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ARKANSAS

Addendum to

WOMEN'S BUREAU BULLETIN 157-3 (REVISED)—THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA, REPORT FOR ARKANSAS AS OF JANUARY 1, 1959

*Revised as of May 1, 1964*¹

This addendum, used with the Report for Arkansas, presents a digest of the constitutional provisions and statutes affecting the legal status of women in Arkansas as of May 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

2. Contractual powers of a minor

Page 3, third paragraph:² Delete first two sentences because sec. 68-1402 has been repealed concerning all sales contracts relating to necessities executed after midnight December 31, 1961.

3. Property exemptions from seizure for debt

B. HOMESTEADS

Page 4, after the seventh paragraph insert:

If the owner of a homestead dies leaving a widow but no children and the widow has no separate homestead in her own right, the home-

¹ Sources: Arkansas Statutes 1947, Annotated; Southwestern Reporter; Southwestern Reporter (2d Series).

² Paragraphs are counted from the top of the page.

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stead shall be exempt and all rents and profits thereof will be the widow's during her natural life. If children survive, they share with the widow and are entitled to one-half the rents and profits until each reaches the age of 21. It is not necessary that the widow remain in the homestead (Const., art. 9, sec. 6).

7. Liability for family support

Page 6, after fourth paragraph insert:

In appropriate cases, and considering the resources and circumstances of a parent and the minor ward, the court may authorize the guardian of the estate of the ward to expend the income or principal of the ward's estate, first for his care, maintenance, and education. Any surplus income may be applied to the care, maintenance, and education of the ward's dependents. If the income is insufficient, the court may order the expenditure of such portion of the principal as it finds necessary (sec. 57-633).

Page 6, fifth paragraph: Delete, and insert:

When any husband or father, without just cause, abandons, deserts, or leaves his pregnant, or physically or mentally infirm, or financially dependent wife and/or legitimate minor child under the age of 16 years, or illegitimate minor child under the age of 16 years where such illegitimacy has been determined by the court, or willfully neglects or refuses to support his wife and/or child and/or illegitimate child, or leaves home without providing for their support, or abandons or leaves them, or any of them, in danger of becoming a burden upon the public, such person shall be guilty of a misdemeanor, punishable by fine and/or imprisonment, provided that upon second conviction and each subsequent conviction thereafter the offense shall become a felony. If such person after leaving his wife or child leaves the State, he is guilty of a felony (sec. 41-204).

When any wife or mother, without just cause, abandons, deserts, or leaves her infirm or financially dependent husband and/or legitimate minor child under the age of 16 years, or illegitimate minor child under the age of 16 years, or physically or mentally crippled child dependent upon her of any age, or willfully neglects or refuses to support her child and/or illegitimate child, or leaves home without making reasonable provisions for them, or abandons them, or any of them, in danger of becoming a burden upon the public, such person shall be guilty of a misdemeanor, punishable by fine and/or imprisonment, provided that upon second conviction and each subsequent conviction thereafter the offense shall become a felony. If such person after leaving her husband or child leaves the State, she is guilty of a felony (sec. 41-205).

The Department of Public Welfare or any prosecuting attorney may request and shall receive information from the records of all departments, boards, bureaus, and other State agencies, as necessary, for the purpose of locating parents who have deserted their children and other persons liable for support of dependents. Only information directly bearing on the obligated person shall be requested.

The Department of Public Welfare may make information available only to public authorities seeking to locate parents who have deserted their children and other persons liable for support of dependents, for the purpose of enforcing their liability for such support (sec. 83-161).

11. Damages for injury to person, property, or character

Page 7, fourth full paragraph and case footnote: Delete, and insert:

A married woman may recover for loss of consortium against a defendant who negligently injures her husband.³

13. Competency of husband or wife to testify for or against each other

Page 7, last paragraph: Change "(sec. 34-2425)" to "(sec. 34-2422)".

15. Inheritance rights in deceased spouse's estate

Page 8, seventh paragraph, first line: After "endowed with" insert "a life interest in".

17. Right of husband or wife to disinherit the other by will

Page 10, fifth paragraph: Change "61-222" to "60-501".

18. Age of consent to marriage

Page 11, first paragraph: Delete, and insert:

Males 18 years of age and females 16 years of age are capable in law of contracting marriage; if under those ages, their marriages are absolutely void. Males under the age of 21 years and females under the age of 18 years must furnish satisfactory evidence of the consent of the parents or guardian to such marriage.

If consent is not obtained or there is a misrepresentation of age, the marriage may be set aside and annulled, on application of the parent or guardian.

Notwithstanding that one or both parties are under the minimum age, if the female is pregnant and parental consent is given, the court may authorize the issuance of a license to the parties if it finds that such is in the best interests of the parties (sec. 55-102).

³ *Missouri Pacific Transportation Company v. Miller* (1957), 227 Ark. 351; 299 S.W. (2d) 41.

22. Annulment

Page 12, after first full paragraph insert:

No subsequent marriage will be valid unless any prior marriage has been dissolved (sec. 55-108).

A bigamous marriage is void, though one of the parties entered in good faith.⁴

25. Guardianship of a minor child

Page 13, third full paragraph: Delete, and insert:

The parents of a minor, jointly with equal authority, if they are husband and wife living together, or the survivor if one is dead, or the competent parent if one is incompetent, or the other parent if one is imprisoned for a felony, or the parent to whom the custody of the child has been awarded by a court of competent jurisdiction if the parents are divorced or living apart, shall be the natural guardian of the person of each unmarried minor child of such parents, and shall have the care and management of the estate of each such minor derived by gift from the parents or either of them, without the necessity of judicial appointment. On showing of necessity to protect the interests of a minor, the court may appoint a statutory guardian of the estate of the minor, who may be the natural guardian, to have exclusive control of the estate of the minor.

Where the whole estate of a minor does not exceed \$500, the court may authorize the payment or delivery of all or any part of the estate to the minor, or to some suitable person, institution, or agency for him, to be retained, used, expended, distributed, or disposed of for the benefit of such minor as the court may direct, without the appointment of a guardian or giving of bond (sec. 57-646).

If the total value of the personal property of a minor is less than \$100, and he owns no real property, has no guardian to care for his needs, and is supported in whole or in part by a monthly income from the State Department of Public Welfare, pension board, or any other person or agency, except the Veterans' Administration, any moneys or other property due or that may become due in the future to such minor may be retained, used, expended, distributed, or disposed of for his benefit as the court directs, without the appointment of a guardian or the giving of bond (sec. 57-646.1).

The parents of a minor under 18 years of age are liable for damages in an amount not in excess of \$300 for malicious or willful destruction of property by such minor (sec. 50-109).

Negligence or willful misconduct of a minor under 18 years of age when driving a motor vehicle is imputed to the parents or guardian

⁴ *Evatt v. Meier* (1914), 114 Ark. 84; 16 S.W. 817.

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who signed the application for the license. They are jointly and severally liable with the minor for damages caused by such negligence or willful misconduct (sec. 75-315).

30. Domicile of a married woman

Page 15, third and fourth paragraphs: Delete.

Page 15, after the seventh paragraph insert:

Any person who is a citizen of the United States may become a resident and be domiciled in the State by applying for admission as a resident domiciled in the State after residing in the State for at least 30 days preceding the application (secs. 34-1301, 34-1305).

A wife may acquire a separate domicile from that of her husband for the purpose of instituting proceedings against her husband for divorce.⁵

The term "residence" as used in the divorce laws is defined as actual presence, and upon proof of such the party is considered domiciled in the State (sec. 34-1208.1).

⁵ *Whatley v. Whatley* (1943), 170 S.W. (2d) 600.