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The Legal Status of Women in the United States of America

REPORT FOR
NEVADA
as of December 1, 1964



WOMEN'S BUREAU BULLETIN 157-27 (Revised)

UNITED STATES DEPARTMENT OF LABOR

W. WILLARD WIRTZ, *Secretary*

WOMEN'S BUREAU

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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 English common law, on which the fabric of the Nation's jurisprudence is woven.

In addition, those far western and southwestern States which were explored and developed by the French and Spanish—Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington—were governed by laws based on the community-property system.

Common-law rules of property sprang from various causes, notably tradition, military or economic exigency, and "natural male dominance." On the other hand, in France and Spain the community-property laws vested the wife with an interest, in many respects equal to that of her husband, in property acquired during marriage.

In Nevada the community-property system has been modified by a statute providing that the common law of England, so far as it is not repugnant to or in conflict with the Constitution and laws of the United States or the constitution and laws of the State, shall be the rule of decision in all the courts of the State. (See sec. 1.030 referring to Civil Practice Act of 1911.)

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.

Economic and social advances in the position of women in the United States have brought about marked changes in laws governing property and family rights and political status.

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 atten-

THE LEGAL STATUS OF WOMEN

tion 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 50 States and the District of Columbia.

The President's Commission on the Status of Women (established by Executive Order 10980, December 14, 1961) appointed a Committee on Political and Civil 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.

In March 1965, as this report goes to press, Governors' Commissions on the Status of Women have been established in 39 States. They are actively concerned with the improvement of the civil and political rights of women in their States.

SOURCES

Constitution of Nevada
Nevada Revised Statutes
Nevada Reports
Pacific Reporter

EXPLANATORY NOTE

Bulletin 157-27 presents a digest of the constitutional and statutory provisions affecting the legal status of women in Nevada. It includes pertinent statutory changes enacted in that State up to March 1, 1965, and supersedes the previous report for Nevada of January 1, 1958.

References to the State constitution are indicated by parenthetical insertions of article and section numbers following the abbreviation "Const.," as "(Const., art. 15, sec. 3)," placed after the related subject matter.

References to code sections are likewise in parentheses, as "(sec. 129.010)."

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

Nevada Reports—Nev.

Pacific Reporter—Pac.

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."

COUNCIL

Central Bank of the United States
Federal Reserve Board
Washington, D. C.

FEDERAL RESERVE BOARD

Resolved, That the Board of Governors of the Federal Reserve System do hereby order that the following shall be the rules and regulations governing the conduct of the business of the Board of Governors of the Federal Reserve System:

Section 1. The Board of Governors of the Federal Reserve System shall be composed of seven members, to be appointed by the President of the United States, by and with the advice and consent of the Senate, for terms of office as follows:

Section 2. The Board of Governors of the Federal Reserve System shall hold office until the expiration of their respective terms of office, and shall be eligible for reappointment.

Section 3. The Board of Governors of the Federal Reserve System shall elect a Chairman and a Vice-Chairman, who shall hold office until the expiration of their respective terms of office, and shall be eligible for re-election.

NEVADA

CIVIL RIGHTS

Contracts and Property

1. Age of majority

Males at 21 and females at 18 years of age who are not under any legal disability are considered of lawful age for all purposes, and capable of entering into any contract (sec. 129.010).

2. Contractual powers of a minor

The contract of a minor is not void, but voidable, subject to his ratification after coming of age.¹ An infant is liable for the reasonable price of necessaries actually delivered to him, if such necessaries are suitable to his station in life and actually required by him at the time they are delivered (sec. 96.110).

A minor capable of contracting marriage (see number 18) may make a valid marriage contract or settlement (sec. 123.310).

A minor 18 years or over is authorized to sell and convey by deed any interests he may have or may acquire in mining claims, and such deed is valid and sufficient to convey the minor's interest (sec. 517.380).

The disability of minority is removed for any person and his minor spouse who is otherwise eligible for guaranty or insurance of a loan under the Servicemen's Readjustment Act (sec. 129.020).

A minor cannot serve as executor of a will or administrator of an estate (secs. 138.020, 139.010).

3. Property exemptions from seizure for debt

A. RESPECTIVE RIGHTS OF MAN AND WOMAN

Property exemptions from execution are allowed to "the judgment debtor" (sec. 21.080).

The following articles of personal property are among those exempt from seizure for debt: (a) chairs, tables, desks, and books to value of \$200; (b) specified household furniture, apparel, and provisions; (c) farm equipment, stock, and feed; (d) tools of business or trade; (e) miners' equipment; (f) automobiles or horses; (g) poultry;

¹ *Barnett Bank v. Chiatovich* (1925), 48 Nev. 319; 232 Pac. 206.

(h) earnings for 30 days preceding levy if necessary for family livelihood; (i) life insurance (sec. 21.090).

The dwelling house of the debtor and family is exempt from seizure for debt if situated on lands not owned by him (sec. 21.090).

B. HOMESTEADS

A homestead, as provided by law, shall be exempt from forced sale under any process of law and shall not be alienated without the joint consent of husband and wife when the marriage relation exists (Const., art. 4, sec. 30) (sec. 21.090 (o)).

The homestead, consisting of land and dwelling house, of not more than \$10,000 in value, may be selected, as provided by statute, by the husband and wife, or either of them, or other head of a family (sec. 115.010).

Unmarried persons are entitled to the statutory exemption only when they have the care and maintenance of minor brothers or sisters or both, or of a brother's or sister's minor children, or of a father or mother, or of grandparents, or of unmarried sisters living in the house with them (sec. 115.060).

The homestead selection shall be made by either the husband or wife or both of them, or other head of a family, declaring their intention in writing to claim the homestead. Such declaration must be executed, acknowledged, and recorded as required by statute. From and after the filing for record of the declaration, the husband and wife shall be deemed to hold the homestead as joint tenants (sec. 115.020).

Tenants in common may declare for homestead rights upon their respective estates in land and the improvements thereon, subject to the rights of the cotenant to enforce partition of the common property as in other cases of tenants in common (sec. 115.030). (See number 10.)

No deed or mortgage of the homestead is valid unless both spouses execute and acknowledge the conveyance, but the signature of the wife is not necessary if she is not a resident of the State (sec. 115.040).

Conveyance of a homestead right, by the sole deed of the owner when his wife is insane, can be accomplished only by prescribed court proceeding, upon at least 20 days' notice to the wife's kindred (sec. 115.070).

Homestead property can be abandoned only by written declaration, properly recorded. The declaration must be signed and acknowledged by the husband and wife separately, or by the head of the family if other than husband or wife (sec. 115.040).

Disposition of homestead on death

If a homestead has been declared from the decedent's separate property, and the separate character of the property has continued until the death of one of the spouses, the homestead right ceases. The property then belongs to the party owning it when the homestead was declared, or to the heirs of the owner if the owner is the one who has died (sec. 115.020). Otherwise, on the death of either spouse, the homestead and all other property exempt by law from sale under execution must be set apart by the court as the sole property of the surviving spouse for his or her benefit and that of his or her legitimate child or children. If there is no surviving spouse or there are no legitimate children of either spouse, the property is subject to administration and payment of debts and liabilities (sec. 115.060).

Upon the death of an unmarried person who qualified for the homestead exemption, the property, as in other cases, shall descend to his or her heirs unless disposed of by will, subject to administration and the payment of debts and liabilities (sec. 115.070).

(In addition there is a probate homestead which can be set aside by the Probate Court when a homestead has not been previously declared. See number 16.)

4. Ownership and control of property owned at marriage

All property owned by the wife before marriage is her separate property (Const., art. 4, sec. 31), with the rents, issues, and profits from it. All property owned by the husband before marriage is his separate property, with the rents, issues, and profits from it (sec. 123.130).

5. Contractual powers of a married woman

The wife may convey, charge, encumber, or otherwise in any manner dispose of her separate property without the consent of her husband (sec. 123.170).

A conveyance by a married woman has the same effect as if she were unmarried, and it may be acknowledged in the same manner (sec. 111.110).

Either husband or wife may enter into any contract, engagement, or transaction with the other, or with any other person, respecting property which either might enter into if unmarried, subject in any contract, engagement, or transaction between themselves to the general rules which control the actions of persons occupying relations of confidence and trust toward each other (sec. 123.070).

Husband and wife cannot alter their legal relations by contract with each other except as to property or to agree to an immediate

separation, but they may make provision for the support of either of them and of their children during such separation (sec. 123.080).

Any shares of stock in a State corporation which a married woman owns may be transferred by her as if she were unmarried, without her husband's signature. She is empowered also to receive any dividends arising from such stock and to give any proxy or power concerning it in her name alone (sec. 78.285).

A married woman may be appointed an executrix or an administratrix (sec. 138.030). When an unmarried woman appointed in either capacity marries, her authority is not extinguished (sec. 139.020).

In the administration of the estate of a person dying intestate, the surviving husband or wife, or such person as he or she may request to have appointed, is entitled to preference in the granting of letters of administration (sec. 139.040). But when several persons are claiming and are equally entitled to the administration, males are preferred to females, and relatives of the whole blood to those of the half blood (sec. 139.060).

The spouse or such person as the husband or wife may request to have appointed has a prior right to appointment as guardian of the person or estate of an incompetent person (sec. 159.120).

When a married woman is party to a suit, her husband must be joined with her, except that: (a) when the action concerns her separate property or her right or claim to the homestead property, she may sue alone; (b) when the action is between herself and her husband, she may sue or be sued alone; (c) when the husband resides out of, has departed from, or after due diligence cannot be found within the State, or when she is living separate and apart from her husband by reason of his desertion of her, or by agreement in writing entered into between them, she may sue or be sued alone (sec. 12.020).

When she has been declared a sole trader, she may sue and be sued alone (sec. 124.030). (See number 8.)

When the wife is living separate and apart from her husband, she may sue and be sued alone (sec. 123.120).

If a husband and wife are sued together, the wife may defend the action in her own right; and if either neglects to defend, the other party may defend for both (sec. 12.030).

When the husband has deserted his family, the wife may prosecute or defend in his name any action which he might have prosecuted or defended, and she shall have the same powers and rights therein as he might have had; and under like circumstances the husband shall have the same right (sec. 12.040).

6. Earnings of a married woman

The earnings of the wife are community property (sec. 123.220), but are not liable for the debts of the husband (sec. 123.040).

When the husband has allowed the wife to appropriate her earnings to her own use, such earnings with the issues and profits from them are deemed a gift from him to her and constitute her separate property (sec. 123.190).²

The wife has the entire management and control of the earnings of herself and her minor children living with her, with the like power of disposition thereof when the earnings and accumulations are used for the care and maintenance of the family (sec. 123.230(2)).

While a wife is living separate from her husband, her earnings and accumulations, as well as those of her minor children living with her or in her custody, are her separate property (sec. 123.180).

7. Liability for family support

If the husband neglects to make adequate provision for the support of his wife, any other person may supply her in good faith with articles necessary for her support and recover the reasonable value of them from the husband (sec. 123.090). But unjustified abandonment of the husband by the wife relieves him of this liability until she offers to return (sec. 123.100).

The wife must support the husband out of her separate property when he has no separate property and they have no community property, and when he is not able or competent to support himself due to infirmity (sec. 123.110).

A married woman who has been declared a sole trader is responsible for the support of her children (sec. 124.040).

Any husband who, without just cause, deserts or willfully neglects or refuses to provide for the support and maintenance of his wife in destitute or necessitous circumstances, or any parent who acts in similar manner with respect to his or her child under 16, is guilty of a crime (sec. 201.020).

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

A married woman who resides in the State and wishes to engage in a business, trade, profession, or art in her own name and on her own account, as a sole trader, must advertise for 4 successive weeks by newspaper or posted notice her intention to apply to the county district court on a certain day for permission to engage in business, describing the business, and must appear on the designated day

² *Goldsworthy v. Johnson* (1922), 45 Nev. 355; 204 Pac. 505.

before the court to be examined on oath as to the reasons for her action. If the court deems it proper to empower her by decree to engage in the proposed business, trade, profession, or art, she subscribes to the following oath:

"I, A.B., do, in the presence of Almighty God, truly and solemnly swear, that this application is made in good faith, for the purpose of enabling me to support myself and my children (if the applicant has minor children), and not with any view to defraud, delay, or hinder any creditor or creditors of my husband; and that of the moneys so to be used in said business, not more than \$500 has come, either directly or indirectly, from my husband. So help me God."

The court's order, endorsed with the applicant's oath, must be recorded in the county where the business is to be carried on.

The insolvency of the husband, apart from other causes tending to prevent his supporting his family, is not deemed sufficient cause for granting the application. Any creditor of the husband may oppose such application and may show that it is made for the purpose of defrauding such creditor and will jeopardize his rights. If it appears so to the court, the application will be denied (sec. 124.020).

When the wife's application is granted and the court's order to that effect has been recorded, she is entitled to carry on the business in her own name. The property, revenues, moneys, and credits invested in the business belong to the wife exclusively and are not liable for any debts of her husband. She is entitled to all the privileges and liable to all legal processes provided by law against debtors and creditors; she may sue and be sued alone, without being joined with her husband. But if her husband manages or superintends the business, or any separate branch of it,³ she loses the protection of the sole trader statute (sec. 124.030).

A sole trader becomes responsible for the maintenance of her children (sec. 124.040). Her husband is not responsible for any debts she contracts in the business, unless he specifically consents in writing to such liability. Nor can his separate property be taken for any debts contracted by her (sec. 124.050).

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

All property owned by the wife or husband at marriage, and that acquired by either of them afterwards by gift, bequest, devise, or descent, with rents, issues, and profits, is her or his separate property (sec. 123.130).

The wife may, without the consent of her husband, convey, charge, encumber, or otherwise in any manner dispose of her separate property

³ *Youngsworth v. Jewell* (1880), 15 Nev. 45.

(sec. 123.170). Her separate property is not liable for the debts of her husband (sec. 123.210), nor are her earnings liable for them (sec. 123.040). Neither spouse is liable for the debts or liabilities of the other incurred before marriage (secs. 123.200, 123.210).

However, if a married woman wants to establish her right to the protection of her separate property as such, she must record a full and complete inventory of such property, exclusive of money, in the manner and form required by statute (sec. 123.140).

When the wife is a resident of this State, failure to file for record an inventory of her separate property, except real property situated in another county, is prima facie evidence, as between the wife and purchasers in good faith and for a valuable consideration from the husband, that the property of which no inventory has been so filed or which has been omitted from the inventory is not the separate property of the wife.

In regard to real property situated in another county or when the wife is a nonresident, failure to record such inventory with the recorder of the county in which such property is situated, as described, is also prima facie evidence, between the wife and such purchasers, that the same is not her separate property (sec. 123.160).

10. Property acquired by joint efforts of husband and wife

A husband and wife may hold real or personal property: in joint tenancy (property held by two or more persons, not limited to husband and wife, who all have the same interest and where there is unity of conveyance, time, place, and possession with right of survivorship attached); by tenancy in common (property held by several and distinct titles with unity of possession and also not limited to husband and wife); or as community property (sec. 123.030).

All property acquired by either spouse after marriage, except that defined to be separate property (see number 9), is community property (sec. 123.220).

The husband has the entire management and control of the community property, with absolute power to dispose of it, as his own separate estate, except that: (a) no deed or mortgage of the homestead is valid unless both spouses execute and acknowledge the conveyance as required by statute; and (b) the wife has the entire management and control of the earnings and accumulations of herself and her minor children living with her when such earnings and accumulations are used for the support of the family (sec. 123.230).

The husband is deemed the sole owner of community property for

the purpose of bringing a suit in connection with such property⁴ or of defending an action regarding it.⁵

The husband may make a voluntary disposition of a portion of the community property, reasonable in reference to the whole amount, in the absence of a fraudulent intent to defeat the wife's claim.⁶

The respective interests of the husband and wife in community property during the continuance of the marriage relation are present, existing, and equal, subject to the husband's power of management and control as set forth in section 123.230 of the statutes (sec. 123.225).

Every interest in real property granted or devised to two or more persons, other than executors and trustees as such, shall be a tenancy in common, unless expressly declared in the grant or devise to be a joint tenancy (sec. 111.060).

Joint tenancy in real property may be created by a single will or transfer when expressly declared in the will or transfer to be a joint tenancy. A joint tenancy in personal property may be created by a written transfer, agreement, or instrument (sec. 111.065).

Either husband or wife may enter into any contract, engagement, or transaction with the other, or with any other person respecting property which either might enter into if unmarried, subject in any contract, engagement, or transaction between themselves to the general rules which control the actions of persons occupying relations of confidence and trust toward each other (sec. 123.070).

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

A married woman has the right to sue in her own name when the action concerns her separate property (sec. 12.020). She may sue and be sued alone if she has been declared a sole trader (sec. 124.030) or is living separate and apart from her husband (sec. 123.120).

Where the wife sustains personal injuries by reason of the negligence of another, suit may be brought by husband and wife jointly or separately. When brought jointly, damages shall be segregated and those assessed by reason of personal injuries and pain and suffering shall belong to the wife, and those for loss of services, hospital and medical expenses, and other care, to the husband. If the wife sues separately, all damages sustained by her shall be awarded and belong to her (sec. 41.170).

The father and mother jointly, or either of them, may maintain an action for death or injury to a minor child and seek damages for loss of probable future companionship and comfort (secs. 12.080, 41.090).

⁴ *Crow v. Van Sickle* (1870), 6 Nev. 146.

⁵ *Jones v. Edwards* (1926), 49 Nev. 299; 245 Pac. 292.

⁶ *Nixon v. Brown* (1923), 46 Nev. 439; 214 Pac. 524.

Civil causes of action for alienation of affections and breach of promise to marry are abolished (sec. 41.380).

An unmarried female under 20 years of age at the time of seduction may prosecute as plaintiff and recover damages (sec. 12.060); or her father and mother jointly or individually may bring such suit if she was a minor at the time of the seduction, even though she was not living with the parent or parents and there was no loss of services (sec. 12.070).

12. Damages for injury by spouse to person or property

Under common law, neither spouse has the right to sue the other in tort for willful or negligent injury of one by the other. There is no statute changing this common-law rule.

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

A husband cannot be examined as a witness for or against his wife without her consent, nor a wife for or against her husband without his consent. Nor can either, during the marriage or afterward, be examined without the other's consent as to any communication made by one to the other during marriage; but this exception does not apply to a civil action or proceeding by one against the other nor to a criminal action or proceeding for a crime committed by one against the other (sec. 48.040).

When a husband or wife is adjudged insane, the other is a competent witness as to any fact arising before or during such insanity. But on the recovery of the insane spouse, this privilege ceases, unless both spouses consent to its continuance. Then both are competent witnesses (sec. 48.050).

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 (sec. 130.270).

14. Right to dispose of separate property by will

Every person over the age of 18 years of sound mind may, by last will, dispose of all of his or her estate, real and personal, subject to payment of the testator's debts (sec. 133.020).

Any married woman may dispose of all her separate estate by will absolutely, without either the express or implied consent of her husband. She has full power to alter or revoke her will. A married woman may dispose of her half interest in the community property

by will (sec. 133.030). However, it appears such disposition may be defeated by the husband under certain conditions. (See number 15.)

If a person marries after making a will, the will is revoked as to the surviving spouse, unless provision is made for the survivor by the will or by the marriage contract, or the will itself mentions intent not to make such a provision (sec. 133.110).

When any testator omits to provide in his or her will for any of his or her children or for the issue of any deceased child, it shall be presumed that the omission was intentional. Should the court find that the omission was unintentional, such child or the issue of any deceased child shall have the same share in the estate of the testator as if such testator had died intestate (sec. 133.170).

15. Inheritance rights in deceased spouse's estate

Rights of dower and curtesy have been abolished (sec. 123.020).

Community property

Upon the death of either husband or wife, one-half of the community property belongs to the surviving spouse; the other half is subject to the testamentary disposition of the decedent, and in the absence thereof goes to the surviving spouse, subject to the provisions of Nevada Revised Statutes (NRS) 123.260 dealing with administration and payment of debts (sec. 123.250).

Community property passing from the control of the husband, either by reason of his death or by virtue of testamentary disposition by the wife, is subject to his debts and to administration. In the event of such testamentary disposition by the wife, pending administration, the husband shall retain the same power to sell, manage, and deal with the community property as he had in her lifetime; and his possession and control of the community property shall not be transferred to the personal representative of the wife except to the extent necessary to carry her will into effect.

After 40 days from the death of the wife, the surviving husband shall have full power to sell, lease, mortgage, or otherwise deal with and dispose of the community real property, unless a notice is recorded in the county in which the property is situated to the effect that an interest in the property, specifying it, is claimed by another under the wife's will (sec. 123.260).

Separate property

The provisions cited under this subject on inheritance between spouses apply only to the separate property of the intestate (sec. 134.220).

The surviving husband or wife of any person who dies intestate as to any property he owns, which is not otherwise limited by marriage contract, shares in such property, after payment of the decedent's debts, as follows:

When issue survives the decedent—(a) if one child or the lawful issue of one child survives: one-half each to the spouse and such child or its issue; (b) if more than one child or one child and lawful issue of one or more children: one-third to the spouse; two-thirds to the children or issue of children, or lineal descendants (sec. 134.030).

If no issue survives the decedent—(a) one-half to the surviving spouse, the other one-half to the surviving parent or parents in equal shares; (b) if no issue or surviving parent: one-half to the spouse, the other one-half in equal shares to the brothers and sisters of the intestate or their descendants; (c) if no issue or children of any issue, parents, or brothers and sisters: the entire estate shall go to the surviving spouse (sec. 134.050).

16. Provision for survivors during administration of estate

The widow or minor child or children of a decedent may remain in possession of the homestead and of all the family's wearing apparel and provisions on hand, as well as the household furniture. Reasonable provision for their support may be allowed by the court (sec. 146.010) and, upon return of the inventory of the estate or at any later time during administration, the court may set apart for the family's use all personal property exempt from execution and the homestead allowed by statute, whether formally declared or not. (See number 3.) The property so set apart is not subject to administration as part of the estate (sec. 146.020).

Probate homestead

If a homestead was not selected and declared under the homestead law, then a homestead may be set aside by the Probate Court (sec. 146.020). The homestead so set apart may be from the community property or from the separate property of the decedent. When set aside by the court, it is not subject to the payment of any debts or liability existing against both spouses or either of them at the time of death of either, except as it is secured by lawful liens (sec. 146.050).

(NOTE.—Exemptions allowed surviving spouse and vesting of property relating to probate homestead and to declared homestead differ. The sections of law (secs. 146.010–146.060) relating to probate homesteads enacted at a later date which differ from those relating to

declared homestead (secs. 115.020 and 115.060) are not repealed by implication by court decision.⁷)

Family allowance

If the whole property set apart is insufficient for the support of the widow, child, or children, the court shall make "such reasonable allowance out of the estate as shall be necessary for the maintenance of the family according to their circumstances during the progress of the settlement of the estate, which in case of an insolvent estate shall not be longer than 1 year after granting letters of administration" (sec. 146.030).

Any allowance by the court under authority of this statute has priority of payment over all other charges except expenses of funeral, last illness, and administration (sec. 146.040).

Ownership of property set apart

If a widow survives, but no minor child, property set apart by the court, other than a homestead selected and recorded during the lifetime of a decedent, belongs to the widow (sec. 146.060).

If the decedent left a widow and a minor child or children, one-half of such property belongs to the widow and the remainder to the child, or in equal shares to the children if there is more than one. If there is no widow, the whole property belongs to the child or children; but if the homestead so set apart was the separate property of the decedent, the court can set it apart only for a limited period designated in the order, which in no case shall extend beyond the lifetime of the surviving spouse, or, as it relates to a child, beyond his minority. Subject to such limited homestead right, such property belongs to the heirs or devisees of the decedent (sec. 146.060).

Small estates

When the whole value of a decedent's estate is not more than \$1,000 and there is a surviving husband or wife or a minor child or children, the estate is not administered, but the court, under statutory procedure, sets it apart for the support of the surviving husband or wife, or if the court deems best, for the minor child or children of the deceased. When an estate is less than \$400, the judge may order that the estate shall not be administered but set apart for miscellaneous uses as prescribed in the statute (sec. 146.070).

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

There is no statutory provision for election against the will of a deceased spouse.

⁷ *Estate of Wally* (1876), 11 Nev. 260.

Marriage and Divorce**18. Age of consent to marriage**

Males at 18 and females at 16 years of age, not nearer related than second cousins or cousins of the half blood and not having a husband or wife living, may be joined in marriage. However, males under 21 and females under 18 years of age are required to obtain the consent of their respective fathers. The consent of the mother shall be obtained if the parents are divorced or separated and the mother has custody under a judicial decree, or if the father has died. The consent of the guardian shall be obtained in case of death or incapacity of both parents (sec. 122.020).

The district court may authorize the marriage of females under the age of 16 years or of males under the age of 18 years upon the written consent of the parents or guardian of any such person (sec. 122.025).

If either applicant for a marriage license is under age and has not been previously married, the consent of the parent or guardian must be given personally before the clerk, or it must be certified by such parent or guardian and attested by two witnesses, one of whom must personally appear before the clerk and swear that such parent or guardian signed and acknowledged the certificate of consent; or it must be in writing, subscribed to, and acknowledged before an officer authorized by law to administer oaths (sec. 122.040).

19. Common-law marriage

Marriage, so far as its validity in law is concerned, is a civil contract, to which the consent of the parties capable in law of contracting is essential. Consent alone will not constitute a marriage; it must be followed by solemnization as specified. Common-law marriages contracted prior to March 29, 1943, are valid (sec. 122.010).

20. Premarital requirements

No physical examinations or certificates of health are required to obtain a license to marry; however, any person who marries and is infected with a venereal disease in an infectious state and knows of such condition is guilty of a misdemeanor and subject to fine or imprisonment or both (sec. 441.290).

No waiting period is required between the time the application is filed and issuance of the license.

Marriages which are prohibited by law because of consanguinity of the parties or because one of the parties had a husband or wife of a prior undissolved marriage are void (sec. 125.290).

21. Interstate cooperation in marriage-law enforcement

There is no statutory provision of cooperation in enforcement of marriage laws of other States.

22. Annulment

The following marriages, if solemnized within this State, are void without any decree of divorce or annulment or other legal proceedings: (a) those prohibited by law because of consanguinity of the parties; (b) those where either of the parties has a former husband or wife then living; (c) those solemnized under conditions set forth in NRS 201.010 relating to abduction of a woman for marriage or defilement (sec. 125.290).

Marriages may be annulled for any of the following causes: (a) insufficient age to contract a valid marriage, except where parties have voluntarily cohabited after attaining age of consent; (b) lack of consent of parent or guardian; (c) want of understanding; (d) fraud, except where parties voluntarily have cohabited after having knowledge of such fraud; (e) any ground rendering a contract void in equity (secs. 125.310-125.350).

In any suit in this State for an annulment of marriage that is in any wise affected by the law of another State, it shall be presumed that the law of such other State is the same as the law of this State, unless and until the law of such other State shall be alleged and proved to be different (sec. 125.420).

Children of void marriages or of marriages annulled because of nonage are legitimate (sec. 125.410).

23. Divorce

A divorce may be granted the aggrieved party on the following grounds: (a) impotency; (b) adultery; (c) desertion for 1 year; (d) conviction of felony or infamous crime; (e) habitual gross drunkenness; (f) extreme cruelty; (g) voluntary separation for 3 years; (h) insanity for 2 years prior to commencement of action (a divorce on this ground does not relieve the plaintiff of liability for support of the defendant). The wife is entitled to a divorce if her husband fails to provide for her for 1 year and if the neglect is not the result of poverty which he could not avoid by proper industry (sec. 125.010).

Children of marriages dissolved by divorce are legitimate (sec. 125.410). In actions for divorce, during minority of children of the marriage, the court may make orders as necessary and proper for custody, care, education, maintenance, and support of such children (sec. 125.140).

In any action for divorce when it shall appear to the court that both husband and wife are guilty of wrongs which may constitute grounds for divorce, the court shall not deny the divorce, but in its discretion may grant it to the party less in fault where both parties seek a divorce; otherwise, to the party seeking the divorce even if such party is more at fault (sec. 125.120).

On granting a divorce, the court may change the name of the wife for just and reasonable cause (sec. 125.130).

No divorce which is valid and binding may be contested or attacked by third persons not parties thereto (sec. 125.180).

Alimony and maintenance

In granting divorce, the court may award the wife alimony and make disposition of community property, having regard to the merits of the parties, the condition in which each will be left by divorce, and the party through whom property was acquired. The court may set apart such portion of the husband's property for support of the wife and children as is just and equitable. Alimony ceases on the death of either party or remarriage of the wife, unless otherwise ordered by the court (sec. 125.150).

Separate maintenance

When the wife has cause of action for divorce, or when the husband has deserted her for a period of 90 days, she may maintain court action for permanent support and maintenance of herself and children (sec. 125.190).

In any such action, the court may assign and decree to the wife the possession of any real or personal property of the husband, and may order the payment of a fixed sum for support of herself and children (sec. 125.210).

The court may require the husband to pay the wife sums necessary to enable her to carry on or defend a suit for divorce or for separate maintenance, and for support of herself and children during pendency of the suit (secs. 125.040, 125.200).

Attorney's fees

The court may award a reasonable attorney's fee to either party to an action for divorce if attorney's fees are an issue in the pleadings (sec. 125.150 (2)).

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

In the absence of a statute giving a minor child control of his own earnings, a child's earnings become part of the common property of the husband and wife (sec. 123.220) unless the wife is living separate from her husband and the employed minor child is living with her or is in her custody, in which case such earnings become her separate property (sec. 123.180). However, the wife has the entire management, control, and absolute power of disposition over the earnings and accumulations of minor children living with her when such earnings and accumulations are used for the care and maintenance of the family (sec. 123.230).

25. Guardianship of a minor child

Guardians of the person and/or estate of minors may be appointed, as provided, when necessary or convenient (sec. 159.040).

The father and mother, if competent to transact his or her own business and not otherwise unsuitable, are entitled to the joint guardianship of a minor child. If either parent is dead, or unable or unsuitable, or refuses to take custody of the minor, or has abandoned his or her family, or has been deprived of the minor's custody by court action, the other parent is entitled to the guardianship (sec. 159.050).

No parent may voluntarily assign his duties with respect to the care and custody of a female child under 18 or a male under 21, unless the duties have been terminated by court order (sec. 424.080).

Any act of willful misconduct of a minor under the age of 18 years which results in injury to the property of another shall be imputed to the parents or guardian having custody and control of the minor for all purposes of civil damages, and the parents or guardian shall be jointly and severally liable with such minor for all damages resulting from such willful misconduct. The joint and several liability of one or both parents or guardian having custody or control of a minor under this section shall not exceed \$300 for any such act of willful misconduct of the minor (sec. 41.470).

26. Appointment of testamentary guardian for a minor child

If either the father or mother is dead or unable or unsuitable to be the guardian of a minor child, the parent entitled to the guardianship has the right to designate a guardian by will. Where a suitable person has been designated, the court will appoint the person so designated when the will is probated (sec. 159.050).

27. Inheritance—child

Parents inherit from children in the following manner: when a person dies intestate, leaving a husband or wife but no issue, one-fourth of his or her separate estate, after payment of debts, goes to the intestate's father and one-fourth to the intestate's mother, if both are living; one-half to the father or mother then living if only one survives. If no issue or spouse survives, the intestate's father and mother each take one-half the estate, provided both parents are living; if one is dead, the whole estate goes to the surviving parent (sec. 134.050).

28. Child born out of wedlock

Children born out of wedlock are legitimized by the subsequent marriage of the parents (sec. 122.140).

The parents of a child born out of wedlock and not legitimated owe the child necessary maintenance, education, and support. If the child dies, they are liable for its funeral expenses. The father is liable for payment of the expenses of the mother's pregnancy and confinement. The obligation of the parent to support the child under the laws for support of poor relatives applies to children born out of wedlock (sec. 126.030).

When the child's paternity has been established, the mother, her legal representatives, or strangers furnishing support may sue, as provided by statute, to recover a reasonable share of the necessary support of the child from the father or from his estate. In the absence of a previous demand in writing, not more than 2 years' support furnished prior to the bringing of the action may be recovered from the father (secs. 126.040, 126.050, 126.070).

The statutory proceedings to compel support by the father are not exclusive of other proceedings that may be available on principles of law or equity (sec. 126.080).

Under such statutory proceedings, if the finding is against the defendant (the alleged father), court judgment is rendered against him declaring paternity and providing for support of the child. The judgment must be for annual amounts, equal or varying, to be paid at periods or intervals as the court directs, until the child reaches the age of 16 years. In addition, the judgment may require payment of necessary birth expenses incurred by the mother (sec. 126.230). Security may be required for satisfaction of the judgment (sec. 126.250) with provision for enforcement in case of default (sec. 126.260).

The adjudged father's failure, without lawful excuse, to support the child when not in his custody is declared a misdemeanor, punishable by fine, imprisonment, or both. The failure of the parent to support the child when in his or her custody is governed by the laws

applicable to the failure to support a legitimate child (sec. 126.300).

The Desertion and Nonsupport Statute provides that any parent who, without lawful excuse, deserts or willfully neglects or refuses to provide for the support and maintenance of his or her child or children under 16 years of age in destitute or necessitous circumstances is guilty of a crime, and on conviction, is subject to fine, imprisonment, or both (sec. 201.020).

29. Inheritance—child born out of wedlock

If an illegitimate child who has not been legally acknowledged by the father dies intestate without lawful issue, the estate descends to the mother, or if she is dead, to her heirs (sec. 134.180).

Every child born out of wedlock, in addition to being heir of the mother, is an heir of the person who acknowledges himself to be the father by signing in writing a declaration thereof in the presence of one witness. Children so acknowledged or legitimized by the intermarriage of the parents with each other shall have all rights of inheritance as legitimate children (sec. 134.170).

POLITICAL RIGHTS

30. Domicile of a married woman

The legal residence of a person with reference to his or her right of suffrage (sec. 293.485), eligibility to office (sec. 281.050), right of naturalization, right to maintain or defend any suit at law or in equity, or any other right dependent on residence is that place where he or she shall have been actually, physically, and corporeally present within the State or county, as the case may be, during all of the period for which residence is claimed by him or her; provided, however, should any person absent himself from the jurisdiction of his residence with the intention in good faith to return without delay and continue his residence, the time of such absence shall not be considered in determining the fact of such residence (sec. 10.020).

Residence for relief purposes means the actual residence of each applicant or the place where each such person was employed. In case such person was not employed, then it shall be considered and held to be the place where such person made his home or his headquarters (sec. 428.010).

The residence of the family is considered to be that of the husband and father even if he does business in another locality, unless the family residence is temporary. However, if the family resides outside the State and he is permanently located within the State, with no intention of moving, he is deemed a resident (sec. 293.497).

31. Public office—eligibility of women

Women who are qualified electors and who meet other requirements specified by law for the several offices of the State government are eligible for public office equally with men (Const., art. 2, sec. 1) (sec. 281.040).

32. Jury service—eligibility of women

Women are eligible for jury service, subject to the qualifications prescribed for jurors, which apply to men and women alike (sec. 6.010).

Women have a special exemption from jury service as follows: “. . . any women who shall file in the office of the county clerk, on or before the first day of January, a written statement claiming exemption from jury duty, shall thereafter be exempt from grand and trial jury duty for a period of 1 year” (sec. 6.020).

