

HOUSE BILL 179

Introduced by Lee, et al.

1/14	Introduced
1/16	Referred to Judiciary
1/31	Hearing
1/31	Committee Report--Bill Passed
2/02	2nd Reading Passed
2/04	3rd Reading Passed

Transmitted to Senate

2/06	Referred to Judiciary
3/02	Hearing
3/03	Committee Report--Bill Not Concurred
3/03	Adverse Committee Report Adopted

1 HOUSE BILL NO. 179
 2 INTRODUCED BY Rep. Connelly - J. Brown Harding
 3 Eck

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE 2-YEAR
 5 LIMITATION ON MODIFICATION OF A DECREE OF DISSOLUTION OF
 6 MARRIAGE OR LEGAL SEPARATION THAT DOES NOT CONTAIN
 7 PROVISIONS RELATING TO MAINTENANCE OR SUPPORT; AND AMENDING
 8 SECTION 40-4-208, MCA."
 9

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

11 **Section 1.** Section 40-4-208, MCA, is amended to read:

12 **"40-4-208. Modification and termination of provisions**
 13 **for maintenance, support, and property disposition. (1)**
 14 **Except as otherwise provided in 40-4-201(6), a decree may be**
 15 **modified by a court as to maintenance or support only as to**
 16 **installments accruing subsequent to actual notice to the**
 17 **parties of the motion for modification.**

18 ~~(2) (a) Whenever the decree proposed for modification~~
 19 ~~does not contain provisions relating to maintenance or~~
 20 ~~support, modification under subsection (1) may only be made~~
 21 ~~within 2 years of the date of the decree.~~

22 ~~(b) Whenever the decree proposed for modification~~
 23 ~~contains provisions relating to maintenance or support,~~
 24 ~~modification under subsection (1) may only be made:~~

25 ~~(i)(a) upon a showing of changed circumstances so~~

1 substantial and continuing as to make the terms
 2 unconscionable; or

3 ~~(i)(b)~~ upon written consent of the parties.

4 (3) The provisions as to property disposition may not
 5 be revoked or modified by a court, except:

6 (a) upon written consent of the parties; or

7 (b) if the court finds the existence of conditions
 8 that justify the reopening of a judgment under the laws of
 9 this state.

10 (4) Unless otherwise agreed in writing or expressly
 11 provided in the decree, the obligation to pay future
 12 maintenance is terminated upon the death of either party or
 13 the remarriage of the party receiving maintenance.

14 (5) Unless otherwise agreed in writing or expressly
 15 provided in the decree, provisions for the support of a
 16 child are terminated by emancipation of the child but not by
 17 the death of a parent obligated to support the child. When
 18 a parent obligated to pay support dies, the amount of
 19 support may be modified, revoked, or commuted to a lump-sum
 20 payment, to the extent just and appropriate in the
 21 circumstances."

-End-

APPROVED BY COMMITTEE
ON JUDICIARY

1 *HOUSE* BILL NO. *179*
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 3 *Eck*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REMOVE THE 2-YEAR
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 15 modified by a court as to maintenance or support only as to
 16 installments accruing subsequent to actual notice to the
 17 parties of the motion for modification.
 18 (2) ~~{a}-Whenever--the-decree-proposed-for-modification~~
 19 ~~does-not--contain--provisions--relating--to--maintenance--or~~
 20 ~~support;--modification-under-subsection-(1)--may-only-be-made~~
 21 ~~within-2-years-of-the-date-of-the-decree-~~
 22 {b} Whenever the decree proposed for modification
 23 contains provisions relating to maintenance or support,
 24 modification under subsection (1) may only be made:
 25 {i}{a} upon a showing of changed circumstances so

1 substantial and continuing as to make the terms
 2 unconscionable; or
 3 {ii}{b} upon written consent of the parties.
 4 (3) The provisions as to property disposition may not
 5 be revoked or modified by a court, except:
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 15 **modified by a court as to maintenance or support only as to**
 16 **installments accruing subsequent to actual notice to the**
 17 **parties of the motion for modification.**
 18 **(2) ~~{a}-Whenever--the-decree-proposed-for-modification~~**
 19 **~~does-not--contain--provisions--relating--to--maintenance--or~~**
 20 **~~support--modification-under-subsection-{i}-may-only-be-made~~**
 21 **~~within-2-years-of-the-date-of-the-decree.~~**
 22 **{b} Whenever the decree proposed for modification**
 23 **contains provisions relating to maintenance or support,**
 24 **modification under subsection (1) may only be made:**
 25 **~~{i}{a}~~ upon a showing of changed circumstances so**

1 substantial and continuing as to make the terms
 2 unconscionable; or
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-End-