

1 *Senate* BILL NO. *397*
 2 INTRODUCED BY *Turnage Murray Club Car*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
 5 91A-3-203, R.C.M. 1947, TO PROVIDE FOR COURT APPOINTMENT OF
 6 ANY QUALIFIED PERSON AS PERSONAL REPRESENTATIVE OF A
 7 DECEDENT'S ESTATE WHEN TWO OR MORE PERSONS HAVING PRIORITY
 8 OF APPOINTMENT CANNOT AGREE IN NOMINATING ANOTHER TO ACT FOR
 9 THEM OR IN APPLYING FOR APPOINTMENT."

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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 91A-3-203, R.C.M. 1947, is amended
 13 to read as follows:

14 "91A-3-203. Priority among persons seeking appointment
 15 as personal representative. (1) Whether the proceedings are
 16 formal or informal, persons who are not disqualified have
 17 priority for appointment in the following order:

- 18 (a) the person with priority as determined by a
- 19 probated will including a person nominated by a power
- 20 conferred in a will;
- 21 (b) the surviving spouse of the decedent who is a
- 22 devisee of the decedent;
- 23 (c) other devisees of the decedent;
- 24 (d) the surviving spouse of the decedent;
- 25 (e) other heirs of the decedent;

- 1 (f) public administrator;
- 2 (g) forty-five (45) days after the death of the
- 3 decedent, any creditor.
- 4 (2) An objection to an appointment can be made only in
- 5 formal proceedings. In case of objection the priorities
- 6 stated in (1) apply except that
- 7 (a) if the estate appears to be more than adequate to
- 8 meet exemptions and costs of administration but inadequate
- 9 to discharge anticipated unsecured claims, the court, on
- 10 petition of creditors, may appoint any qualified person;
- 11 (b) in case of objection to appointment of a person
- 12 other than one whose priority is determined by will by an
- 13 heir or devisee appearing to have a substantial interest in
- 14 the estate, the court may appoint a person who is acceptable
- 15 to heirs and devisees whose interests in the estate appear
- 16 to be worth in total more than half of the probable
- 17 distributable value, or, in default of this accord any
- 18 suitable person.
- 19 (3) A person entitled to letters under (b) through (e)
- 20 of (1) above, may nominate a qualified person to act as
- 21 personal representative. Any person entitled to letters may
- 22 renounce his right to nominate or to an appointment by
- 23 appropriate writing filed with the court. When two (2) or
- 24 more persons share a priority, those of them who do not
- 25 renounce must concur in nominating another to act for them,

1 or in applying for appointment. If they are unable to concur
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4 (4) Conservators of the estates of protected persons,
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 9 of a majority in interest of the heirs and devisees that the
 10 protected person or ward would have if qualified for
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12 (5) Appointment of one who does not have priority,
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 16 the court must determine that those having priority,
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 19 and that administration is necessary.

20 (6) No person is qualified to serve as a personal
 21 representative who is:

22 (a) under the age of eighteen (18);
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25 (7) A personal representative appointed by a court of

1 the decedent's domicile has priority over all other persons
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 5 nominate another, who shall have the same priority as the
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Approved by Committee
on Judiciary

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Terrance Murray Club

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Terrance Murray Robert Orr

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REFERENCE BILL

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