

KANSAS OFFICE *of*  
**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
*Legislative Attorneys transforming ideas into legislation.*

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**MEMORANDUM**

To: Senate Committee on Judiciary  
From: Natalie Scott, Assistant Revisor of Statutes  
Date: March 20, 2019  
Subject: Bill Brief for HB 2038

HB 2038 would revoke inheritance rights of spouses on divorce.

Subsection (a) provides for definitions used throughout the section. Subsection (b) provides that after the effective date of the act a court order or contract relating to division of marital assets (1) revokes any revocable disposition of property to, provision conferring a power of appointment to, or nomination to serve as a fiduciary or representative for a former spouse, and (2) severs interests in property held by a former spouse.

The bill provides that a severance under subsection (b) doesn't affect third party interest in property. A governing instrument is treated as though a former spouse and relatives of the former spouse disclaimed the provisions that would be revoked by this section. Only a marriage with a child or a divorce will effect a revocation.

Third parties are only liable for payments or transfers they made after they receive written notice of a divorce, annulment or remarriage. Written notice must be mailed to a third party's main office or home. Upon notice, a third party may pay the amount owed to the court which shall hold the funds or property until the court determines how they are to be distributed.

People who purchase property from a former spouse without notice is not obligated to return the property. A former spouse who receives a payment they are not entitled to is obligated to return the payment to the person who is entitled to it.

If this section is preempted by federal law with respect to any item of property, this section won't apply to that item but will apply in all other circumstances.