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### Amending the "Uniform Dissolution of Marriage Act".

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## CHAPTER 162

**DIVORCE — SEPARATE MAINTENANCE — ANNULMENTS**

## UNIFORM DISSOLUTION OF MARRIAGE ACT

HOUSE BILL NO. 1235. BY REPRESENTATIVES Dittmore, Miller, Moore, Eckelberry, Herzberger, and Koster.

**AN ACT**

AMENDING THE "UNIFORM DISSOLUTION OF MARRIAGE ACT".

*Be it enacted by the General Assembly of the State of Colorado:*

Section 1. 46-1-4, Colorado Revised Statutes 1963, as amended by section 73 of chapter 100, Session Laws of Colorado 1972, is amended to read:

**46-1-4. Definitions.** (1) (a) As used in this article, unless the context indicates otherwise, the term "decree" includes the term "judgment".

(b) FOR PURPOSES OF THE TAX LAWS OF THE STATE OF COLORADO OR OF ANY OTHER JURISDICTION, THE TERM "MAINTENANCE" AS USED IN THIS ARTICLE, SHALL INCLUDE THE TERM "ALIMONY".

(c) Whenever any law of this state refers to or mentions divorce, annulment, or separate maintenance, said law shall be interpreted as if the words dissolution of marriage, declaration of invalidity of marriage, and legal separation, respectively, were substituted therefor.

Section 2. 46-1-6 (1), Colorado Revised Statutes 1963 (1971 Supp.), is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

**46-1-6. Dissolution of marriage — legal separation.** (1) (a) The district court shall enter a decree of dissolution of marriage when:

(i) The court finds that one of the parties has been domiciled in this state for ninety days next preceding the commencement of the proceeding but in no event shall a decree enter prior to ninety days after service of process; and

(ii) The court finds that the marriage is irretrievably broken.

(b) In connection with every decree of dissolution of marriage, and to the extent of its jurisdiction to do so, the court shall consider, approve, or make provision for child custody, the support of any child of the marriage who is entitled to support, the maintenance of either spouse, and the disposi-

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

tion of property; but the entry of a decree with respect to custody, support, maintenance, or disposition of property may be deferred by the court until a time subsequent to the decree of dissolution of marriage, upon a finding that such deferral is necessary in the best interests of the parties.

Section 3. 46-1-8 (1) and (5), Colorado Revised Statutes 1963 (1971 Supp.), are amended to read:

**46-1-8. Temporary order or temporary injunction.** (1) In a proceeding for dissolution of marriage, legal separation, CHILD CUSTODY, or a proceeding for disposition of property, maintenance, or support following dissolution of the marriage, either party may move for temporary PAYMENT OF DEBTS, USE OF PROPERTY, maintenance, CUSTODY, or for temporary support of a child of the marriage entitled to support, OR ATTORNEY'S FEES. The motion shall be accompanied MAY BE SUPPORTED by an affidavit setting forth the factual basis for the motion and the amounts requested.

(5) On the basis of the showing made, and in conformity with sections 46-1-14 and 46-1-15 the court may issue a temporary injunction and an order for temporary maintenance or support in such amounts and on such terms SUCH TEMPORARY ORDERS as are just and proper in the circumstances.

Section 4. 46-1-11 (2) (b) and (d), Colorado Revised Statutes 1963 (1971 Supp.), are amended to read:

**46-1-11. Declaration of invalidity.** (2) (b) For the reasons set forth in either subsections (1) (b), (1) (e), (1) (f), or (1) (g) of this section, by either party to the marriage who was aggrieved by the condition or conditions, or by the legal representative of the party who lacked capacity to consent, no later than ninety days SIX MONTHS after the petitioner obtained knowledge of the described condition;

(d) For the reason set forth in subsection (1) (d) of this section, by the underaged party, his parent, or guardian, provided such decree shall be entered ACTION FOR DECLARATION OF INVALIDITY OF MARRIAGE SHALL BE COMMENCED within twenty-four months of the date the marriage was entered into.

Section 5. 46-1-11, Colorado Revised Statutes 1963 (1971 Supp.), is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**46-1-11. Declaration of invalidity.** (7) No decree shall be entered unless one of the parties has been domiciled in this state for thirty days next preceding the commencement of the proceeding or unless the marriage shall have been contracted in this state.

Section 6. 46-1-13 (1), Colorado Revised Statutes 1963 (1971 Supp.), is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**46-1-13. Disposition of property.** (1) (e) Any increases or decreases in the value of the separate property of the spouse during the marriage, or the depletion of the separate property for marital purposes.

Section 7. 46-1-13, Colorado Revised Statutes 1963 (1971 Supp.), is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**46-1-13. Disposition of property.** (4) An asset of a spouse acquired prior to the marriage or in accordance with subsection (2) (b) or (c) of this section shall be considered as marital property, for purposes of this article only, to the extent that its present value exceeds its value at the time of the marriage or at the time of acquisition if acquired after the marriage.

(5) For purposes of this section only, property shall be valued as of the date of the decree or on the date of the hearing on disposition of property if such hearing precedes the date of the decree.

Section 8. 46-1-16, Colorado Revised Statutes 1963 (1971 Supp.), is amended to read:

**46-1-16. Representation of child.** The court may, upon the motion of either party or upon its own motion, appoint an attorney to represent the interests of a minor or dependent child with respect to his custody, support, and visitation. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against either or both parents, ANY OR ALL OF THE PARTIES, except that, if the responsible party is indigent, the costs, fees, and disbursements shall be borne by the state.

Section 9. 46-1-18, Colorado Revised Statutes 1963 (1971 Supp.), is amended to read:

**46-1-18. Assignments and enforcement of orders.** (1) The court may order the person obligated to pay support or maintenance to make an assignment of a part of his periodic earnings or trust income to the person entitled to receive the payments. The assignment is binding on the employer, trustee, or other payor of the funds two weeks after service upon him of notice that it has been made. The payor shall withhold from the earnings or trust income payable to the person obligated to support the amount specified in the assignment and shall transmit the payments to the person specified in the order. The payor may deduct from each payment a sum not exceeding one dollar as reimbursement for costs. An employer shall not discharge or otherwise discipline an employee as a result of a wage or salary assignment authorized by this section. This section shall not apply to trusts commonly referred to as "spendthrift trusts".

(2) THE COURT SHALL HAVE THE POWER TO REQUIRE SECURITY TO BE GIVEN TO INSURE ENFORCEMENT OF ITS ORDERS, IN ADDITION TO OTHER METHODS OF ENFORCING COURT ORDERS NOW OR HEREAFTER PRESCRIBED BY STATUTE OR BY THE COLORADO RULES OF CIVIL PROCEDURE.

Section 10. 46-1-23 (1), Colorado Revised Statutes 1963 (1971 Supp.), is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**46-1-23. Commencement of custody proceedings — jurisdiction.** (1) (d) By a person other than a parent who has had physical custody of a child for a period of six months or more, provided such action is commenced within six months of the termination of such physical custody.

Section 11. 46-1-29 (2), Colorado Revised Statutes 1963 (1971 Supp.), is amended to read:

**46-1-29. Visitation.** (2) The court may MAKE OR modify an order

granting or denying visitation rights whenever SUCH ORDER OR modification would serve the best interests of the child; but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical health or significantly impair his emotional development.

Section 12. **Repeal.** 46-1-8 (4) and 46-1-13 (2) (f), Colorado Revised Statutes 1963 (1971 Supp.), are repealed.

Section 13. **Effective date — applicability.** This act shall take effect July 1, 1973, and shall apply only to actions affected by the act which are commenced on or after such date; all such actions commenced prior to said date shall be governed by the laws then in effect.

Section 14. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: July 6, 1973