

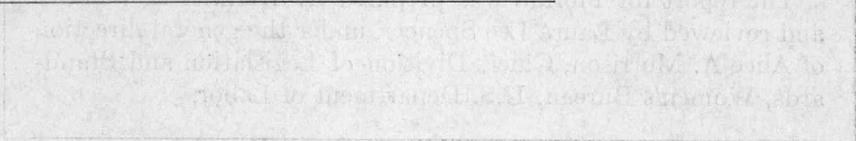
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The Legal Status of Women in the United States of America

REPORT FOR
FLORIDA
as of January 1, 1965



WOMEN'S BUREAU BULLETIN 157-9 (Revised)

UNITED STATES DEPARTMENT OF LABOR

W. WILLARD WIRTZ, *Secretary*

WOMEN'S BUREAU
MARY DUBLIN KEYSERLING, *Director*

MAY 13 1965

The Legal Status of Women in the United States of America

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The Legal Status of Women in the United States of America

INTRODUCTION

Any conclusion bearing on woman's status under the laws of the United States of America must take into account the common law, on which the fabric of the Nation's jurisprudence is woven.

The common-law rules of property sprang from various causes, notably tradition, military or economic exigency, and "natural male dominance." Economic and social advances in the position of women in the United States have brought about marked changes in the laws governing property and family rights and political status.

In general, it has been the rule that where specific statutes abrogating common-law principles have not been enacted, the common law applies. In the century just past, many of the old common-law injustices to women have been removed by statute.

Material considered in Women's Bureau Bulletin 157 series centers largely around women in the marriage relation, since the legal status of the unmarried woman is practically identical with that of the unmarried man. To increase the usefulness of the material, more attention has been given in the current revision to differences in the legal treatment of men and women.

The United States Summary of the Legal Status of Women in the United States of America, Bulletin 157, last brought up to date as of January 1, 1953, is being revised. The revised summary will be compiled from the reports for the 50 States and the District of Columbia.

The President's Commission on the Status of Women, established December 14, 1961, by Executive Order 10980, appointed a Committee on Civil and Political Rights to review the civil and political rights of women. The Commission's report, submitted in October 1963, presents findings and makes recommendations for constructive action. A considerable number of States, including Florida, already have established Governors' Commissions on the Status of Women to implement the recommendations made in the report of the President's Commission.

SOURCES

Constitution of Florida
Florida Statutes, Annotated
Florida Reports
Southern Reporter
Southern Reporter (Second Series)

EXPLANATORY NOTE

Bulletin 157-9 presents a digest of the State constitutional and statutory provisions affecting the legal status of women in Florida. It includes pertinent statutory changes enacted in that State up to January 1, 1965, and supersedes the previous report for Florida of January 1, 1959.

References to the State constitution are indicated by parenthetical insertions of article and section numbers following the abbreviation "Const.," as "(Const., art. 10, sec. 2)," placed after the related subject matter.

References to the code sections are likewise in parentheses, as "(sec. 2.01)."

Case citations definitely construing statutes or declaring judicial policy in the absence of express statutory provision are indicated by footnote references. Cases showing historical development of a statute or policy are followed by the abbreviation "Hist." Other abbreviations are:

Florida Reports—Fla.

Southern Reporter—So.

Southern Reporter (Second Series)—So. (2d)

Numbered subject headings are the same as those used in the Summary. Cross-references employ these numbers for brevity, as "(See number 6.)," which refers to the subject heading "Earnings of a married woman."

FLORIDA

CIVIL RIGHTS

Contracts and Property

1. Age of majority

The common law is declared applicable in the absence of statute (sec. 2.01); consequently, the age of majority is 21 years for both sexes.¹

Nonage disabilities of all male and female minors who marry are removed, and any minor who is divorced or widowed is no longer under any nonage disability. All may assume management of their estate, contract and be contracted with, sue and be sued, and do and perform any and all acts, matters, and things as if they were 21 years of age. However, this does not confer upon them the right to vote (secs. 743.01-743.03).¹

2. Contractual powers of a minor

On petition and sufficient proof that removal of the disability of minority will be for his permanent interest, any minor over the age of 18 years may be relieved of contractual disabilities by the court (secs. 62.23-62.26).

A relinquishment of dower, executed and acknowledged by a wife, or the deed of a married woman conveying real estate belonging to her, joined by her husband and duly acknowledged, is valid, notwithstanding her minority at the time of execution and acknowledgment (secs. 693.04-693.05).

Any person under 21 years authorized to participate in rights, privileges, and benefits under the Servicemen's Readjustment Act and the minor wife of such person may make and execute all contracts necessary to obtain full benefits conferred under the act. Such contracts entered into by persons under 21 have the same force and effect as if they were obligations of persons over 21 years (sec. 743.04).

The disabilities of nonage for persons between the ages of 16 and 21 years are removed for the purpose of borrowing money for their own higher educational purposes, and for such purposes only (sec. 743.05).

¹ *Riley v. Holmer* (1930), 100 Fla. 938; 131 So. 330.

Insurance

Any minor domiciled in this State who has attained the age of 16 years shall be competent to receive and to give full acquittance and discharge for payments not exceeding \$3,000, made by a life insurer under maturity, death, or settlement agreement provisions in effect or elected by such minor under a life insurance policy or annuity contract, if the contract provides for payment to such minor (sec. 627.0123).

Any minor of the age of 15 years or more, as determined by the nearest birthday, may, notwithstanding his minority, contract for annuities or for insurance upon his own life, body, health, property, liabilities, or other interests, or on the person of another in whom the minor has an insurable interest (sec. 627.01051).

Transactions with bank or other savings institutions

A bank may lease a safe deposit box to and in connection therewith deal with a minor with the same effect as if leasing to and dealing with a person of full legal capacity (sec. 659.47).

Credit union shares may be issued and deposits received in the name of a minor or in trust in such manner as the bylaws may provide. The name of the beneficiary must be disclosed to the credit union (sec. 657.13).

Bank or trust company deposits made by a minor in his name may be withdrawn by the minor in the absence of an agreement to the contrary (sec. 659.28).

Any Federal savings and loan association and any State building and loan association transacting business in the State may issue savings share accounts to any minor as the sole and absolute owner of such account and pay the withdrawal value of such to a minor (sec. 665.261).

3. Property exemptions from seizure for debt

A. RESPECTIVE RIGHTS OF MAN AND WOMAN

Wages due the head of a family for his or her personal labor or services are exempt from attachment (sec. 222.11).

Except when the proceeds of life insurance on any person's life are payable to his or her creditors, such proceeds are paid to the surviving spouse and children in equal portions or to any person for whose use and benefit such insurance is declared in the policy, exempt from all claims of the decedent's creditors (sec. 222.13).

The head of a family is entitled to an exemption of \$1,000 worth of personal property under the homestead law (Const., art. 10, sec.1), (sec. 222.01).

B. HOMESTEADS

A homestead within prescribed acreage limits is exempt from forced sale under any court process, together with improvements on the real estate and \$1,000 worth of personal property. This exemption is available to the head of a family who resides in the State and owns such homestead and personal property (Const., art. 10, sec. 1), (sec. 222.01). The court defines such "head of a family" as a person in whom either the natural relation of husband and wife or parent and child exists, or in whom an established and continuing personal authority, responsibility, and obligation actually rest for at least one other person with whom he or she lives in the relation of family.²

The homestead left by a deceased husband is not subject to disposition by him under his will, but descends to his widow if no children survive. If there are children, the widow takes a life estate in the homestead property, and upon her death absolute title vests in the lineal descendants in being at the time of the husband's death (secs. 731.05, 731.27).

The homestead is not included in the property subject to dower (sec. 731.34).

4. Ownership and control of property owned at marriage

All property owned by the wife before marriage is her separate property and is not liable for the husband's debts without her written consent, executed according to the law respecting conveyances by a married woman (sec. 708.02).

The property of a wife shall remain in the care and management of her husband, but he shall not charge for his care and management, nor shall the wife be entitled to sue her husband for the rent, hire, issues, proceeds, or profits of her said property (sec. 708.03).

A case decision has stated that this statute means that the custody and management remain with the husband only until there is some positive indication of the wife to the contrary.³

The husband is not liable for the debts of his wife contracted before marriage, but the property of his wife is subject to such debts (sec. 708.05).

5. Contractual powers of a married woman

A married woman is empowered to perform all the acts necessary to take charge of, manage, and control her separate property, such as entering into contracts, bringing and defending lawsuits, selling, transferring, and mortgaging property, without the consent of her

² *Davis v. Miami Beach Bank and Trust Co.* (1930), 99 Fla. 1282; 128 So. 817.

³ *Application of Jensch* (1961), 134 So. (2d) 285.

husband, to the same extent as if she were unmarried. However, no instrument affecting her real property is valid without her husband's joinder; nor does any claim of judgment against her affect her dower interest in the husband's property (sec. 708.08).

This statute is not invalid as being in conflict with the constitutional provision specifically providing that separate property of a married woman may be charged in equity and sold to satisfy debts for its purchase and improvement.⁴

Certain contracts, including those of purchase, regarding either real or personal property of a married woman are enforceable against such property in equity courts (Const., art. 11, sec. 2).

A married woman may make contracts or agreements with her husband, become a partner with him or with other persons, and execute powers conferred upon her by her husband, including the power to execute and acknowledge deeds to property owned by herself and her husband as tenants by the entirety (see number 10). A husband and wife may give each other valid powers of attorney (sec. 708.09). Either husband or wife may convey directly to the other the legal title to real estate owned by the grantor. An estate by the entirety may be created by either spouse holding absolute title, if such clearly appears to be the purpose (sec. 689.11).

A married woman must acknowledge her deeds, conveyances, mortgages, relinquishments of dower, contracts for the sale of lands, powers of attorney, and other instruments before any such instrument can be recorded. Any form of acknowledgment which is sufficient for a single person is sufficient also for a married woman (sec. 693.03).

The husband and wife must join in all sales, transfers, and conveyances of the property of the wife, other than personal property and choses in action (a personal right which may be recovered by legal action) (sec. 708.04).

Any married woman owning real property may sell, convey, or mortgage it as she might do if she were not married, provided her husband joins in such sale, conveyance, or mortgage (sec. 693.01).

Any married woman having a right of dower (see number 15) in any real property may relinquish it by joining in the conveyance or mortgage thereof, or by a separate instrument without the joinder of her husband (sec. 693.02).

Married women are declared competent to be incorporators, subscribers, members, stockholders, directors, or officers of any corporation functioning under Florida law (sec. 610.06).

⁴ *Taylor v. Dorsey* (1944), 155 Fla. 305; 19 So. (2d) 876.

Wage assignment and chattel mortgages

No wage assignment or order, nor any chattel mortgage or other lien on household furniture in possession and use of the borrower, is valid unless it is in writing and signed in person by both husband and wife. Written assent of a spouse is not required where the husband and wife have been living separate and apart for a period of 5 months prior to the assignment or other instrument (secs. 516.17, 519.11).

Litigation

Marriage does not prevent a decree against husband and wife or either of them for specific performance of a written agreement to sell or convey the separate property of the wife, or to relinquish her dower right in the husband's property, whether the same is acknowledged or not (sec. 708.07).

The marriage of a woman, plaintiff or defendant, does not cause an action to abate, but such action may continue, and judgment may be rendered for or against the wife alone and execution thereon levied upon her property alone. In case of judgment for the wife, execution may issue thereon by the authority of the husband without suggestion (sec. 45.18).

A married woman whose husband has become insane or has deserted her for 6 months may prosecute or defend any action at law or in equity as if she were a single woman (sec. 45.04).

6. Earnings of a married woman

A married woman's wages and earnings acquired by her in any employment separate from her husband are her separate property and subject to her own disposal. She is entitled to sue for and recover such wages and earnings as though she were a single woman (sec. 708.06).

7. Liability for family support

The married women's property law does not relieve a husband from any duty of supporting and maintaining his wife and children (sec. 708.10).

Any man who deserts his wife or children or neglects to provide for them, or a mother who deserts or neglects to support her children when required to do so by law, is guilty of a felony. A man may not be prosecuted for nonsupport of his wife if a cause for divorce existed at the time of his desertion of her, if he continued to provide for the support of his children. Upon conviction, the offending party shall be punished by fine and/or imprisonment (sec. 856.04).

8. Right of a married woman to engage in a separate business

Any married woman, resident in Florida, who wishes to take charge of and manage her estate and to become a free dealer in every respect, may apply by petition to the proper court for license to that effect. The petition must show, under oath, the woman's name, age, character, habits, education, mental capacity for business, and the reasons why disabilities should be removed.

With the petition must be filed either (a) the written consent of the husband to the petition, or (b) proof of personal service on him of a true copy of the petition, or (c) proof of notice of the petition by publication in a local newspaper once a week for 2 consecutive weeks.

Upon hearing of the petition, the court receives evidence of the character, habits, capacity, competency, and qualifications of the married woman to take charge of her own estate and property and to become a free dealer. If satisfied that the removal of the disabilities of the married woman are for her permanent interest or benefit, the court grants the petition and records the decree. This action removes the woman's disabilities of marriage and authorizes her to assume the management and control of all her own estate and property, and to become a free dealer, to contract and be contracted with, to sue and be sued, and to deal with her own estate and property as if unmarried.

Remarriage of a woman thus licensed does not affect her authority granted by the court to transact business as if unmarried. All costs incident to the proceeding are a charge upon the estate of the married woman (secs. 62.38-62.48).

9. Rights of a married woman with respect to separate property

A wife's separate estate includes all property, real and personal, owned by her before marriage or lawfully acquired afterward by gift, devise, bequest, descent, or purchase. Such property is not liable for the debts of the husband without the wife's written consent, executed according to the law respecting written conveyances by a married woman (sec. 708.02).

The husband and wife must join in all sales, transfers, and conveyances of the property of the wife, other than personal property and choses in action (sec. 708.04).

The wife has the care, management, and control of her separate property, provided, however, that no deed, mortgage, or other instrument conveying or encumbering real property owned by a married woman shall be valid without joinder of her husband (sec. 708.08).

10. Property acquired by joint efforts of husband and wife

The husband owns and controls property acquired after marriage by the cooperative efforts of both spouses, by rule of common law, which governs (sec. 2.01).⁵ However, joint ownership may be created by private arrangement, such as joint deed or joint bank accounts.

Where property is conveyed to both husband and wife, an estate by the entirety is created, which may be in either real or personal property, and neither spouse can convey or encumber the property during marriage without the other's consent. At the death of either spouse, the survivor takes this property to the exclusion of the decedent's heirs.^{6 7 8 9} However, in conveyance of land to husband and wife, effect will be given to an intent to create a tenancy in common between them.¹⁰

The right of survivorship with respect to real estate and personal property does not prevail, except in cases of estates by the entirety. A devise, transfer, or conveyance made to two or more persons creates a tenancy in common, unless the instrument expressly provides for the right of survivorship (sec. 689.15).

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

The right of action to recover sums of money as damage for alienation of affections, criminal conversation, or seduction has been abolished (sec. 771.01).

A married woman may assert her rights to her personal property levied upon under legal process, and may prosecute an action concerning her land and rights therein with all the rights, powers, and privileges of a single woman (sec. 45.03).

A married woman may sue and be sued as if unmarried (sec. 708.08). This includes her right to maintain a suit for personal injuries to herself and to recover damages in her own interest.¹¹

By rule of common law which governs in the absence of statute, a wife cannot recover for the loss of her husband's consortium resulting from injury caused by negligence of a third party. However, under common law a husband may recover for loss of his wife's consortium.¹²

⁵ *Blood v. Hunt* (1929), 97 Fla. 551 ; 121 So. 886.

⁶ *Bailey v. Smith* (1925), 89 Fla. 303 ; 103 So. 833.

⁷ *Ohio Butterine Co. v. Hargrove* (1920), 79 Fla. 458 ; 84 So. 376.

⁸ *English v. English* (1913), 66 Fla. 427 ; 63 So. 822.

⁹ *Menendez v. Rodriguez* (1932), 106 Fla. 214 ; 143 So. 223.

¹⁰ *Dixon v. Davis* (1963), 155 So. (2d) 189.

¹¹ *Ross v. Frederick* (1947), 159 Fla. 378 ; 31 So. (2d) 401.

¹² *Ripley v. Ewell* (1952), 61 So. (2d) 420.

12. Damages for injury by spouse to person or property

By rule of common law, neither husband nor wife may sue the other for willful or negligent injuries to the person or property of one spouse by the other. The husband is immune from liability for torts committed by him against his wife.¹³

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

Neither husband nor wife may be excluded as witnesses in civil suits where either is an interested party to the suit pending (sec. 90.04).

This provision applies also to the competency of spouses in criminal actions (sec. 932.31).

The joint effect of these statutes is to make husband and wife competent witnesses for or against each other in all cases, civil or criminal, where either of them is an interested party. However, this change of the common-law rule does not affect the rule which forbids testimony of spouses leading to a violation of marital confidence.¹⁴

14. Right to dispose of separate property by will

Every person, male or female, married or single, who is at least 18 years of age and of sound mind, may make a will (sec. 731.04).

Neither subsequent marriage nor subsequent marriage and birth of issue revoke the prior will of any person, but the pretermitted (entitled to inherit but omitted from will) child or spouse inherits according to statute regardless of the will (sec. 731.14).

If a person marries after making a will, his surviving spouse receives a share in the estate of the testator equal in value to that which the spouse would have received if the testator had died intestate. This is true unless provision has been made for such spouse by marriage contract or in the testator's will, or unless the will discloses an intention not to make such provision (sec. 731.10).

A will made by a husband or wife subsequently divorced is null and void insofar as it affects the divorced spouse, after June 11, 1951 (sec. 731.101).

15. Inheritance rights in deceased spouse's estate

When a person dies without a will, leaving lineal descendants and a husband or wife, the living spouse shares in the estate equally with the children. If there are no lineal descendants, the surviving spouse takes the entire estate (sec. 731.23).

¹³ *Shiver v. Sessions* (1955), 80 So. (2d) 905.

¹⁴ *Ex parte Margaret Beville* (1909), 58 Fla. 170; 50 So. 685 (Hist.).

The homestead descends as other property, provided, however, that if the decedent is survived by a widow and lineal descendants, the widow takes a life estate in the homestead, with a vested remainder going to the lineal descendants in being at the time of the death of the decedent (sec. 731.27).

When a widow elects to take dower in her husband's estate (see number 17), such dower consists of an absolute title to one-third of the real property owned by the husband at his death, or previously conveyed by him without the wife's lawful relinquishment of her dower right against it, and one-third of the personal property owned by her husband at the time of his death. Such dower interest is not liable for the decedent's debts and administration expenses, but it is liable for its proportionate share of estate taxes, ratably administered, if the dower interest increases the estate tax. The interest in personal property, however, is not exempt from debt secured by written assignment, pledge, mortgage, or other security instruments. The homestead is not included in property subject to dower (sec. 731.34).

No sale or disposition of real property is made until it appears that the widow will not have dower assigned to her, or until after dower is assigned to her, unless she consents to such sale and joins in the conveyance (sec. 733.25).

The right of survivorship with respect to real estate and personal property does not prevail, except in cases of estates by the entirety. A devise, transfer, or conveyance made to two or more persons creates a tenancy in common, unless the instrument expressly provides for the right of survivorship. On divorce, tenants by the entirety become tenants in common (sec. 689.15).

16. Provision for survivors during administration of estate

All wearing apparel and such household goods, farming utensils, provisions, and clothing as may be necessary for the maintenance of the widow and the family during administration of the estate may be set apart by the county judge on his determination of the needs of each particular case. Such property is not part of the widow's dower or inheritance (sec. 731.36).

An employer may pay to the surviving spouse any wages or traveling expenses due the employee at the time of his death (sec. 222.15). Such wages or traveling expenses are not subject to administration, provided the traveling expenses do not exceed \$300 (sec. 222.16).

If necessary, a family allowance not to exceed \$1,200 for 1 year's support may be allowed the widow and minor children, or mentally or physically incompetent children, in addition to the homestead and exempt personal property (sec. 733.20).

Small estates may be distributed without administration if (a) the estate is not over \$3,000 in value, exclusive of exempt property, or (b) the estate does not exceed \$5,000 and there is a sole heir, or a surviving spouse, or the survivors are agreed upon distribution (secs. 735.01, 735.04).

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

Only the widow has a right of election. If the widow is not satisfied with the portion of her husband's estate to which she is entitled under his will, or under the laws of descent and distribution, she may elect to take dower (sec. 731.34).

(See number 15.)

Marriage and Divorce

18. Age of consent to marriage

Men and women at 21 years of age may marry without parental consent. Written consent of parents or guardian under oath is a prerequisite for applicants below age 21, but no minor who has been married before shall be required to produce the evidence of consent from parents or guardian (sec. 741.04).

No license to marry may be granted to any male under the age of 18 years, nor to any female under the age of 16 years, with or without the consent of their parents, unless the applicants acknowledge under oath that they are the parents or expectant parents of a child; and in that event the license may be issued at the discretion of the judge (sec. 741.06).

19. Common-law marriage

A common-law marriage is valid notwithstanding statutory requirements for the solemnization of ceremonial marriages.^{15 16 17}

A man and woman could enter into a common-law marriage without a license, provided they expressed an intent to be married.¹⁸

20. Premarital requirements

Every person who applies for a license to marry must file a physician's certificate showing that an examination and a serological test for syphilis have been given within 30 days preceding the application for license. The certificate must show that syphilis either is not present or is in a noncommunicable stage (secs. 741.051-741.052).

¹⁵ *Edge v. Ryneanson* (1933), 107 Fla. 461; 145 So. 180.

¹⁶ *Callett v. Chestnut* (1933), 107 Fla. 498; 146 So. 241.

¹⁷ *Le Blanc v. Yawn* (1930), 99 Fla. 328; 126 So. 789.

¹⁸ 1944 *Op. Atty. Gen.* 488.

A 3-day waiting period is required between the date of application for the license and the date the license is issued. Notice of application must be posted at the courthouse door during this time (sec. 741.04).

21. Interstate cooperation in marriage-law enforcement

Generally, the legality of a marriage is determined by the law of the State where the marriage was consummated.¹⁹

22. Annulment

Marriages between persons of specified races or between persons of specified degrees of kinship are void (secs. 741.11, 741.21). The courts have recognized as grounds for annulment insanity,²⁰ fraud and coercion,²¹ undivorced living spouse,²² and mental incapacity.²³

23. Divorce

The injured party may obtain a divorce for one of the following reasons: (a) consanguinity; (b) impotency; (c) adultery, except when occasioned by the collusion of the parties or when both parties are guilty of adultery; (d) bigamy; (e) extreme cruelty; (f) habitual indulgence in violent and ungovernable temper; (g) habitual intemperance; (h) desertion for 1 year; (i) divorce granted against the complainant in another State or country; (j) habitual use of narcotics (sec. 65.04).

Divorces from bed and board are not granted. Every divorce is one from the bonds of matrimony (sec. 65.03).

No divorce decree renders children born during marriage illegitimate, except one granted on the grounds of bigamy, in which case the marriage is invalid from the beginning and the issue are illegitimate and subject to all legal disabilities of illegitimacy (sec. 65.05).

In any divorce or alimony suit, the court makes orders respecting care, custody, and maintenance of children of the marriage (sec. 65.14).

After divorce has been granted, tenants by the entirety become tenants in common (sec. 689.15).

When the custody of a minor child is in issue in a divorce case, the court in its discretion may request the State welfare department to make an investigation and social study concerning all pertinent details relating to such child and each parent. The welfare department then furnishes the court with a written report with its recommendations, together with a written statement of facts upon which its recom-

¹⁹ *Goldman v. Dittrich* (1938), 131 Fla. 408; 179 So. 715.

²⁰ *Kuehnsted v. Turnwall* (1932), 103 Fla. 1180; 138 So. 775.

²¹ *Cooper v. Cooper* (1935), 120 Fla. 607; 163 So. 35.

²² *Therry v. Therry* (1934), 117 Fla. 453; 158 So. 120.

²³ *Prine v. Prine* (1895), 36 Fla. 676; 18 So. 781.

mendations are based. This information may be used by the court in making a decision on the child's custody (sec. 65.21).

Alimony and maintenance

In every divorce suit by or against the wife, she may claim temporary and permanent alimony and suit money, and if her claim is well founded, the court allows a reasonable sum therefor. No permanent alimony is granted to an adulterous wife (secs. 65.07-65.08).

If any of the causes for divorce exist in favor of the wife and she is living apart from her husband, she may obtain alimony without seeking a divorce (sec. 65.09).

If any husband having the ability to maintain or contribute to the maintenance of his wife or minor children fails to do so, the wife living with him, or apart from him through his fault, may obtain maintenance (sec. 65.10).

A decree of alimony releases the wife from control by her husband, and she may use her alimony and acquire, use, and dispose of other property, uncontrolled by her husband. When the husband is about to remove himself or his property from the State, or fraudulently convey or conceal it, the court may issue an injunction against him or his property, and make an order to secure the wife's alimony to her (sec. 65.11).

A husband residing in the State separate and apart from his wife and minor children, whether or not such separation is due to his fault, may maintain an action to have his obligation to support and maintain his wife adjudicated and to fix custody and visitation rights of the parties. Such action does not preclude either party from later maintaining any other cause of action for other or additional relief (sec. 65.101).

A separation and property settlement agreement based upon mutual promises encompassing various rights of the parties in addition to disposing of property owned by them as tenants by the entirety has sufficient consideration and is valid.²⁴

Parents and Children

24. Parents' right to services and earnings of a minor child

The mother and father are empowered, without special court action, to collect and receive, manage, and dispose of any personal property inherited by or otherwise accruing to the benefit of their child during his minority where the amount does not exceed \$1,000. In case of personal injury or other tort claims, the amount may not exceed \$500 (sec. 744.13).

²⁴ *Hieber v. Hieber* (1963), 151 So. (2d) 646.

25. Guardianship of a minor child

The father and the mother are joint natural guardians of their minor children. In the event of the death of either parent, sole guardianship passes to the survivor. On divorce, the parent given custody is the guardian (sec. 744.13).

26. Appointment of testamentary guardian for a minor child

A surviving parent has the right to name a guardian by will (sec. 744.14).

27. Inheritance—child

The real and personal property of a person who dies without a will descends and is distributed to the father and mother equally, or to the survivor of them, when neither spouse nor lineal descendants survive the decedent (sec. 731.23).

28. Child born out of wedlock

The mother of a child born out of wedlock is the natural guardian of such child (sec. 744.13).

Any unmarried woman who is pregnant or delivered of an illegitimate child may bring court proceedings to determine the paternity of such child (sec. 742.011).

Proceedings may be brought to determine paternity of a child born out of wedlock at any time until such child reaches 4 years of age. If the defendant has provided payment, such action is not barred until 4 years from the date of the last payment (sec. 95.11).

The court determines the issues of paternity and the ability of each of the parents to support the child. The adjudged father must pay such sum as the court directs, sufficient to pay reasonable attorney's fees, hospital or medical expenses, cost of confinement, and any other expenses incident to the birth of such child.

In addition, the court orders the father to pay certain sums periodically for support of the child (sec. 742.031).

The adjudged father may be required by the court to pay specified monthly sums for the care and support of his child born out of wedlock until the child's 18th birthday (sec. 742.041).

A child born out of wedlock is legitimized by the intermarriage of his parents (sec. 742.091).

29. Inheritance—child born out of wedlock

Every illegitimate child is an heir of his mother and also of the person who, in writing, signed in the presence of a competent witness, acknowledges himself to be the father. Such illegitimate child inherits from his mother and also, when so recognized, from his father

as if he were born in lawful wedlock. The mother of an illegitimate child inherits his estate if he dies without a will and leaves no lawful issue or spouse. If the mother is not living, then her heirs at law receive the estate (sec. 731.29).

POLITICAL RIGHTS

30. Domicile of a married woman

Generally, the domicile of the wife is that of the husband, and ordinarily is not affected by the fact that the wife is living apart from the husband in the absence of a judicial decree of separation or divorce. The wife may acquire a separate domicile from that of her husband for purposes of divorce when it becomes proper or necessary.²⁵

A married woman who is living congenially with her husband who is domiciled in another jurisdiction can establish a residence in her separate property and thereby receive tax benefits under the Homestead Exemption Amendment.²⁶

For the purpose of probate proceedings, a married woman whose husband is an alien or nonresident of the State may establish or designate a separate domicile in the State (sec. 732.06).

A married woman may establish a separate domicile for purposes of voting.²⁷

31. Public office—eligibility of women

Women are eligible for public office (Const., art. 6, secs. 1 and 5), (sec. 99.021).²⁸

32. Jury service—eligibility of women

Women are eligible for service on grand and petit juries, provided however, that the name of no female person shall be taken for jury service unless such person has registered with the clerk of the circuit court her desire to be placed on the jury list (sec. 40.01).

²⁵ *Bowmall v. Bowmall* (1937), 127 Fla. 747; 174 So. 14.

²⁶ *Judd v. Schooley* (1963), 158 So. (2d) 514.

²⁷ 1952 *Op. Atty. Gen.* 107.

²⁸ *State ex rel. Barnett et al. v. Gray* (1932), 107 Fla. 73; 144 So. 349.

