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# The Legal Status of Women in the United States of America

REPORT FOR  
**MARYLAND**  
as of July 1, 1966

The report for Maryland was prepared by Kenneth A. Wilson and Carolyn L. Hickson, under the general direction of Laura Lee Spencer, Chief, Civil and Political Status Branch, Bureau of Legislation and Standards, Women's Bureau, U. S. Department of Labor.



WOMEN'S BUREAU BULLETIN 157-19 (Revised)

UNITED STATES DEPARTMENT OF LABOR  
W. WILLARD WIRTZ, *Secretary*

WOMEN'S BUREAU  
MARY DUBLIN KEYSERLING, *Director*

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# The Legal Status of Women in the United States of America

## INTRODUCTION

Any conclusion bearing on women'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 President's Commission on the Status of Women (established by Executive Order 10980, December 14, 1961) appointed a Committee on Civil and Political Rights to review differences in treatment between men and women in regard to civil and political rights. The Commission's report, submitted in October 1963, presented findings and made recommendations for constructive action.

As of July 1, 1966, State Commissions on the Status of Women had been established in 48 States and a Territorial Commission in the Virgin Islands. They are actively concerned with the improvement of the civil and political rights of women.

## SOURCES

Constitution of Maryland  
Maryland Code 1957  
Maryland Code 1965, Supplement  
Maryland Reports  
Atlantic Reporter  
Atlantic Reporter (Second Series)

## EXPLANATORY NOTE

Bulletin 157-19 presents a digest of State constitutional and statutory provisions affecting the legal status of women in Maryland. It includes pertinent statutory changes enacted in the State up to July 1, 1966, and supersedes the previous report for Maryland 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. III, sec. 10)," placed after the related subject matter.

References to code sections are likewise in parentheses, as "(art. 45, sec. 5)."

Case citations definitely construing statutes or declaring judicial policy in the absence of express statutory provision are indicated by footnote references. Abbreviations used are:

Maryland Reports—Md.

Atlantic Reporter—Atl.

Atlantic Reporter (Second Series)—A.2d

# MARYLAND

## CIVIL RIGHTS

### *Contracts and Property*

#### 1. Age of majority

The common-law rule of 21 years governs, unless special exceptions are made by statute.<sup>1</sup>

#### 2. Contractual powers of a minor

Under the common law all minors are liable on their contracts for necessities, such as food, drink, clothing, medical attention, and suitable place of residence, to the extent of a reasonable price.

A married woman under 21 years of age may relinquish her dower in any real estate by the joint deed of herself and husband, or by her separate deed, or by a power of attorney for the purpose (art. 45, sec. 12).

Where any married minor, in respect to his or her dower, unites with the spouse in any conveyance or lease to pass title to the married minor's interest in real property, a court of equity shall adjudge and declare the conveyance to be valid, as if the minor married person were of the full age of 21 years, if the transaction is deemed equitable, expedient, or proper (art. 16, sec. 34).

A married woman 16 years of age or over may join with her husband in any conveyance, deed, or mortgage of property held as a tenancy by the entirety (art. 21, sec. 3).

Upon attaining the age of 21 years, a female is deemed capable of receiving a bequest (gift by will) of personal property or money intended to be paid to her on her maturity (art. 93, sec. 159).

When a female or male ward attains the age of 21 years, the guardian must present a final account to the orphans' court, and upon the court's order deliver to the ward all the property in his hands belonging to the ward (art. 93, sec. 211).

A minor not less than 15 years of age at his nearest birthday may, notwithstanding such minority, contract for annuities and for life or health insurance on his own life or body, or on the person of another in whom the minor has an insurable interest, and may exercise all

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<sup>1</sup> *Greenwood v. Greenwood*, 28 Md. 369 (1868).

rights and powers with respect to such contracts as though of full legal age. The minor shall not by reason of his minority be entitled to rescind, avoid, or repudiate the contract (art. 48A, sec. 370).

A minor 15 years of age or over is competent to receive and give full discharge for insurance benefits paid by a life insurer, under life insurance policies or annuity contracts for an amount not exceeding \$3,000 in any one year (art. 48A, sec. 383).

Any substantial sum paid to a minor because of a claim on actions in tort is recovered for benefit of the minor by the court and deposited according to law. When \$1,500 or more is received, the bank or savings and loan institution shall not allow withdrawal except upon order of a court of equity, unless it is to pay a minor upon the minor's attainment of his 21st birthday (art. 16, secs. 223-230).

A minor veteran and/or his minor spouse may execute or release any deed or mortgage for purpose of obtaining real estate and benefits under provisions of the Servicemen's Readjustment Act (art. 21, sec. 4).

(For capacity to make a will, see number 14.)

### 3. Property exemptions from seizure for debt

#### A. RESPECTIVE RIGHTS OF MAN AND WOMAN

There is allowed to every defendant who is in good faith a resident of the State the privilege of exemption from execution or satisfaction of debt "one hundred dollars in property, whether the same consists of money, land, or goods," as well as proceeds of insurance, benefit or relief from sickness, accident, or death (art. 83, secs. 8, 13).

The sum of \$100 of the wages or hire of any laborer or employee due from an employer or corporation is always exempt from attachment by any process whatever. This exemption privilege may not be waived in any case (art. 9, sec. 31).

All wearing apparel, textbooks, books of professional men, and tools necessary to the practice of any trade or profession are exempt from execution, besides the \$100 property exemption allowed by section 8 of this article (art. 83, sec. 11).

#### B. HOMESTEADS

There is no provision for exemption of the family homestead from sale for debt, nor for its occupancy by a surviving spouse or minor, on the death of husband or wife.

### 4. Ownership and control of property owned at marriage

The property, real and personal, belonging to a woman at the time of marriage is not liable for the debts of her husband (art. 45, sec. 1).

A married woman has the same power to dispose of her separate property by deed, mortgage, lease, will, or any other instrument as her husband has to dispose of his separate property (art. 45, sec. 4).

A husband is not liable for any debts of his wife or for any claims or demands of any kind against her arising prior to marriage (art. 45, sec. 14).

### **5. Contractual powers of a married woman**

A married woman is empowered to engage in any business; to contract whether engaged in business or not; to sue upon her contracts; and to sue for the recovery, security, or protection of her property, and for torts committed against her as fully as if she were unmarried. Contracts also may be made with a married woman, and she may be sued separately upon her contracts, or for wrongs independent of contracts, whether such contracts were made or such wrongs were committed before or after marriage as fully as if she were unmarried. Upon judgments recovered against her, execution takes effect as if she were unmarried (art. 45, sec. 5). A married woman may contract with her husband and may form a partnership with her husband or others as if she were single; and upon all such contracts, whether partnership or otherwise, she may sue and be sued as fully as if she were unmarried (art. 45, sec. 20).

A married woman holds all her property of every description for her separate use as fully as if she were unmarried, and has all the power to dispose of it by deed, mortgage, lease, will, or any other instrument that her husband has to dispose of his property (art. 45, sec. 4).

When either spouse has been legally declared a lunatic or an insane person and the finding is still in force, the other spouse may grant and convey by separate deed, whether the deed be absolute or a lease or mortgage, any real estate which he or she may have acquired since such finding, as fully as if he or she were unmarried (art. 45, sec. 13).

No assignment of wages or salary by either husband or wife is valid unless such assignment is executed and acknowledged by both spouses (art. 8, sec. 6).

The statute declaring the rights and liabilities of insolvent debtors is specifically applicable to a married woman in business as if she were single (art. 47, sec. 36).

A married woman has an equal right to be appointed executrix or administratrix, without discrimination as to the amount of bond required of her (art. 93, sec. 65).

Where a woman is entitled to letters of administration, administration may be granted to her and her husband, provided he is competent (art. 93, sec. 32).

## 6. Earnings of a married woman

The property, real or personal, which a woman acquires after marriage by her own skill or labor is her own property and not liable for the debts of her husband (art. 45, sec. 1).

## 7. Liability for family support

Generally a husband is liable for necessities provided for the support of his wife<sup>2</sup> unless she assumes personal liability by contracting for them on her own responsibility (art. 45, sec. 5).<sup>3</sup> When a husband fails to provide his wife with necessities or the means to procure them, she may pledge his credit to obtain them.<sup>4</sup>

Any person who without just cause deserts or willfully neglects to provide support and maintenance for his wife, or any parent who deserts or willfully neglects to provide support and maintenance for his or her minor child, is guilty of a misdemeanor and, upon conviction, subject to fine or imprisonment (art. 27, sec. 88 (a), (b)).

Upon petition of a married man showing that his wife is abusing his credit, the court may require her to answer charges and may issue an order barring recovery from the husband for any work done or goods, wares, or merchandise furnished thereafter to the wife or on her order (art. 16, sec. 40). If the husband discontinues supplying her with reasonable necessities, the order may be rescinded (art. 16, sec. 42).

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

Married women may contract, engage in any business, and sue for recovery, security, or protection of their property as if they were unmarried (art. 45, sec. 5).

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

The separate property of a married woman is not liable for the debts of her husband, and is protected from seizure for them (Const., art. III, sec. 43). Separate property is that belonging to her at marriage, or acquired after marriage by purchase, gift, grant, devise (gift by will), bequest, or by her own skill or labor (art. 45, sec. 1).

Any deposit in a bank, savings institution, or trust company in the name of a minor or woman subsequently married is held for the exclusive right and benefit of such minor or woman, free from the control or lien of all persons, except creditors, and is payable to the person in whose name the deposit was made (art. 11, sec. 100).

<sup>2</sup> *Kerner v. Eastern Hospital*, 210 Md. 375; 123 A.2d 333 (1956).

<sup>3</sup> *Pickett's Estate et al. v. Pickett*, 162 Md. 10; 158 Atl. 29 (1932).

<sup>4</sup> *McFerren v. Goldsmith-Stern Co.*, 137 Md. 573; 113 Atl. 107 (1921).

**10. Property acquired by joint efforts of husband and wife**

In the absence of a statute governing the ownership of property acquired during marriage by the cooperative efforts of husband and wife, the husband has the ownership and control of such property as at common law. However, joint ownership may be established by private arrangement, such as joint deed or joint bank account (art. 45, sec. 20).

The wife has a beneficial right in the earnings of the husband, since she is entitled to support by him.<sup>5</sup>

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

A married woman may sue for torts committed against her as if she were unmarried (art. 45, sec. 5).

For the recovery, security, or protection of her property, a married woman may sue third persons or her husband either in equity or law courts as if she were unmarried.<sup>6</sup> However, a wife cannot recover damages from a third person on account of personal injury to her husband whereby she sustains loss of support and consortium and is compelled to care for him while sick.<sup>7</sup>

Any woman, single or married, may sue in her own name in an action of slander, when her character or reputation for chastity has been defamed by any person (art. 88, sec. 2). If she is unmarried and under 18 years of age, she sues by a representative in court (art. 88, sec. 3). A husband may maintain an action for slander to his wife's character or reputation for chastity before or during marriage (art. 88, sec. 4).

The right of any person to sue for damages for alienation of affections or for breach of promise to marry (except in pregnancy cases) has been abolished (art. 75C, secs. 1, 2).

**12. Damages for injury by spouse to person or property**

A married woman may not maintain a court action against her husband for a personal tort.<sup>8</sup>

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

The husband or wife of a party in any suit, action, or other proceeding is competent to give evidence in the same manner as other witnesses, and may be compelled to testify in civil cases (art. 35, sec. 1).

<sup>5</sup> *McCubbin v. Patterson*, 16 Md. 179 (1860).

<sup>6</sup> *Cochrane v. Cochrane*, 139 Md. 530; 115 Atl. 811 (1921).

<sup>7</sup> *Emerson v. Taylor*, 133 Md. 192; 104 Atl. 538 (1918).

<sup>8</sup> *Furstenburg v. Furstenburg*, 152 Md. 247; 136 Atl. 534 (1927).

A husband or wife is not compelled to testify as an adverse party or witness in a criminal action involving his or her spouse but may testify at his or her election only (art. 35, sec. 4).

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under the Uniform Reciprocal Enforcement of Support Act. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage (art. 89C, sec. 21).

#### **14. Right to dispose of separate property by will**

No will is valid unless the person making it, whether male or female, has reached the full age of 18 years (art. 93, sec. 349).

The marriage of the testator (one who has made a will) coupled with the birth, adoption, or legitimation of a child by him, provided such child or a descendant thereof survives, shall revoke all prior wills and codicils (art. 93, sec. 351).

A final decree of absolute divorce of a testator and his spouse, granted subsequent to the execution of the testator's will or codicil and after June 1, 1964, shall revoke a prior will and codicil concerning all provisions relating to the divorced spouse (art. 93, sec. 351).

Every devise of land or any estate therein, or bequest of personal estate, to a surviving spouse of the testator is construed to extinguish the statutory share in lands or personal estate, unless it is otherwise expressed in the will (art. 93, secs. 328, 344).

(For election to take against a will, see number 17.)

#### **15. Inheritance rights in deceased spouse's estate**

##### **Real property**

Each spouse has a dower interest in the lands owned by the other at any time during the marriage whether held by the decedent at date of death or not. Such dower interest consists of the life use of one-third of the lands unless barred by action of the surviving spouse (art. 45, secs. 6, 7).

A married woman or man may relinquish dower in any real estate by joint deed with her or his spouse or by separate deed, or may authorize an agent or attorney to do so (art. 45, sec. 12).

(For provision in decedent's will as bar to dower, see number 14.)

If an intestate decedent (a person who died without having made a will) is survived by a widow or widower, she or he is entitled to all the real property after payment of debts, administration charges, and funeral expenses. If a child or descendants of a child survive, the spouse's share is one-third; if no child or descendants survive, but a father and/or mother survive, the spouse is entitled to one-half; if only

a brother or sister or their descendants survive, the spouse's share is \$4,000 or its equivalent, plus one-half the remainder (art. 93, secs. 135-137).

A surviving spouse is entitled to the same share of the decedent's real property which he or she would take in the personal estate in lieu of dower, though the deceased spouse made a will before he died. But such share is barred unless a written claim or renunciation and election is filed as prescribed by law (art. 46, sec. 3).

The preceding provision does not give a husband or wife the right to convey by deed his or her real estate free of the spouse's statutory interest without the cosignature of the other spouse (art. 46, sec. 3).

The estate of a solvent married woman is liable for payment of her funeral expenses not exceeding \$500 (Laws 1966, sec. 9, page 505).

#### Personal property

Distribution of the personal property of an intestate spouse is made by the following statutory rules after payment of debts, administration charges, and funeral expenses (art. 93, sec. 134): (a) If no child, parent, grandchild, brother or sister, or the child of a brother or sister of the deceased is living, the surviving spouse takes the entire estate (art. 93, sec. 135); (b) if there is a child or descendant of a child, the living spouse takes one-third (art. 93, sec. 136); (c) if no child or descendant of the intestate survives, but a father and/or mother survive, the living spouse takes one-half. If no child or descendant of the deceased and no parent survive, but decedent leaves a brother or sister or descendant of a brother or sister, the surviving spouse takes \$4,000 or its equivalent in property at its appraised value, together with one-half of the residue (art. 93, sec. 137).

If a wife predeceases her husband, proceeds of insurance which he has taken out on his life may, on maturity of the policy, be paid to the children or their descendants; if there are no children or their descendants, proceeds may be paid to the wife's legal representatives (art. 45, sec. 10). This section is not applicable if the policy or insurance company's bylaws provide for other distribution of the insurance proceeds.<sup>9</sup>

(For right of election to take against the will of deceased spouse, see number 17.)

The surviving spouse has preference in appointment as executor or administrator of a decedent's estate when there are no children (art. 93, sec. 23). When a decedent is survived by both a spouse and child, administration of the estate is granted to either in the discretion of the court (art. 93, sec. 22).

<sup>9</sup> *Pratt v. Hill*, 124 Md. 252; 92 Atl. 543 (1914).

In the administration of an estate, if there is no surviving spouse, child, or grandchild, the father is preferred. If there is no father, the mother is preferred (art. 93, secs. 24, 25).

There is no preference of males over females in equal degree of kinship in the appointment of administrators (art. 93, sec. 27). A single woman is preferred to a married woman in equal degree (art. 93, sec. 31). Relatives on the side of the father are preferred to relatives on the side of the mother in equal degree of kinship (art. 93, sec. 33).

A married woman is entitled to letters testamentary or letters of administration in the same manner as if she were unmarried, and must give bond with the same conditions as for the bonds of executors and administrators (art. 93, sec. 65).

In an action for damages because of negligence causing death, recovery may be for the wife, husband, parent, and child of the person whose death was caused by negligence; or if there is no such person or persons entitled, then recovery may be for any person related to the deceased by blood or marriage. Parent includes mother of an illegitimate child. Child includes illegitimate child, whenever the person whose death is so caused is the mother of such child (art. 67, sec. 4).

(See number 27 for inheritance of property from parent or child.)

#### **16. Provision for survivors during administration of estate**

When a decedent leaves a spouse, child, or grandchild, his wearing apparel is exempt from appraisal, and belongs to the spouse; if there is no spouse, the apparel belongs to the child or children of the decedent. If no child or children survive, the apparel belongs to the grandchildren. Wearing apparel does not include furs, watches, or jewelry of any description (art. 93, sec. 241).

If the assets of a decedent's estate consist only of a boat or vessel of appraised value less than \$500, the U.S. Collector of Customs in Maryland may, upon proof that decedent's debts and taxes have been paid, transfer the certificate of registration to the person entitled to the boat. Under these circumstances, administration of the estate is unnecessary (Laws 1966, sec. 261, page 505).

On the death of a householder, food that has been set aside for consumption by his family may not be sold or included in the inventory of his estate, but remains for the use of the family (art. 93, sec. 242).

The surviving widow is entitled to an allowance from the personal estate, after payment of funeral expenses, in cash or household goods as she prefers, in the sum of \$1,000 if there is a minor child of the marriage living. If there is no minor child, the surviving widow is entitled to \$500 or its equivalent in household goods (art. 93, secs. 336,

337). This allowance is a preferred claim, subordinate only to funeral expenses and administration charges (art. 93, sec. 6).

There is no provision which would permit a surviving spouse to remain in the family homestead until the decedent's estate is settled.

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

Every devise of land or bequest of personal estate to the surviving spouse of a testate decedent is construed to be intended to extinguish the statutory share in land and personal estate unless it is otherwise expressed in the will (art. 93, sec. 328).

A surviving spouse is barred of the right of dower in land or share in the personal estate by a devise or bequest to him or her in a will, unless such spouse makes a written renunciation of the will within a specified time. If the election is of dower in lands and the legal share of the personal estate, the surviving husband or wife gets dower and one-third of the surplus personal estate if descendants survive, and dower in lands and one-half of the personal estate if there are no descendants. If the surviving spouse elects to take the legal share of both real and personal estate, he or she gets one-third if descendants survive, and one-half if there are no descendants, but a father or mother survives; if there are no descendants or parents, the spouse gets \$4,000 or its equivalent in property, one-half of the residue of the lands, and one-half of the surplus personal estate (art. 93, sec. 329).

## ***Marriage and Divorce***

### **18. Age of consent to marriage**

Men at 21 years of age and women at age 18 may marry without parental consent. Under those ages, consent of parent or guardian, in person or in writing duly witnessed, is necessary for a marriage license to be issued. The statutory minimum ages for legal marriage with parental consent are 18 years for males and 16 years for females. On the certificate of a licensed physician, presented with the application for a marriage license, to the effect that the girl is pregnant or has given birth to a child, a license may be issued without the consent of her parent or guardian. If the reputed father of the child or prospective child of a girl under 18 is over 16 years of age, a license may be issued without the consent of his parents or guardian (art. 62, sec. 9).

### **19. Common-law marriage**

A valid common-law marriage is not possible in the State.<sup>10</sup> In Maryland marriage may be performed in a religious or civil ceremony (art. 62, secs. 3A, 4).

<sup>10</sup> *Mitchell v. Frederick*, 166 Md. 42; 170 Atl. 733 (1934).

**20. Premarital requirements**

No health certificate is required. No license to marry may be delivered by the clerk until after the expiration of 48 hours from the time application for the license is made. However, in exceptional cases, authorized judges may order otherwise, if sufficient cause is shown. Exceptions are limited to cases in which at least one party is a resident of the State or one party is a member of the Armed Forces (art. 62, sec. 6).

**21. Interstate cooperation in marriage-law enforcement**

If a marriage performed in another State is valid under the laws of that State, it will be held valid in this jurisdiction if not contrary to the declared policy of Maryland law.<sup>11</sup> If common-law marriages are valid where contracted, Maryland will recognize such marriages although they are not valid in this State.<sup>12</sup>

**22. Annulment**

The following marriages are prohibited and void: (a) within specified degrees of kinship; (b) between specified races (art. 62, secs. 1, 2; art. 27, secs. 390, 398).

When a court has convicted one or both spouses of bigamy, marrying within any of the prohibited degrees of kinship, or marrying between races prohibited by law to intermarry, the judgment of conviction serves as an annulment of the unlawful marriage (Md. Rules S 76).

Although under Maryland law, annulment is limited to cases of marriages within prohibited degrees of consanguinity and affinity, bigamous marriages, and miscegenous marriages, a court of equity may set aside a contract of marriage for fraud, duress, misrepresentation, and undue influence.<sup>13</sup>

**23. Divorce**

An absolute divorce may be granted the complaining party for the following causes: (a) impotence of either party at time of marriage; (b) any cause which by State law renders a marriage null and void from its inception; (c) adultery; (d) abandonment which has continued for at least 18 months and is deliberate and final; (e) voluntary separation without cohabitation for 18 consecutive months; (f) conviction of a felony with sentence of at least 3 years, 18 months of which have been served (art. 16, sec. 24).

<sup>11</sup> *Jackson v. Jackson*, 82 Md. 17; 33 Atl. 317 (1895).

<sup>12</sup> *Henderson v. Henderson*, 199 Md. 499; 87 A.2d 403 (1952).

<sup>13</sup> *Jewett v. Jewett*, 175 A.2d 141 (1960).

Incurable insanity over a period of 3 years or more is a ground for divorce. Where the plaintiff is the husband, the court may require him to pay maintenance for the benefit of the defendant (art. 16, sec. 26).

A limited divorce (legal separation) may be granted for any one of these grounds: (a) cruel treatment; (b) excessively vicious conduct; (c) abandonment and desertion. A limited divorce may be granted in the discretion of the court where absolute divorce is asked, if the causes proved are sufficient to entitle the complaining party to a limited divorce (art. 16, sec. 25).

The children of annulled marriages or those of marriages where the court has granted parents an absolute divorce are legitimate (art. 16, sec. 27).

Children of a bigamous marriage will be deemed the legitimate issue of the parents (art. 93, sec. 151).

After June 1, 1965, an offer of reconciliation or an attempt to reconcile by one spouse without the concurrence of the other is not available either as a defense or as a bar to an action for divorce instituted in this State (art. 16, sec. 26A).

#### **Alimony and maintenance**

In cases where a divorce is decreed, alimony may be awarded (art. 16, sec. 3). In all cases where alimony or alimony during litigation and counsel fees are claimed, the court does not award alimony or counsel fees unless the wife's income is insufficient to care for her needs (art. 16, sec. 5). The court has power to determine all questions in connection with ownership of personal property held, possessed, or claimed by the parties, and has power to divide such property between them or order sale and division of proceeds or make other disposition (art. 16, sec. 29).

In all cases where divorce is decreed, the court may award the wife such property or estate as she had when married, or the value of the same, having regard to the circumstances of the husband at the time of divorce. The court also directs to whom the guardianship and custody of minor children is granted and to whom their support is charged (art. 16, sec. 25).

Any deed or agreement between husband and wife respecting support, maintenance, property rights, or personal rights, or any settlement made in lieu thereof is valid, binding, and enforceable. Such deed or agreement does not bar an action for divorce, provided that when such agreement affects the care, custody, education, or maintenance of any minor child of the parties, the court has the right to modify it in accordance with the best interests of the child (art. 16, sec. 28).

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

The parents are jointly entitled to the services and earnings of a minor child. If one parent is dead, or has abandoned the child, or has been deprived of its custody by court decree, the other is entitled to and may sue for its services and earnings (art. 72A, secs. 1-3).

The mother of an illegitimate child also may sue for her minor child's loss of wages or services when such loss is caused by the seduction of the child or by an injury wrongfully or negligently inflicted upon it (art. 72A, sec. 3).

**25. Guardianship of a minor child**

The father and mother are the joint natural guardians of their minor child, and are equally charged with its care, nurture, welfare, and education. They have equal powers and duties, and neither parent has any right superior to the right of the other concerning the child's custody. If either the father or mother dies, or abandons the family, or is incapable of acting, the guardianship devolves upon the other parent. If the parents are separated, the court may award the child's guardianship to either of them (art. 72A, sec. 1).

In the distribution of an estate in which a minor is entitled to \$300 or less, the money may be paid, in the court's discretion, to the natural guardian of the minor for the minor's past or future maintenance and support (art. 93, sec. 214).

The orphans' court of the county in which a minor resides has power to appoint a guardian for such minor until he reaches the age of 21 when the minor is to receive real or personal property by gift, purchase, inheritance, or bequest, and when the minor does not have a guardian appointed by last will and testament pursuant to law. Such appointment may be made at any time after the probate of the will or letters of administration have been granted on the estate from which the minor appears to be entitled to land. The appointment may be made if the court thinks proper, in the case of personal estate, either before or after the administrator has settled his account (art. 93, sec. 164).

In Montgomery County only, the judge of the People's Court for juvenile causes has the power to require a parent to make restitution for acts of destruction or theft caused or committed by a minor child of such parent. The parent's liability cannot exceed \$500. The minor child, however, may be required to make restitution, if age and circumstances permit (art. 26, sec. 76).

Any parent, adoptive parent, or other person who has the permanent or temporary care or custody of a minor child under the age of 14 years and who maliciously beats, strikes, or otherwise mistreats the minor child to such degree as to require medical treatment is guilty of a felony, and upon conviction will be sentenced to not more than 15 years in the penitentiary (art. 27, sec. 11 (a)).

## **26. Appointment of testamentary guardian for a minor child**

The right to appoint by will a suitable guardian of the person or property, or both, of any minor child is vested by statute in the sole surviving parent of such child. However, it is specially provided that any parent may, by a duly executed will, appoint a guardian as to the property which his or her child may inherit from him or her (art. 72A, sec. 4).

## **27. Inheritance—child**

### **Inheritance from a parent**

The surplus of the estate of a parent, exclusive of the share of the surviving husband or widow, or the whole surplus, if there is no surviving spouse, is divided equally between the children. If a child is deceased, his children share equally in his portion (art. 93, secs. 138-140).

### **Inheritance from a child**

When both parents survive, but no children or descendants of the decedent survive, the distributable estate is divided equally between the parents. If either parent is dead, and no descendants of the decedent survive, the living parent takes the entire distributable estate (art. 93, secs. 141, 142).

Where a bequest of personal property or money is made to a female, and directed by the will to be paid on her attaining full, mature, or lawful age, she shall be entitled to receive and demand such personal property or money on her arriving at the age of 21 years (art. 94, sec. 159).

## **28. Child born out of wedlock**

When the child's paternity has been determined as provided by law, the adjudged father shall be ordered by the court to provide support and maintenance of the child. Such order shall specify the sum to be paid by the father weekly or otherwise until the child reaches the age of 21 years, dies, marries, or becomes self-supporting, whichever event occurs first, provided that in a case where said child, having reached 21 years of age, is destitute of means and unable to

support himself by reason of infirmity, the court shall have power to require payments to be made or continued during the continuance of such mental or physical infirmity. The order may also require the father to pay all or any part of the mother's medical and hospital expenses for her pregnancy, confinement, and recovery and for funeral expenses if the child has died or dies and may award counsel fees to the attorney representing the complainant or petitioner.

The court also may provide in the order the amount or extent to which the mother of said child shall contribute to the support and maintenance of the child, the expense of confinement and recovery, other expenses in connection with the mother's pregnancy, funeral expenses if the child dies, and the costs of the proceedings (art. 16, sec. 66H).

If an alleged father denies parenthood, the court may, upon motion by defendant or on its own motion, order the mother, the child, and the alleged father to submit to a blood test to determine whether the accused could actually have fathered the child (art. 16, sec. 66G).

### **29. Inheritance—child born out of wedlock**

A child born out of wedlock and the issue of such child are capable in law to take and inherit both real and personal estate from the mother, or from each other, or from the descendants of each other. Where a child born out of wedlock dies leaving no descendants, or brothers and sisters, or their descendants, the mother of such child, if living, inherits both his real and personal estate. If the mother is dead, the heirs at law of the mother inherit the real and personal estate of a child born out of wedlock as if he were legitimate (art. 46, sec. 7).

## **POLITICAL RIGHTS**

### **30. Domicile of a married woman**

By rule of common law, governing in the absence of statute, the domicile of a married woman follows that of her husband. However, a wife is not obliged to follow her husband unless he requests her to do so and such request is made in good faith, and the change of domicile would not impair her health or safety or unreasonably interfere with her comfort.<sup>14</sup>

<sup>14</sup> *Sewell v. Sewell*, 218 Md. 63 ; 145 A.2d 422 (1958).

**31. Public office—eligibility of women**

All words or phrases used in creating public offices and positions under the Constitution and State laws, denoting masculine gender, are to be construed to include the feminine gender unless the contrary intention is specifically expressed (Const., art. XV, sec. 10).

Women are eligible to hold all public offices and positions to the same extent as men, subject to all provisions of law, general or local, containing restrictions or qualifications for holding such offices and positions (art. 69, sec. 10).

**32. Jury service—eligibility of women**

Women are eligible for jury service on the same basis as men (art. 51, sec. 8).

