

**HOUSE BILL No. 2014**

By Committee on Judiciary

1-16

Ballroom Amendment #1  
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Office of Revisor of Statutes  
February 11, 2013

1 AN ACT concerning inheritance rights; relating to revocation upon  
2 divorce.

3  
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) As used in this section:

6 (1) "Disposition or appointment of property" includes a transfer of an  
7 item of property or any other benefit to a beneficiary designated in a  
8 governing instrument.

9 (2) "Divorce or annulment" means any divorce or annulment, or any  
10 dissolution or declaration of invalidity of a marriage, that would exclude  
11 the spouse as a surviving spouse. A decree of separation that does not  
12 terminate the status of husband and wife is not a divorce for purposes of  
13 this section.

14 (3) "Divorced individual" includes an individual whose marriage has  
15 been annulled.

16 (4) "Governing instrument" means a document executed by the  
17 divorced individual before the divorce or annulment of such individual's  
18 marriage to such individual's former spouse.

19 (5) "Relative of the divorced individual's former spouse" means an  
20 individual who is related to the divorced individual's former spouse by  
21 blood, adoption or affinity and who, after the divorce or annulment, is not  
22 related to the divorced individual by blood, adoption or affinity.

23 (6) "Revocable," with respect to a disposition, appointment, provision  
24 or nomination, means one under which the divorced individual, at the time  
25 of the divorce or annulment, was alone empowered, by law or under the  
26 governing instrument, to cancel the designation in favor of such  
27 individual's former spouse or former spouse's relative, whether or not the  
28 divorced individual was then empowered to designate such individual's  
29 self in place of such individual's former spouse or in place of such  
30 individual's former spouse's relative and whether or not the divorced  
31 individual then had the capacity to exercise the power.

32 (7) "Surviving spouse" does not include an individual who:

33 (A) Is divorced from the decedent or whose marriage to the decedent  
34 has been annulled unless, by virtue of a subsequent marriage, such  
35 individual is married to the decedent at the time of death. A decree of  
36 separation that does not terminate the status of husband and wife is not a

1 divorce for purposes of this section;

2 (B) obtains or consents to a final decree or judgment of divorce from  
3 the decedent or an annulment of their marriage, which decree or judgment  
4 is not recognized as valid in this state, unless subsequently they participate  
5 in a marriage ceremony purporting to marry each to the other;

6 (C) following an invalid decree or judgment of divorce or annulment  
7 obtained by the decedent, participates in a marriage ceremony with a third  
8 individual; or

9 (D) was a party to a valid proceeding concluded by an order  
10 purporting to terminate all marital property rights.

11 (b) On and after July 1, 2013, except as provided by the express terms  
12 of a governing instrument, a court order or contract relating to the division  
13 of the marital estate made between the divorced individuals before or after  
14 the marriage, divorce or annulment, ~~the divorce or annulment of a~~  
15 marriage:

16 (1) Revokes any revocable:

17 (A) Disposition or appointment of property made by a divorced  
18 individual to such individual's former spouse in a governing instrument  
19 and any disposition or appointment created by law or in a governing  
20 instrument to a relative of the divorced individual's former spouse;

21 (B) provision in a governing instrument conferring a general or  
22 nongeneral power of appointment on the divorced individual's former  
23 spouse or on a relative of the divorced individual's former spouse; and

24 (C) nomination in a governing instrument, nominating a divorced  
25 individual's former spouse or a relative of the divorced individual's former  
26 spouse to serve in any fiduciary or representative capacity, including a  
27 personal representative, executor, trustee, conservator, agent or guardian;  
28 and

29 (2) severs the interests of the former spouses in property held by them  
30 at the time of the divorce or annulment as joint tenants with the right of  
31 survivorship transforming the interests of the former spouses into equal  
32 tenancies in common.

33 (c) A severance under subsection (b)(2) does not affect any third-  
34 party interest in property acquired for value and in good faith reliance on  
35 an apparent title by survivorship in the survivor of the former spouses  
36 unless a writing declaring the severance has been noted, registered, filed or  
37 recorded in records appropriate to the kind and location of the property  
38 which are relied upon, in the ordinary course of transactions involving  
39 such property, as evidence of ownership.

40 (d) Provisions of a governing instrument are given effect as if the  
41 former spouse and relatives of the former spouse disclaimed all provisions  
42 revoked by this section or, in the case of a revoked nomination in a  
43 fiduciary or representative capacity, as if the former spouse and relatives of

if the decree of divorce or annulment specifies any interests of the former spouse described in this subsection which are to be revoked or severed,