

Hansen

#1 - Jud.
LSO - 0648

HOUSE BILL

0305

HOUSE BILL 0305

TI

HB0305

AN ACT to amend W.S. 20-2-101(c) through (f), 20-2-102 through 20-2-105, 20-2-106(a) and (c), 20-2-107(a), 20-2-108 through 20-2-112, 20-2-113(a) (intro) and (b), 20-2-114 and 20-2-117; and to repeal W.S. 20-2-106(b) and (d), 20-2-107(b), 20-2-115 and 20-2-116 relating to divorce; specifying factors to be considered in determining custody and support; specifying grounds to declare a marriage void; providing for support of parties and children; providing for representation by the county attorney for a mentally ill party; specifying court powers; specifying factors to be considered in property distribution; providing that a divorce action shall be commenced by filing of a petition; conforming provisions; and providing for an effective date.

Matt Hansen

Introduced by:

HOUSE ACTION ON HOUSE BILL

1126 ☒ Introduced
Aye ___ No ___ Ex ___ Ab ___
☒ Read First Time and Ref. to Committee No. ___
☐ Failed Introduction
Aye ___ No ___ Ex ___ Ab ___
☐ Returned from Committee No. ___
with Recommendation:
[] Do Pass; [] Amend & Do Pass; [] Do Not Pass;
[] W/O Recomm; [] Re-Refer to Committee No. ___
☐ Re-referred to Committee No. ___
Returned from Committee No. ___
with Recommendation:
[] Do Pass; [] Amend & Do Pass; [] Do Not Pass;
[] W/O Recomm; [] Re-Refer to Committee No. ___
☐ Considered in Comm. of Whole
[] Amended
[] Recommended Do Pass
[] Failed Comm. of Whole
[] Indefinitely Postponed
[] Other: ___
☐ Read Second Time
[] Amended
[] Do Pass
[] Do Not Pass
[] Accelerated to 3rd Rdg.
☐ Read Third Time
[] Amended
[] Passed [] Failed
Aye ___ No ___ Ex ___ Ab ___
[] Held for Reconsideration
☐ Motion to Reconsider
[] Passed [] Failed
Aye ___ No ___ Ex ___ Ab ___
☐ Third Reading Vote
(On Reconsideration)
[] Passed [] Failed
Aye ___ No ___ Ex ___ Ab ___
☐ Sent to Senate (No Amendments)
☐ Sent to LSO for Engrossing
ENGROSSED
☐ Sent to Senate

(HOUSE ACTION CONT'D)

☐ Received from Senate with Request to Concur in Amendments.
☐ House Concurred in Senate Amendments.
☐ House Did not Concur in Senate Amendments.
☐ JCC# ___
House Members ___ Senate Members ___
Ch. Ch.
☐ Request for New Committee.
☐ House Did Not Adopt JCC# ___
☐ House Adopted JCC# ___
[] Senate Adopted
[] Senate Did not Adopt
☐ JCC# ___
House Members ___ Senate Members ___
Ch. Ch.
☐ Request for New Committee.
☐ House Did Not Adopt JCC# ___
☐ House Adopted JCC# ___
[] Senate Adopted
[] Senate Did not Adopt
☐ JCC# ___
House Members ___ Senate Members ___
Ch. Ch.
☐ Request for New Committee.
☐ House Did Not Adopt JCC# ___
☐ House Adopted JCC# ___
[] Senate Adopted
[] Senate Did not Adopt
☐ Sent for Enrolling
Received from LSO
HEA No. ___
☐ Signed by Speaker
☐ Signed by President
☐ Approved by Governor
Chapter No. ___

(SEE REVERSE SIDE OF BILL JACKET FOR SUMMARY OF SENATE ACTION)

Received from House
Read First Time and Ref. to
Committee No. _____
Returned from Committee No. _____
with Recommendation:
 ☐ Do Pass; ☐ Amend & Do
 Pass; ☐ Do Not Pass;
 ☐ W/O Recomm; ☐ Re-Refer
 to Committee No. _____
Re-referred to Committee No. _____
Returned from Committee No. _____
with Recommendation:
 ☐ Do Pass; ☐ Amend & Do
 Pass; ☐ Do Not Pass;
 ☐ W/O Recomm; ☐ Re-Refer
 to Committee No. _____
Considered in Comm. of Whole
 ☐ Amended
 ☐ Recommended Do Pass
 ☐ Failed Comm. of Whole
 ☐ Indefinitely Postponed
 ☐ Other: _____
Read Second Time
 ☐ Amended
 ☐ Do Pass
 ☐ Do Not Pass
 ☐ Accelerated to 3rd Rdg.
Read Third Time
 ☐ Amended
 ☐ Passed ☐ Failed
 Aye _____ No _____ Ex _____ Ab _____
 ☐ Held for Reconsideration
____ / ____ Motion to Reconsider
 ☐ Passed ☐ Failed
 Aye _____ No _____ Ex _____ Ab _____
____ / ____ Third Reading Vote
 (On Reconsideration)
 ☐ Passed ☐ Failed
 Aye _____ No _____ Ex _____ Ab _____
Sent to House
Sent to LSO for ENROLLING

3/4 Died in Committee

(SEE REVERSE SIDE OF BILL JACKET FOR
SUMMARY OF HOUSE ACTION)

House of Intro
 To Com. No. _____
 Stand Report Do Amd Not _____
 Com Whole Do Amd Not _____
 2nd Reading Amd _____
 3rd Reading Amd Pass Fail _____

Second House
 To Com No. _____
 Stand Report Do Amd Not _____
 Com Whole Do Amd Not _____
 2nd Reading Amd _____
 3rd Reading Amd Pass Fail _____

1993

STATE OF WYOMING

93LSO-0648.01

HOUSE BILL NO. 0305

Divorce-amendments.

Sponsored by: Representative(s) HANSEN

A BILL

for

1 AN ACT to amend W.S. 20-2-101(c) through (f), 20-2-102
 2 through 20-2-105, 20-2-106(a) and (c), 20-2-107(a),
 3 20-2-108 through 20-2-112, 20-2-113(a)(intro) and (b),
 4 20-2-114 and 20-2-117; and to repeal W.S. 20-2-106(b) and
 5 (d), 20-2-107(b), 20-2-115 and 20-2-116 relating to
 6 divorce; specifying factors to be considered in determin-
 7 ing custody and support; specifying grounds to declare a
 8 marriage void; providing for support of parties and chil-
 9 dren; providing for representation by the county attorney
 10 for a mentally ill party; specifying court powers; speci-
 11 fying factors to be considered in property distribution;
 12 providing that a divorce action shall be commenced by fil-
 13 ing of a petition; conforming provisions; and providing

- 1 -

**NO SIGNIFICANT FISCAL OR
 PERSONNEL IMPACT AT STATE LEVEL**

HB 305

1 for an effective date.

2 Be It Enacted by the Legislature of the State of Wyoming:

3 Section 1. W.S. 20-2-101(c) through (f), 20-2-102
4 through 20-2-105, 20-2-106(a) and (c), 20-2-107(a),
5 20-2-108 through 20-2-112, 20-2-113(a)(intro) and (b),
6 20-2-114 and 20-2-117 are amended to read:

7 20-2-101. Void and voidable marriages defined; annul-
8 ments.

9 (c) Either party may file a petition in the district
10 court of the county where the parties or one (1) of them
11 reside, to annul HAVE a marriage DECLARED VOID for reasons
12 stated in subsections (a) and (b) of this section and pro-
13 ceedings shall be held as in the case of a petition for
14 divorce except as otherwise provided. Upon due proof the
15 marriage shall be declared void by a decree of nullity.

16 (d) An action to annul DECLARE a marriage VOID on the
17 ground that one of the parties was under the age of legal
18 consent provided by W.S. 20-1-102(a) may be filed by the
19 parent or guardian entitled to the custody of the minor.
20 The marriage may SHALL not be annulled DECLARED VOID on
21 the application of a party who was of the age of legal

1 consent at the time of the marriage nor when it appears
2 that the parties, after they had attained the age of con-
3 sent, had freely cohabited as man and wife.

4 (e) An action to annul DECLARE a marriage VOID on the
5 grounds of mental incompetency may be commenced on behalf
6 of a mentally incompetent person by his guardian or next
7 friend. A mentally incompetent person restored to compe-
8 tency may maintain an action of-annulment TO HAVE A MAR-
9 RIAGE DECLARED VOID, but no decree may be granted if the
10 parties freely cohabited as husband and wife after restor-
11 ation of competency.

12 (f) An--action A PETITION to annul DECLARE a marriage
13 VOID on the grounds of physical incapacity may--only SHALL
14 be maintained by the--injured A party against the party
15 whose incapacity is alleged and may--only--be commenced
16 within two (2) years from the solemnization of the mar-
17 riage.

18 20-2-102. Petition by wife for support. When the hus-
19 band-and-wife PARTIES are living separately, or when they
20 are living together but the-husband THE FIRST PARTY does
21 not support the wife OTHER PARTY or children within his
22 THE FIRST PARTY'S means, and no proceeding for divorce is

1 pending, the wife OTHER PARTY in HER OWN behalf of-herself
2 or THE minor children may institute a proceeding for sup-
3 port. Upon five (5) days notice to the husband THE FIRST
4 PARTY, if he PERSONAL NOTICE can be served personally-with
5 notice in the state, the judge may hear the petition and
6 grant such AN order concerning the support of the wife
7 OTHER PARTY or children as he-might IF THE grant were it
8 based on a proceeding for divorce. If the husband FIRST
9 PARTY cannot be personally served within this state but
10 has property within the jurisdiction of the court, or
11 debts owing OWED to him THE FIRST PARTY, the court may
12 order such constructive service as appears sufficient and
13 proper and may cause an attachment of the property. Upon
14 completion of constructive service the court may grant
15 relief as if personal service was had.

16 20-2-103. Petition to affirm marriage. When the
17 validity of any marriage is denied by either party, the
18 other party may file a petition for affirming the mar-
19 riage. Upon due proof of the validity, thereof, -it THE
20 MARRIAGE shall be declared valid by a decree of the court
21 which is conclusive upon all persons concerned.

22 20-2-104. Causes for divorce generally; venue gener-
23 ally. A divorce may be decreed by-the--district--court--of

1 ~~the--county--in-which-either-party-resides~~ IN THE DISTRICT
2 COURT OF THE COUNTY OF RESIDENCE OF EITHER PARTY on the
3 ~~complaint~~ PETITION of the-aggrieved EITHER party on the
4 grounds of irreconcilable differences in the marital rela-
5 tionship. AN AFFIDAVIT LISTING THE FINANCIAL HOLDINGS AND
6 OBLIGATIONS OF THE PARTIES SHALL BE FILED WITH THE PETI-
7 TION WITH SUCH RESPONSES AS THE COURT MAY REQUIRE.

8 20-2-105. Divorce action for insanity; when permit-
9 ted; conditions to bringing action; liability for support.

10 (a) A divorce may be granted when either party has
11 become incurably insane MENTALLY ILL and the insane person
12 has been confined in a mental hospital ~~of-this-state-or-of~~
13 ~~another-state-or-territory~~ for at least two (2) years
14 immediately preceding the commencement of the action for
15 divorce.

16 (b) Upon the filing of a verified ~~complaint~~ PETITION
17 showing that a cause of action exists under this section,
18 the district court shall appoint ~~some~~ A person to act as
19 guardian of the insane MENTALLY ILL person in the action.
20 The summons and ~~complaint~~ PETITION in the action shall be
21 served upon the defendant-by-delivering-a-copy-of-the-sum-
22 ~~mons--and--complaint--to-the~~ guardian FOR THE MENTALLY ILL

1 PERSON, THE MENTALLY ILL PERSON and to the county attorney
2 of the county in which the action is brought IF THE MEN-
3 TALLY ILL PERSON IS A WARD OF THE STATE.

4 (c) The county attorney upon whom the summons and
5 complaint PETITION is served shall appear for and defend
6 the defendant MENTALLY ILL PERSON in the action. No
7 divorce shall be granted under this section except in the
8 presence of the county attorney IF THE MENTALLY ILL PERSON
9 IS A WARD OF THE STATE.

10 (d) In any action brought under this section, the
11 district courts possess COURT POSSESSES all the powers
12 relative to the payment of alimony SPOUSAL SUPPORT, the
13 distribution of property and the care and custody of the
14 children of the parties as in other actions for divorce.

15 (e) Costs in the action, as well as the actual
16 expenses of the county attorney and the expenses and fees
17 of the guardian, shall be paid by the plaintiff. The
18 ~~expenses of the county attorney and expenses and fees of~~
19 ~~the guardian shall be fixed and allowed by the court, and~~
20 ~~the court may make such order as to the payment of fees~~
21 ~~and expenses as may seem proper~~ AS THE COURT MAY AWARD.

22 20-2-106. Judicial separation; procedure; powers of

1 court; defenses.

2 (a) ~~When circumstances are such that grounds for a~~
3 ~~divorce exist, the aggrieved~~ A party may institute a pro-
4 ceeding by ~~complaint~~ PETITION FOR JUDICIAL SEPARATION in
5 the same manner as if THE petitioner were seeking a decree
6 of divorce, but ~~praying instead~~ REQUESTING to be allowed
7 to live separate and apart from the offending OTHER party.

8 (c) The procedure AND ORDERS for judicial separation
9 is ARE the same as though THE petitioner were seeking a
10 decree of divorce. The court may make such orders and
11 decrees, ~~as appear just, including~~ FOR custody, VISITATION
12 AND SUPPORT of the children, ~~provision for support,~~ dispo-
13 sition of the ~~properties of the parties, alimony~~ PROPERTY,
14 SPOUSAL SUPPORT, restraint of the husband EITHER SPOUSE
15 during litigation and restraint of disposition of prop-
16 erty. The court may impose a time limitation on the decree
17 or render a perpetual separation. AT ANY TIME the parties
18 may ~~at any time move~~ REQUEST the court to be ~~discharged~~
19 from DISCHARGE the decree.

20 20-2-107. Residential requirements generally for
21 plaintiffs.

22 (a) No divorce shall be granted unless:

1 (i) The plaintiff PETITIONER has resided in this
2 state for sixty (60) days immediately preceding the time
3 of filing the complaint;--er PETITION, INCLUDING WHEN THE
4 OTHER PARTY RESIDES ELSEWHERE;

5 (ii) The marriage was solemnized in this state
6 and the plaintiff PETITIONER has resided in this state
7 from the time of the marriage until the filing of the com-
8 plaint PETITION.

9 20-2-108. Action conducted as civil action.

10 (a) Actions to annul-er DECLARE A MARRIAGE VOID, TO
11 affirm a marriage, or for a divorce, shall be conducted in
12 the same manner as civil actions, ;--and The court may
13 decree costs and enforce its decree as in other cases. ;
14 execept

15 (b) A divorce decree shall not be entered less than
16 twenty (20) days from the date the complaint--is--filed
17 COURT ACQUIRED JURISDICTION OVER THE RESPONDENT EITHER AS
18 A RESULT OF SERVICE OF PROCESS PURSUANT TO THE WYOMING
19 RULES OF CIVIL PROCEDURE OR AS A RESULT OF THE RESPONDENTS
20 ENTERING AN APPEARANCE.

21 20-2-109. Restraining orders concerning property dur-

1 ing litigation. If after filing a complaint PETITION for
2 divorce it appears probable-to-the-court that either party
3 is about to do any act that would defeat or render less
4 effective any order which the court might ultimately make
5 concerning property or pecuniary interests, an order shall
6 be made for the prevention thereof and such process issued
7 as the court deems necessary or proper.

8 20-2-110. Restraint during litigation. UPON THE PETI-
9 TION OF EITHER PARTY after the filing of a complaint PETI-
10 TION for divorce or to annul DECLARE a marriage VOID, on
11 the--petition--of--either-party the court may prohibit the
12 either EITHER party from imposing any restraint upon his
13 THE personal liberty OF THE OTHER PARTY during the pen-
14 dency of the action.

15 20-2-111. Support during pendency of action; allow-
16 ances for prosecution or defense of action; costs.

17 (a) In every AN action brought for divorce, the court
18 may require either ONE (1) party to pay any NECESSARY sum
19 necessary-to-enable FOR the other PARTY to carry on or TO
20 defend the action and for support and-the-support-of-the
21 children-of-the-parties-during-its-pendency OF THE OTHER
22 PARTY.

1 (b) The court may: decree

2 (i) ASSESS costs against either party; and-award

3 (ii) PROVIDE FOR execution for OF the costs; ;
4 or-it-may

5 (iii) Direct costs to be paid out of any prop-
6 erty sequestered, in the power of the court, or in the
7 hands of a receiver; --The-court-may-also AND

8 (iv) Direct payment to either party for such
9 purpose-of any sum due and owing from any person.

10 20-2-112. Examination concerning property interests;
11 enforcement of court orders; temporary custody of chil-
12 dren.

13 (a) In a proceeding for divorce, the court may cause
14 the attendance of either party, and compel an answer under
15 oath concerning his property, rights, or interests, or
16 money OR DEBTS that he EITHER PARTY may have. or-money-due
17 or--to--become-due-to-him-from-others; -and-make-such-order
18 thereon-as-is-just-and--equitable. To enforce its ANY
19 orders concerning alimony SPOUSAL SUPPORT, temporary-or
20 permanent; -or property or pecuniary interests, the court
21 may require security, for--obedience--thereto; or may

1 enforce the orders by attachment, commitment, injunction
2 CONTEMPT or by other means.

3 (b) ~~On-the~~ DURING THE PENDENCY OF AN ACTION FOR
4 DIVORCE AND UPON application of either party, the court
5 may-make-such SHALL order concerning--the SUPPORT, care,
6 and custody AND VISITATION of the minor children of the
7 parties. ~~and-their-suitable-maintenance--during--the--pen-~~
8 ~~dency--of--the--action-as-is-proper-and-necessary-and~~ THE
9 COURT may enforce its-order ORDERS and decree DECREES in
10 the manner provided in subsection (a) of this section. The
11 court--shall--consider--evidence--of-spouse-abuse-or-child
12 abuse-as-being-contrary-to-the-best-interest-of-the-child.
13 If-the-court-finds-that-family-violence-has-occurred,--the
14 court-shall-make-arrangements-for-visitation-during-tempe-
15 rary--custody--that--best-protect-the-child-and-the-abused
16 spouse-from-further-harm.

17 20-2-113. Disposition and maintenance of children in
18 decree; modification; access to records; payment to court
19 clerk; continuing jurisdiction to modify decree; notice.

20 (a) In granting a divorce or annulment of a marriage,
21 the court may make such disposition of the children as
22 appears most expedient and beneficial for the well-being

1 of the children. The court shall consider the relative
2 competency of both parents and no award of custody shall
3 be made solely on the basis of gender of the parent.
4 Either parent may petition the court to enforce or revise
5 the decree. The court has continuing subject matter and
6 personal jurisdiction to enforce or revise the decree con-
7 cerning the care, custody, visitation and maintenance of
8 the children as the circumstances of the parents and the
9 benefit of the children requires. The court may, upon its
10 own motion or the motion of either parent, require a par-
11 ent to appear before the court and show just cause why the
12 parent should not be held in contempt of the court, upon a
13 showing that the parent has willfully violated the court's
14 decree as to the care, custody, visitation and maintenance
15 of the children. The court may, in addition to any
16 assessment it may impose upon a finding that the parent is
17 in contempt of court, award attorney's fees, costs, and
18 such other and further relief as the court may deem neces-
19 sary under the circumstances, to the parent aggrieved by
20 the violation of the court's decree, in order to enforce
21 and require future compliance with its decree. The court
22 shall consider evidence of spouse abuse or child abuse as
23 being contrary to the best interest of the child. If the
24 court finds that family violence has occurred, the court

1 shall make arrangements for visitation that best protect
2 the child and the abused spouse from further harm. In--any
3 case-in-which WHEN child support has-been IS ordered to be
4 paid to the clerk of the court, any periodic payment or
5 installment under the provisions of the decree concerning
6 maintenance is on the date it is due AND IS a judgment by
7 operation of law. An order for child support is not sub-
8 ject to retroactive modification except:

9 (b) If there is--issue ARE CHILDREN of a marriage
10 annulled DECLARED VOID on the ground of force or fraud,
11 the court shall award--their ORDER THE custody, to-the
12 innocent-person CARE, MAINTENANCE, VISITATION and may-also
13 provide-for-their-education-and--maintenance--out--of--the
14 estate--and--property--of--the-guilty-party SUPPORT OF THE
15 CHILD IN THE SAME MANNER AS FOR A DIVORCE.

16 20-2-114. Disposition of property to be equitable;
17 factors; alimony generally. In granting a divorce, the
18 court shall make such disposition of the property of the
19 parties as appears just and equitable, having-regard-for
20 the-respective-merits-of-the-parties-and-the-condition--in
21 which--they-will-be-left-by-the-divorce,-the-party-through
22 whom-the-property-was-acquired--and--the--burdens--imposed
23 upon--the--property--for--the--benefit-of-either-party-and

1 children: -The court may decree to either party - reasonable
2 alimony - out - of - the - estate - of - the - other - having - regard - for
3 the - other's - ability - and - may - order - so - much - of - the - other's
4 real - estate - or - the - rents - and - profits - thereof - as - is - neces-
5 sary - be - assigned - and - set - out - to - either - party - for - life, - or
6 may - decree - a - specific - sum - be - paid - by - either - party CONSID-
7 ERING THE RELATIVE FINANCIAL RESOURCES OF THE PARTIES AND
8 THE BEST INTERESTS OF ANY CHILDREN OF THE PARTIES.

9 20-2-117. Legitimacy of children presumed. A dissolu-
10 tion of a marriage shall not affect the legitimacy of the
11 issue CHILDREN of the marriage. In every case the legiti-
12 macy of all children conceived or born before the com-
13 mencement of the action is presumed until the contrary is
14 shown.

15 Section 3. W.S. 20-2-106(b) and (d), 20-2-107(b),
16 20-2-115 and 20-2-116 are repealed.

17 Section 3. This act is effective immediately upon
18 completion of all acts necessary for a bill to become law
19 as provided by Article 4, Section 8 of the Wyoming Consti-
20 tution.

21 (END)