

## LEGISLATIVE BILL 401

Approved by the Governor April 20, 1989

Introduced by McFarland, 28

AN ACT relating to divorce and annulment actions; to amend section 42-347, Reissue Revised Statutes of Nebraska, 1943; to authorize name changes during the pendency of certain proceedings; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) When a pleading is filed pursuant to section 42-353 or 42-354 or pursuant to an action for annulment as authorized by section 42-373, either the petitioner or the respondent may include a request to restore his or her former name. The court shall grant such request except for good cause shown. The mere fact that a parent and child may have different surnames following a dissolution of marriage or annulment shall not be sufficient to constitute good cause. The decree of dissolution or declaration of annulment shall specifically provide for the name change, giving both the old name and the name as it will be after the decree or declaration. A change of name granted pursuant to this section shall become effective on the same date that the decree of dissolution or declaration of annulment, as the case may be, is entered. The requirements of sections 61-101 to 61-104 shall not apply to this section.

(2) A decree of dissolution or declaration of annulment entered before the effective date of this act in an action in which a request for name restoration was not included or granted shall not hinder or prevent the petitioner or respondent from effecting a common law name change.

Sec. 2. That section 42-347, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-347. As used in sections 42-347 to 42-379 and section 1 of this act, unless the context otherwise requires:

(1) Authorized attorney shall mean an attorney (a) employed by the county subject to the approval of the county board, (b) employed by the Department of Social Services, or (c) appointed by the court, who is

authorized to investigate and prosecute child and spousal support cases;

(2) Dissolution of marriage shall mean the termination of a marriage by decree of a court of competent jurisdiction upon a finding that the marriage is irretrievably broken. After July 6, 1972, the term dissolution of marriage shall be considered synonymous with divorce, and whenever the term divorce appears in the statutes it shall mean dissolution of marriage pursuant to sections 42-347 to 42-379;

(3) Legal separation shall mean a decree of a court of competent jurisdiction providing that two persons who have been legally married shall thereafter live separate and apart and providing for any necessary adjustment of property, support, and custody rights between the parties, but not dissolving the marriage; and

(4) Spousal support, when used in the context of income withholding or any provisions of law which might lead to income withholding, shall mean alimony or maintenance support for a spouse or former spouse when ordered as a part of an order, decree, or judgment which provides for child support and the child and spouse or former spouse are living in the same household.

Sec. 3. That original section 42-347, Reissue Revised Statutes of Nebraska, 1943, is repealed.