding.
  8 and, if a change in name is desired, the new name:
- 9 (e) That that it is the desire of the petitioners that
  10 the relationship of parent and child be established between
  11 them and the child.
- 12 (f) \*\* a full description and statement of value of all property owned or possessed by the child\*\*:
- 14 (g) Fasts facts, if any, which excuse consent on the 15 part of a parent, to the adoption.
- 16 (2) One copy of the petition shall be retained by the
  17 court. The other shall be sent to the state department of
  18 social and rehabilitation services, and An additional copy
  19 shall be sent to any agency participating in the adoption
  20 proceeding.
- 21 (3) Any written consent required by this act may be 22 attached to the petition, or may be filed, after the filing 23 of the petition, with the consent of the court.
- Section 19. Section 61-211, R.C.H. 1947, is amended to read as follows:

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"61-211. Interlocutory and final decree. (1) Upon examination of the report described in section 61-209, if such report has been decard considered necessary by said the court, and after hearing, the court may issue an interlocutory decree giving the care and custody to the petitioners pending the further order of the court.

(2) When a petition has been filed seeking the adoption of a child, the court must cause service of process to be made on the parent or parents of the child, except in those cases hereinafter provided, in the following manner:

<u>[a]</u> The court shall order a citation to issue to the parent or parents in the name of the state of Hontana and under the seal of the court, directing such parent or parents to appear in court at a time to be fixed by the court, and show cause why said the petition should not be granted.

<u>(b)</u> Such citation, together with a copy of the petition for adoption, shall be personally served upon such parent or parents. If, however, any such parent or parents cannot be found within this state, service may be had by publication of a copy of seid the citation in the manner provided for the publication of summons by Rule 4, M.R.Civ.F.

24 (3) If, after completion of such service, any parent
25 so served does not appear, the court may act upon the

petition, and the order of the court thereon shall be binding upon all persons so served; provided that any such person shall have the right to may appeal from the order in the manner and form provided for appeals from a judgment in civil actions.

(4) The petitioners and the child shall appear at said the hearing, unless the presence of the child is waived by the court.

(5) Service of process, as aforesaid, need not be made on a parent who has consented in writing to an adoption; or on any parent whose consent to adoption is not required under the provisions of section 61-205; or 61-325, and service of process shall not be made on any parent who has relinquished his child to the state department of social and rehabilitation services or an adoption agency licensed by the state department of social and rehabilitation.

been issued by the court, the investigator, if any, shall observe the child in his adoptive home and report in writing to the court within six (6) months on any circumstances or conditions which may have a bearing on the adoption. After six (6) months from the date of the interlocutory decree, the petitioners may apply to the court for a final decree of adoption. The court shall thereupon set a time and place for

(6) After an interlocutory decree, as aforesaid, has

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final hearing. Notice of the time and date of the hearing 1 2 shall be served on the state department of social and 3 rehabilitation services, and the investigator, if any. The investigator, if any, shall file with the court a written report of his findings and recommendations and certify that 5 6 the described investigation, if any, has been made since the 7 granting of the interlocutory decree. After hearing on said 8 application, at which the petitioners and the child shall 9 appear, unless the presence of the child is waived by the court, the court may enter a final decree of adoption if 10 11 satisfied that the adoption is for the best interests of the 12 child. If the adoption is denied, an appropriate order shall be made as to the future custody of said the child." 13 14 Section 20. Section 61-214, R.C.B. 1947, is amended to

"61-214. Appeal. An appeal may be taken from any final order, judgment, or decree rendered hereunder to in the district court by any person aggrieved thereby, in the manner provided for appeals from said the court in other civil matters."

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read as follows:

21 Section 21. Section 61-309, R.C.H. 1947, is amended to 22 read as follows:

23 \*\*61-309. Jurisdiction — venue. (1) The district court
24 has jurisdiction of an action brought under this act. The
25 action may be joined with an action for diverse dissolution.

annulment, separate maintenance, support, or adoption.

2 (2) For purposes c° an action brought under this act,
3 personal jurisdiction is established in the courts of this
4 state over any person who has had sexual intercourse in this
5 state which has resulted in the birth of a child who is the
6 subject of such proceedings. In addition to any other method
7 provided by rule or statute, including Rule 48 of the
8 Montana Bules of Civil Procedure, personal jurisdiction may
9 be acquired by service in accordance with Rule 48 of the
10 Montana Rules rules of Civil Procedure civil procedure.

- 11 (3) The action may be brought in the county in which
  12 the child or the alleged father resides or is found or, if
  13 the father is deceased, in which proceedings for probate of
  14 his estate have been or could be commenced."
- Section 22. Section 61-323, R.C.H. 1947, is amended to read as follows:
- 17 m61-323. Promise to render support. (1) Any promise in
  18 writing to furnish support for a child, growing out of a
  19 supposed or alleged father and child relationship, does not
  20 require consideration and is enforceable according to its
  21 terms, subject to section 61-307(4).
- 22 (2) In the best interest of the child or the mother,
  23 the court may, and upon the provision's promisor's request
  24 shall, order the promise to be kept in confidence and
  25 designate a person or agency to receive and disburse on

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- behalf of the child all amounts paid in performance of the promise." 2
- 3 Section 23. Section 93-505, R.C.M. 1947, is amended to read as follows: 4
- 5 \*93-505. Sittings of court -- when private. In an action for divorce dissolution of marriage, criminal conversation, or seduction, er breach of preside of 7 8 marriage, the court may direct the trial of any issue of fact joined therein to be private, and exclude all persons except the officers of the court, the parties, their 10 11 witnesses, and counsel+ provided, that in any cause the court may, in the exercise of a sound discretion, during the 12 13 examination of a witness, exclude any or all witnesses in the cause." 14
- Section 24. Section 93-2601-60, R.C.B. 1947, is 15 amended to read as follows: 16

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"93-2601-60. Hearing and continuance. If the oblique 17 is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the court, upon request of either party, may continue the hearing to permit evidence 21 relative to the duty to be adduced by either party by 22 23 deposition or by appearing in person before the court. The 24 court may designate the judge of the initiating court as a 25 person before whom a deposition may be taken."

- Section 25. Repealer. Sections 36-110, 36-130, 36-131,
- 2 48-112, 48-123, 48-144, and 93-2201-6, R.C.M. 1947, are
- 7 repealed.

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