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The Legal Status of Women in the United States of America

REPORT

NEW MEXICO

as of January 1, 1956

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WOMEN'S BUREAU BULLETIN 157-30 (Revised)

UNITED STATES DEPARTMENT OF LABOR

JAMES P. MITCHELL, *Secretary*

WOMEN'S BUREAU

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UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1957



For sale by the Superintendent of Documents, U. S. Government Printing Office
Washington 25, D. C. Price 10 cents

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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.

The material considered centers largely around the woman in the marriage relation, since the legal status of the unmarried woman is practically identical with that of the unmarried man.

The United States Summary of the Legal Status of Women in the United States of America, Bulletin 157, has been brought up to date as of January 1, 1953. Information in the Summary is compiled from the reports for each of the 48 States and the District of Columbia.

SOURCES

Constitution of New Mexico
New Mexico Statutes Annotated, 1953-55
New Mexico Reports
Pacific Reporter

EXPLANATORY NOTE

This pamphlet, Bulletin 157-30, presents a digest of the Constitution and statutory provisions affecting the legal status of women in the State of New Mexico. It includes pertinent statutory changes enacted in that State up to January 1, 1956, and supersedes the previous report and addendum for New Mexico.

References to the State Constitution are indicated by parenthetical insertions of article and section numbers following the abbreviation "Const.," as "(Const., art. 7, sec. 2)," placed after the related subject matter.

References to the code sections are likewise in parentheses, as "(sec. 29-1-1)."

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.)."

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."

NEW MEXICO

CIVIL RIGHTS

Contracts and Property

1. Age of majority

The age of majority for both sexes is 21 years, by rule of common law, which governs in the absence of specific statute (sec. 21-3-3).¹

2. Contractual powers of a minor

Generally, the common-law rule controls (see number 1); it provides that the contracts and conveyances of a minor are voidable.

But when an infant receives anything by reason of a contract which he disaffirms upon coming of age, he must restore what he received under the contract, if he still has it, in order to make the disaffirmance effective. He cannot avoid the contract and still retain the fruits of it.²

A married woman under 21 years of age may join her husband in all conveyances, leases, and mortgages affecting the community real estate. Her execution of such instruments has full force and effect, as if she were 21 years old at the time she signed them. (sec. 57-4-4).

Guardianship over minors of both sexes ceases with their marriage (sec. 32-1-42). But the statute refers to personal control of the wards and does not purport to declare them of legal age. It does not mean that a married man of 20 years may vote or hold office, or that a woman married before reaching her majority has the period of her legal minority diminished.^{3 4}

A minor capable of contracting marriage (see number 18) may make a valid marriage settlement (sec. 57-2-11).

Minors may make and withdraw bank deposits in their own names (sec. 48-10-1), hold credit-union shares and make deposits (sec. 49-19-13), and become subscribers to and owners of stock in building and loan associations (sec. 48-15-8).

¹ *Montoya de Antonio v. Miller* (1893), 7 N. M. 289, 291; 34 Pac. 40; 21 L. R. A. 699.

² *Evants v. Taylor* (1913), 18 N. M. 371, 376; 137 Pac. 583.

³ *Montoya de Antonio v. Miller* (1893), 7 N. M. 289, 292; 34 Pac. 40; 21 L. R. A. 699.

⁴ *In re Hay's Guardianship* (1932), 37 N. M. 55; 17 Pac. (2d) 943.

3. Property exemptions from seizure for debt

A. RESPECTIVE RIGHTS OF MAN AND WOMAN

Every person who has a family and every widow may hold exempt, in addition to the wearing apparel of such person or family, various items of personal property as enumerated in the statute, including the tools and implements of the debtor necessary for carrying on his trade or business, whether mechanical or agricultural, to be selected by him or her, not exceeding \$150 in value (sec. 24-5-1).

Current wages or salary due head of a resident family may not be garnisheed for more than 20 percent if such wages are below \$75 a month. Such salary or wages may be garnisheed to the extent of 20 percent of the first \$75 and, in addition, all of the excess over \$75. No exemption shall be claimed if debt was incurred for necessities of life, or if debtor is not head of a family or the family does not reside within the State (sec. 26-2-27).

The legislature may exempt from taxation property of each head of a family to the amount of \$200; and property, including community or joint property of husband and wife, of every honorably discharged veteran or widow of such veteran in the sum of \$2,000. (Const., art. 8, sec. 5).

Certain additional exemptions of specific equipment are allowed to draymen, farmers, doctors (sec. 24-5-6), and lawyers (sec. 24-5-7).

(As to widow's right, see number 15.)

Every unmarried woman may hold the following items exempt: **Wearing apparel** to be selected by her, not to exceed \$150 in value; one sewing machine; one knitting machine; one piano or organ, if she is engaged in teaching music; a Bible, hymnbook, psalmbook, album, and any other books not exceeding in value \$50 (sec. 24-5-2).

Any beneficiary fund not exceeding \$5,000 that is set apart, appropriated, or paid by any benevolent association or society according to its rules, regulations, or bylaws to the family of any deceased member or to any member of such family may not be seized under **legal process to pay any debts** of such deceased member (sec. 24-5-4).

The proceeds of any life insurance are not subject to the debts of the deceased, except by special contract or arrangement made in writing (sec. 24-5-5).

Unless a creditor is named as beneficiary or is the legal assignee under any life-, accident-, or health-insurance policy or under any annuity or deposit contract issued upon the life of or made with a citizen or resident of the State, exemption from seizure for debt by any creditor of the insured or of his beneficiaries is allowed as to any of the cash-withdrawal benefits or privileges enumerated in the statute which accrue under such policies or contracts (sec. 24-5-3).

B. HOMESTEADS

Husband and wife, or widow or widower living with an unmarried daughter or unmarried minor son, may hold exempt a family homestead not exceeding \$1,000 in value. The husband has the right to make the demand for the homestead, but if he fails or refuses to act, the wife may do so. Only one of the spouses is entitled to the exemption. The exemption is not allowed against a valid mortgage, nor against liens for purchase money, materials, or labor furnished (sec. 24-6-1).

A person owning the superstructure of a dwelling house occupied by him or her as a family homestead is entitled to hold it exempt, though the land is owned by another. A lessee may claim the homestead exemption, but this does not prevent a sale subject to the lease (sec. 24-6-2).

The widow and any unmarried minor children composing part of a decedent's family at the time of his death are entitled to have the statutory homestead set apart for them when a sale of the decedent's lands is sought by the executor or administrator to pay debts. The exemption continues as long as any unmarried minor child resides in the homestead, even though the widow dies (sec. 24-6-3). (See also number 15, reference to sec. 29-1-22.)

No sale of real estate made under a mortgage which is not executed by the wife of the debtor, if he has a wife, can affect in any manner the right of the wife or family to have a homestead set off under the provisions of the statute (sec. 24-6-8).

Any resident of the State who is the head of a family and not the owner of a homestead may hold exempt real or personal property up to \$500 in value, selected by such person, his agent, or his attorney at any time before sale. This allowance is in addition to the amount of chattel property otherwise exempted. But it is expressly provided that if the debt sued on was incurred for manual labor or for necessities furnished the debtor or his family, exemption under this statute—so far as it affects the debtor's current wages—extends only to 80 percent of the first \$75 of such earnings within the 30 days immediately preceding the service of a writ of garnishment (sec. 24-6-7).

4. Ownership and control of property owned at marriage

All property of the wife owned by her before marriage, together with the rents, issues and profits from it, is her separate property (sec. 57-3-4).

5. Contractual powers of a married woman

Either husband or wife may enter into any engagement or transaction with his spouse or with any other person respecting property

which either might enter into if unmarried; such transactions between themselves are subject to the general rules of common law which control the actions of persons occupying confidential relations with each other (sec. 57-2-6).

A valid marriage settlement supersedes property rights of husband and wife defined by statute (sec. 57-3-1).

A married woman may own and control capital stock in building and loan associations as if she were unmarried, and her stock is not subject to her husband's control nor liable for his debts (sec. 48-15-8).

Either spouse may execute a valid power of attorney for himself or herself without the joinder of the other (sec. 57-2-7).

A husband and wife may agree in writing to a separation and may make provisions for the support of either of them and of their children during their separation (sec. 57-2-12).

Husband and wife may hold property as joint tenants, tenants in common, or as community property (sec. 57-3-2).

Either spouse may convey or mortgage separate property without the other joining in such conveyance or mortgage (sec. 57-4-3). (See also numbers 9 and 10.)

The surviving spouse of an intestate decedent is entitled to administer the estate (sec. 31-1-9).

Wage assignments executed by a married man living with his wife must be recorded in the office of the county clerk and a copy thereof served upon the employer or person who is to make payment (sec. 43-1-12).

6. Earnings of a married woman

The earnings of the wife are not liable for the debts of the husband (sec. 57-3-6); however, this statute does not make such earnings the separate property of the wife.⁵ (See also numbers 9 and 10.)

While a wife is living separate from her husband, her earnings and accumulations and those of her minor children living with her or in her custody are her separate property (sec. 57-3-7).

7. Liability for family support

Husband and wife contract toward each other obligations of mutual respect, fidelity, and support (sec. 57-2-1).

If the husband neglects to provide support for his wife, any other person may in good faith supply her with necessaries and recover the reasonable value thereof from her husband, unless the wife has abandoned or separated from him without just cause or unless he is unable to furnish support because of infirmity (sec. 57-2-3).

⁵ *Albright v. Albright* (1916), 21 N. M. 606, 615; 157 Pac. 662.

The wife must support her husband out of her separate property when he has not deserted her, if he has no separate property, if there is no community property, and if he is unable from infirmity to support himself (sec. 57-2-5).

A husband abandoned by his wife is not liable for her support until she offers to return, unless she was justified by his misconduct in abandoning him; nor is he liable for her support when she is living separate from him by agreement, unless such support is stipulated in the agreement (sec. 57-2-4).

A husband was held not liable for medical services rendered to his wife upon her individual written promise to pay for them, where it was not shown that he had neglected to provide them or that there was an original intention to look to him for payment.⁶

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

No formal proceeding is required by statute to enable a married woman to engage in a separate business. No inventory of her separate property is required to be placed on record.

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

All property of the wife owned by her before marriage or acquired afterward by gift, bequest, devise, or descent is her separate property, as well as the rents, issues, and profits therefrom. A wife may convey her separate property without the consent of her husband (sec. 57-3-4). (See number 5, reference to sec. 57-4-3.)

The purchase of property by a married woman with money borrowed on her individual credit is essentially an exchange of separate property for separate property, and it remains her separate estate.⁷

Neither husband nor wife has any interest in the property of the other, but neither can be excluded from the other's dwelling (sec. 57-3-3).

The separate property of the wife is not liable for the debts of her husband but is liable for her own debts, whether contracted before or after marriage (sec. 57-3-9). Her separate property is not subject to the debts of the community.⁸

(See also number 6 as to the wife's earnings when living separate from her husband.)

⁶ *Chevalier v. Connors* (1927), 33 N. M. 93; 262 Pac. 173.

⁷ *Morris v. Waring* (1916), 22 N. M. 175, 182; 159 Pac. 1002.

⁸ *Rosenwald & Son v. Baca* (1922), 28 N. M. 276, 278; 210 Pac. 1068.

10. Property acquired by joint efforts of husband and wife

Separate and community property distinguished

All property owned by husband or wife before marriage or acquired afterward by gift, bequest, devise, or descent, with the rents, issues, and profits from it, remains the separate property of the spouse so owning or acquiring it (secs. 57-3-4, 57-3-5). In general, if property is acquired by the sale or exchange of separate property, it remains separate property.⁹ (See also number 9.)

All other property acquired after marriage by either husband or wife, or both, is community property. However, the law will presume (in the absence of sufficient proof to the contrary) that a married woman holds as her separate property any property conveyed to her by written instrument; that her interest is that of a tenancy in common in property conveyed to her and any other person, but that any property conveyed to husband and wife, as such, by written instrument, is presumed to be community estate unless a different intention is shown in the instrument (sec. 57-4-1).

The status of property at the time it is acquired determines whether it is separate or community property.¹⁰

Management and control of community property

The husband has the management and control of the personal property of the community, and during coverture he has the sole power of disposition of it, other than by will, as he has of his separate estate. But husband and wife must join in all deeds and mortgages affecting real estate which is not the separate property of either of them. Any attempted transfer or conveyance of community real property by either husband or wife alone is void and without effect, unless the conveyance is from one spouse directly to the other (sec. 57-4-3).

The husband's "management and control" embraces the right and duty to represent the community in its litigation. The wife is not a necessary party.¹¹

Whenever the husband is shown to have become incapacitated to manage and administer the community property, the wife, on petition duly verified, may be given full or limited power of managing, administering, and disposing of such property—real or personal—as the court deems proper (secs. 57-4-5 to 57-4-9).

(See numbers 15 and 27 as to disposition of community on death of husband or wife.)

⁹ *Morris v. Waring* (1916), 22 N. M. 175, 182; 159 Pac. 1002.

¹⁰ *August v. Tillian* (1947), 51 N. M. 74; 178 Pac. (2d) 590.

¹¹ *Levy v. Kalabieh* (1930), 35 N. M. 282; 295 Pac. 296.

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

A married woman may sue and be sued as if she were unmarried (sec. 21-6-6).

12. Damages for injury by spouse to person or property

In the absence of a statute changing the common law on the subject, neither spouse may sue the other to recover damages for injuries willfully or negligently inflicted by one upon the other.

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

In civil actions, the husband or wife of any party to the proceeding is competent to give evidence on behalf of the other or of any of the parties to the suit, except in civil proceedings involving the question of adultery of either spouse or the husband or wife of any party to the action (secs. 20-1-9, 20-1-11), or except where the rule of privileged communications between spouses would be violated thereby (sec. 20-1-12).

In criminal cases, the husband or wife of the defendant may testify in favor of, but not against, such defendant; except that he or she is a competent witness against the defendant in a prosecution for any unlawful assault or violence forcibly committed by the defendant on the person of such witness. A wife is a competent witness against her husband when he is being prosecuted for abandonment of or willful failure to support her or his family (sec. 41-12-20).

In any prosecution for incest, bigamy, polygamy, unlawful cohabitation, or adultery, the lawful husband or wife of the accused person is a competent witness and may be called, but not required, to testify without the consent of the spouse (sec. 41-12-21).

Neither husband nor wife may be compelled to disclose any communication made by the other during the marriage (sec. 20-1-12).

Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under the 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. 22-19-25).

14. Right to dispose of separate property by will

Any person of the age of 21 years or over and in sound mind may dispose by will of all his property, except what is sufficient to pay his debts and what is given by law as privileged property to his wife or family (sec. 30-1-1).¹² (See also number 15.)

¹² *In re McMillen* (1903), 12 N. M. 81; 71 Pac. 1083.

A wife has testamentary power over any portion of the community property which has been set apart to her by a judicial decree for her support and maintenance. In the absence of disposition by her will, such property goes to her descendants or heirs, exclusive of her husband (sec. 29-1-8).

15. Inheritance rights in deceased spouse's estate

No estate in dower or curtesy is allowed upon the death of husband or wife (sec. 29-1-23).

Community property

Upon the death of the wife, the entire community property, without administration, belongs to the surviving husband, except such portion as may have been set apart to her by a judicial decree for her support and maintenance, which goes to her descendants or other heirs (sec. 29-1-8).

Upon the death of the husband one-half of the community property goes to the surviving wife. The other half is subject to the testamentary disposition of the husband. In the absence of his disposition of it by will, one-fourth of this portion goes to the surviving wife (making her total interest under this statute five-eighths of the whole community) and the remainder (three-eighths) in equal shares to the children of the decedent and further as provided by law.¹³

When the community is dissolved by the death of the husband, the entire community property is equally subject to his debts, the family allowance, and the charge and expenses of administration (sec. 29-1-9).

Separate property

Subject to the provisions of sections 29-1-8 and 29-1-9, when any person having title, not otherwise limited by marriage contract, to any estate dies without disposing of the estate by will, it is succeeded to and must be distributed, subject to the payment of his debts, in the following manner:

One-fourth to the surviving husband or wife and the remainder in equal shares to the children of decedent and further as provided by law (sec. 29-1-10).

If the intestate leaves no issue, the whole of his estate goes to his wife (sec. 29-1-13).

When the decedent leaves a widow, all personal property which in his hands as the head of a family would be exempt from execution, upon inventory and appraisal, is to be set apart to the widow as

¹³ *In re White's Estate* (1937), 41 N. M. 631, 634; 73 Pac. (2d) 316.

her property in her own right and is exempt in her hands as it was to the decedent (sec. 29-1-11).

This statute vests in the widow an unqualified right to such property immediately upon the husband's death.¹⁴

All provisions of the law relating to wills and to estates of deceased persons made in regard to the widow of a deceased husband are applicable to the surviving husband of a deceased wife (sec. 29-1-22).

16. Provision for survivors during administration of estate

The court must make an allowance, if it is needed, to the widow and children under 15 years of age sufficient to maintain them for 6 months from the death of the decedent (sec. 31-4-1).

Nor is the widow deprived of this allowance by accepting provisions of her husband's will giving her a stated sum "in lieu of all other demands."¹⁵

The surviving spouse or next of kin may, upon presentation of affidavit and without procuring letters of administration, collect from the State or any political subdivision thereof, from any corporation, bank, or trust company, or from any other organization or individual, up to \$300 that may have been owed decedent at the time of death for wages or salary earned. Any sum of money up to \$300 which the deceased may have left on deposit with a bank or trust company, corporation, individual, or firm doing business as bankers may be collected in like manner (secs. 31-13-1 to 31-13-3).

(As to homestead provisions for widow, see number 3.)

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

The rights of the spouses in the community estate are fixed by statute (see number 15), or by a valid marriage settlement agreed upon in lieu of the statute.

There is no statute providing for election against the testamentary disposition of separate property.

Marriage and Divorce

18. Age of consent to marriage

No male under 21 years of age and no female under 18 years of age may marry unless he or she obtains the consent of his or her parents, guardian, or of the person under whose charge he or she is; and for that purpose the presence of those parties, or a certificate in writing authenticated before competent authority, is required (sec. 57-1-5).

¹⁴ *In re White's Estate* (1937), 41 N. M. 635; 73 Pac. (2d) 316.

¹⁵ *Andros v. Flournoy* (1917), 22 N. M. 582; 166 Pac. 1173.

No person authorized to solemnize marriages in the State may knowingly unite in marriage: (1) Any male under the age of 21 years or female under the age of 18 years, without the consent of their parents or guardian; (2) any male under the age of 18 years or female under the age of 16 years, with or without the consent of their parents or guardian (sec. 57-1-6). Violation of these provisions by either of the parties to the marriage or by the person officiating renders the violator subject, on conviction, to a statutory fine of not less than \$50 (sec. 57-1-8).

19. Common-law marriage

All persons desiring to enter into the marriage relation in this State must obtain a license from the county clerk in the county where they desire the marriage to occur (sec. 57-1-10). A common-law marriage is invalid under the statute (sec. 57-1-2) prescribing the solemnization of marriages.¹⁶

20. Premarital requirements

There is no statutory provision requiring health certificates from applicants for a marriage license, nor is a waiting period required between the date of application for license and the date of its issuance.

21. Interstate cooperation in marriage-law enforcement

All marriages celebrated beyond the limits of the State which are valid according to the laws of the jurisdiction where contracted are likewise valid in this State and have the same force as if celebrated in accordance with New Mexico statutes (sec. 57-1-4).

22. Annulment

Marriage is a civil contract for which the consent of the contracting parties, capable in law of contracting, is essential (sec. 57-1-1). Incestuous marriages, as defined in the statute, are absolutely void (sec. 57-1-7). But no marriages between relatives within the prohibited degrees, or between or with infants under the prohibited ages (sec. 57-1-6), may be declared void except by a decree of the district court upon proper hearing. A marriage contracted while the parties were under the legal age is to be held legal and binding if they continued to live together until reaching the age at which they could contract a valid marriage (sec. 57-1-9).

23. Divorce

Absolute divorce may be decreed to either party on any of the following grounds: Abandonment, adultery, impotency, cruel and in-

¹⁶ *In re Gabaldon's Estate* (1934), 38 N. M. 392, 397; 34 Pac. (2d) 672. (Hist.)

human treatment, habitual drunkenness, incompatibility, or conviction for a felony and penitentiary imprisonment after marriage.

The husband may be granted divorce if the wife, at the time of marriage, was pregnant by another than the husband and without his knowledge.

The wife is entitled to a divorce for neglect on the part of the husband to support her according to his means, station in life, and ability (sec. 22-7-1).

Incurable insanity is a ground for divorce, if the condition has existed continuously for 5 years preceding the filing of the divorce complaint. Strict proof is required as prescribed by statute (secs. 22-7-7 to 22-7-10).

Alimony and maintenance

In divorce, separation, or support suits, the court may make allowance to the wife of the husband's separate property as alimony, and a decree making such allowance shall have the force and effect of vesting title to such property in the wife and shall be a lien on the real estate of the husband (secs. 22-7-13, 22-7-14). The court may make allowance of property of the parents for the maintenance, education, and support of the minor child or children and may vest title to such property in a guardian appointed by the court (sec. 22-7-15). Such allowance becomes a lien on the real estate of the person charged with such support (sec. 22-7-16).

In any suit for final divorce, division of property, alimony, or custody of the children, the court may make and enforce an order to restrain use or disposition of property of either party, or an order for control of children or to provide for support of wife during pendency of suit; and it may make such order relative to expenses of the suit as will insure the wife efficient preparation and presentation of her case; and on final hearing the wife may be allowed reasonable alimony. The court may set apart out of property of respective parties a portion thereof for the maintenance and education of minor children and may order their guardianship, care, custody, maintenance, and education (sec. 22-7-6). The court may vest title to property allowed for maintenance, education, and support of minor children in a guardian (sec. 22-7-15). Such allowance becomes a lien on real estate of party charged with support (sec. 22-7-16).

Parents and Children

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

The parents of a minor have equal powers, rights, and duties concerning the minor. The mother is entitled as fully as the father to

the custody, control, and earnings of their minor child or children (sec. 32-1-4).

25. Guardianship of a minor child

The father or—in case of his death or abandonment of his family—the mother shall be the natural guardian of their children and shall have the care of their persons and education; but in no case shall they have the care and management of their estates unless they are appointed by the court for that purpose, in which event they shall give bond and security in the same manner as other guardians (sec. 32-1-1).

In all cases in which application is made for appointment of a guardian for the estate of a minor, the preferred right to be appointed shall be that of the father, or—in case of his death or abandonment of the family—the mother, or—in case of divorce or legal separation—the parent having custody of the minor, unless it is shown that such parent is not a fit and competent person (sec. 32-1-2).

26. Appointment of testamentary guardian for a minor child

The father or the mother, if competent, may appoint by will a guardian for their unmarried minor child. But such appointment is not effective during the lifetime of the parent surviving the testator, unless such surviving parent expressly consents or is proved to be not a fit and competent person to have the guardianship of the child (sec. 32-1-5).

27. Inheritance—child

If an intestate leaves no issue, the whole of his estate shall go to his wife; if he leaves no wife, the portion which would have gone to her shall go to his parents. If one of his parents be dead, the portion which would have gone to such deceased parent shall go to the surviving parent (sec. 31-113).

If husband or wife dies intestate and leaves no children, the survivor inherits all property of the deceased.¹⁷

(See also number 15.)

28. Child born out of wedlock

The mother owes to her child born out of wedlock and not legitimated maintenance and support as if it were born in wedlock (sec. 22-4-1). The father owes maintenance and support to such child, having regard to the condition in life of the mother, until the child is

¹⁷ *Teopfer v. Kaeufer* (1904), 12 N. M. 372; 78 Pac. 53.

16 years of age or arrives at full age if physically or mentally incapable of working. The father is also liable to pay the expenses of the mother's pregnancy and confinement and of the child's funeral (sec. 22-4-2). The mother may recover from the father an equal share of the support which she has furnished or owes to the child, or—in the case of her total or partial inability—the additional amount of the support she owes, provided due demand is made upon the father as required by statute (sec. 22-4-3).

Statutory provisions made for compelling support from the father in the proceeding to establish paternity (secs. 22-4-4 to 22-4-24) are not exclusive of other proceedings that may be available on principles of law or equity (sec. 22-4-7).

If the defendant in the paternity proceeding is adjudged the father of the child, the court's order declares the fact and makes the defendant responsible for the child's support, in annual amounts, until it is 16 years of age or dies. The judgment may also include birth expenses (sec. 22-4-16). Complainant's rights under the judgment may be protected by attachment, garnishment, or restraining order of the court (sec. 22-4-18). If paternity is judicially established or acknowledged by the father in writing, his failure to support the child fully subjects him on conviction to a fine not exceeding \$1,000, or imprisonment of not more than 2 years, or both (sec. 22-4-21).

The obligation of the father for support for an illegitimate child, if paternity has been judicially established in his lifetime or has been acknowledged by him in writing, is enforceable against his estate, subject and subordinate to like claims to support by the widow and lawful children (sec. 22-4-6).

Illegitimate children become legitimate by the marriage of their parents (sec. 29-1-20).

29. Inheritance—child born out of wedlock

The mother inherits from her illegitimate children (sec. 29-1-18).

In the event there has been mutual recognition of the filial relation between the father and such children, the father may inherit, but the mother and her heirs take preference over the father and his heirs (sec. 29-1-19).

POLITICAL RIGHTS

30. Domicile of a married woman

The husband is the head of the family. He may choose any reasonable place or mode of living, and the wife must conform thereto (sec. 57-2-2).

31. Public office—eligibility of women

Every citizen of the United States who is a legal resident of the State and a qualified elector therein is qualified to hold any public office in the State except as otherwise provided by the Constitution.

The right to hold public office may not be denied or abridged on account of sex, and wherever the masculine gender is used in the Constitution in defining the qualifications for specific offices, it is to be construed to include the feminine gender; provided, however, that the payment of public-road poll tax, school poll tax, or service on juries may not be made a prerequisite to the right of a female to vote or hold office (Const., art. 7, sec. 2)

32. Jury service—eligibility of women

Every citizen, whether male or female, of the United States over 21 years of age and of sound mind who has been a bona fide resident of the State for 1 year and of the county for which he may be selected for 6 months immediately preceding selection is qualified and liable for service as a grand or petit juror (sec. 19-1-1).

