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ALABAMA

Addendum to

WOMEN'S BUREAU BULLETIN 157-1 (REVISED)—THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA, REPORT FOR ALABAMA AS OF JANUARY 1, 1959

Revised as of January 1, 1964¹

This addendum, used with the Report for Alabama, presents a digest of the constitution and statutes affecting the legal status of women in Alabama as of January 1, 1964. The CONTENTS list shows which topics have been changed by enactments since January 1, 1959, and should be consulted before reading the related topic in the Report.

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CHANGES

1. Age of majority

Page 3, third paragraph: Delete, and insert:

Any married person, or widow, or widower 18 but under 21 years of age is relieved from the disabilities of minority, and has the same rights and abilities as any married person, or widow, or widower over 21 years of age (T. 34, sec. 76, 76(1)).

2. Contractual powers of a minor

Page 3, fourth paragraph: Delete, and insert:

A minor is liable for the value of necessities furnished him (T. 57, sec. 8); by rule of common law, he may disaffirm other types of contracts when he reaches the age of majority.

¹ Sources: Code of Alabama, Recompiled 1958; Alabama Reports; Southern Reporter; Southern Reporter (Second Series).

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A minor may make bank deposits in his or her name, and such deposits shall be paid only to such minor, and not to parents or guardians (T. 5, sec. 123).

Credit union shares may be issued and withdrawn, and deposits received and paid out, in the name of a minor or in trust, in such manner as the bylaws may provide (T. 28, sec. 294).

A minor who holds stock or other securities in a corporation may be treated as having the capacity to vote, transfer, and convey the same, and to exercise rights relating to such stock or securities (T. 10, sec. 69(1)).

A minor shall have no right to disaffirm or avoid any transaction relating to stock or other securities held by such minor, unless prior written notice of minority was given to the corporation, bank, or other persons as specified, against whom the transaction is sought to be disaffirmed or avoided (T. 10, sec. 69 (2), (7)).

A minor has the right to receive dividends in respect to corporate stock or securities standing in his name, even though the corporation, bank, or business had actual or written notice of his minority (T. 10, sec. 69 (3), (8)).

3. Property exemptions from seizure for debt

Page 4, after the second paragraph insert:

Damages recovered for the wrongful death of a person or for injury to property resulting from the same wrongful act, omission, or negligence which caused the death are not subject to payment of the decedent's debts or liabilities (T. 7, secs. 127, 123(1)).

5. Contractual powers of a married woman

Page 5, after the seventh paragraph insert:

A wife cannot become a surety for her husband. Her common-law disability as to contracts of suretyship still exists.²

22. Annulment

Page 10, after the last paragraph insert:

On conviction for incest for marrying within the prohibited degrees, the court must declare such marriage null and void, and may require the parties to enter into recognizance (a binding agreement), with sufficient sureties, that they will not thereafter cohabit (T. 14, sec. 326).

23. Divorce

Page 11, fourth paragraph: Delete, and insert:

² *Huntsville Bank and Trust Co. v. Thompson* (1925), 212 Ala. 311; 103 So. 477.

A decree of divorce shall provide that neither party shall marry again until 60 days after the decree is rendered, except to each other (T. 34, sec. 38).

However, the marriages of all persons married subsequent to a divorce decree granted in this State which did not prohibit the person from remarrying are valid, notwithstanding that the decree of divorce did not specifically confer such right (T. 34, sec. 23(1)).

When a divorce is granted the husband for pregnancy of the wife at the time of the marriage, the issue (child) is thereby bastardized (T. 34, sec. 34).

Upon the application of any interested party, the court may enjoin a divorced wife from using the given name or initials of the divorced husband (T. 34, sec. 39(1)).

Page 12, after the first paragraph insert :

Provisions for children

Upon granting a divorce, the court may give the custody and education of children of the marriage to either father or mother, as may seem proper, having regard to the character and prudence of the parents, and the age and sex of the children (T. 34, sec. 35).

Pending the suit for divorce, the court may make such orders in respect to the custody of the children as their safety and well-being may require. However, in case of abandonment of the husband by the wife, he shall have the custody of the children after they are 7 years of age, if he is found suitable (T. 34, sec. 35).

The proceedings in case of divorce from bed and board are the same as provided for divorce from the bonds of matrimony, and the court has the same power to make allowances to the wife, and to provide for the custody and education of the children (T. 34, sec. 37).

28. Child born out of wedlock

Page 12, last paragraph : Delete, and insert :

When a woman is pregnant with or has given birth to an illegitimate child, complaint may be made charging the proper person with being the father. If he is found guilty or admits the same, he is bound to the same obligations for the care, maintenance, and education of the child as the father of a legitimate child. Proceedings must be brought within 2 years from birth of the child, unless the father has acknowledged paternity. However, if the proceeding is commenced during the pregnancy of the mother, trial shall not be held until after the birth or miscarriage, unless the alleged father gives his consent (T. 27, sec. 12).

Page 13, first paragraph: Delete, and insert:

The father of an illegitimate child may be called to account under either the paternity statute or the desertion and nonsupport statute (T. 27, sec. 12; T. 34, secs. 89-104).

29. Inheritance—child born out of wedlock

Page 13, after the third paragraph insert:

The father of a child born out of wedlock may legitimate it by declaration in writing, attested by two witnesses and acknowledged, filed, and recorded as required by law, that he recognizes his child; and such child is capable of inheriting his estate, real and personal, as if born in wedlock (T. 27, sec. 11).

30. Domicile of a married woman

Page 13, after the fourth paragraph insert:

The law of Alabama recognizes the husband as head of the household, and a wife who, without a lawful excuse, refuses to follow her husband to the matrimonial residence provided by him in good faith, is guilty of abandonment.³

The right of the husband must be reasonably and not arbitrarily exercised.⁴

When a woman marries and enters into family relations at the domicile of her husband, his domicile becomes hers as respects her voting rights.⁵

Separate domicile may be acquired by a married woman for the purpose of procuring a divorce.⁶

For the purposes of income taxation, every natural person domiciled in the State and every other natural person who maintains a permanent abode within the State or spends in the aggregate more than 7 months of the income year within the State is deemed residing in the State (T. 51, sec. 323).

³ *Bentley v. State* (1954), 37 Ala. 463; 70 So. (2d) 436.

⁴ *Spafford v. Spafford* (1917), 74 Ala. 354.

⁵ *Wilkenson v. Lee* (1938), 236 Ala. 104; 181 So. 296.

⁶ *Hanberry v. Hanberry* (1857), 29 Ala. 719.