

**HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 39**

A bill to amend 1998 PA 386, entitled  
"Estates and protected individuals code,"  
by amending section 2801 (MCL 700.2801), as amended by 2016 PA 57.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2801. (1) An individual who is divorced from the decedent  
2 or whose marriage to the decedent has been annulled is not a  
3 surviving spouse unless, by virtue of a subsequent marriage, he or  
4 she is married to the decedent at the time of death. A decree of  
5 separation that does not terminate the status of ~~husband and wife~~  
6 **MARRIED COUPLE** is not a divorce for purposes of this section.

7           (2) For purposes of parts 1 to 4 of this article and of  
8 section 3203, a surviving spouse does not include any of the  
9 following:

10           (a) An individual who obtains or consents to a final decree or

1 judgment of divorce from the decedent or an annulment of their  
2 marriage, which decree or judgment is not recognized as valid in  
3 this state, unless they subsequently participate in a marriage  
4 ceremony purporting to marry each to the other or live together as  
5 ~~husband and wife.~~ **A MARRIED COUPLE.**

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

9 (c) An individual who was a party to a valid proceeding  
10 concluded by an order purporting to terminate all marital property  
11 rights.

12 (d) An individual who, at the time of the decedent's death, is  
13 living in a bigamous relationship with another individual.

14 (e) An individual who did any of the following for 1 year or  
15 more before the death of the deceased person:

16 (i) Was willfully absent from the decedent spouse.

17 (ii) Deserted the decedent spouse.

18 (iii) Willfully neglected or refused to provide support for  
19 the decedent spouse if required to do so by law.

20 (3) For purposes of section 3206, a surviving spouse does not  
21 include either of the following:

22 (a) An individual described in subsection ~~(2)~~. **(2) (A) TO (D).**

23 (b) An individual who is a party to a divorce or annulment  
24 proceeding with the decedent at the time of the decedent's death.