

Addendum to

BULLETIN 157-31.—THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA, JANUARY 1, 1948

Report for NEW YORK, as of January 1, 1953¹

Source: McKinney's Consolidated Laws, Annotated, 1949, and 1953 Cum. Pk. Pt.

A.—CIVIL RIGHTS

I.—CONTRACTS AND PROPERTY

Topic 2. Contractual Powers of Minors.

A contract made by a minor after attaining age of 18 years may not be disaffirmed on the ground of infancy where the contract was made in connection with a business in which the minor was engaged and was reasonable and provident when made (Debt. Credit., sec. 260).

Topic 3. Property Exemptions From Seizure for Debt—Respective Rights of Men and Women.

The amount collectible under a wage assignment may not exceed 10 percent of the assignor's future wages (Pers. Prop., sec. 48-a (1950), 1953 Cum. Ann. Pk. Pt.). No portion of the assignor's future earnings shall be withheld by reason of any wage assignment unless such earnings amount to at least \$30 per week, if the assignor is employed in a city of 250,000 population or more, or \$25 a week if employed elsewhere (Pers. Prop. sec. 48-b (1950), 1953 Cum. Pk. Pt.).

Where judgment has been recovered and execution issued, a judgment debtor may apply to the court for an exemption of \$30 a week if he resides in a city of 250,000 or more population, or \$25 a week in other places (Civ. Prac. Act, sec. 684 (1950) 1953 Cum. Ann. Pk. Pt.).

Topic 5. Contractual Powers of Married Women.

A contract made by a married woman does not bind her husband or his property (Dom. Rel. sec. 55). The acknowledgment or proof of a conveyance of real property, or of any written instrument may be made by a married woman the same as if unmarried (Real Prop., sec. 302). A married woman of full age may release her dower right in real property by an attorney in fact in any case where she can personally release the same (Real Prop., sec. 207).

¹This material, which follows the same order and arrangement as Women's Bureau Bulletin 157 series, includes pertinent statutory changes and additions on subjects included in the original report.

A woman divorced from her husband may release to him by written instrument her inchoate right of dower in any real property owned by him (Real Prop., sec. 206).

Topic 7. Liability of Married Woman for Family Necessaries.

A husband is chargeable with the support of his wife and children, and, if possessed of sufficient means or able to earn such means, may be required to pay for their support a fair and reasonable sum (Crim., Children's Court Act, sec. 31 (1), Dom. Rel. Ct. Act, sec. 101, 1953 Cum. Ann. Pk. Pt.). A wife is chargeable with support of her husband if he is or is likely to become a public charge, and if possessed of sufficient means, may be required to pay such sum, or any part thereof, as may be necessary to prevent his becoming a public charge (Crim., Dom. Rel. Ct., Act, sec. 101, 1953 Cum. Ann. Pk. Pt.). Where the father of a minor child is dead or incapable of supporting the child, the mother is chargeable with the child's support, and if of sufficient means, or able to earn such, may be required to pay such support (Crim., Children's Court Act, sec. 31, Dom. Rel. Ct. Act, sec. 101, 1953 Cum. Ann. Pk. Pt.).

A parent or other person charged with care and custody or education of a child under 16, who abandons the child in destitute circumstances or willfully omits to furnish necessary and proper food, clothing or shelter is guilty of a felony (Pen., sec. 480).

A man who abandons his wife while she is pregnant and in destitute circumstances or liable to become a burden upon the public is guilty of a felony (Pen., sec. 50).

Topic 11. Damages Recovered for Injury by Strangers to a Married Woman's Person, Property, or Character—Ownership and Control.

Actions for alienation of affections are abolished (Civ. Prac. Act, sec. 61-b).

Topic 13. Competency of Spouses to Testify For or Against Each Other.

Provisions prohibiting the disclosure of confidential communications between husband and wife do not apply to prosecutions for abandonment of children (Pen., sec. 480); or to proceedings in the Children's Court (Crim., Children's Court Act, sec. 33-c).

Topic 14. Disposition of Separate Property by Will—Extent of Married Woman's Right.

If, after making any will, the testator marries, the will is revoked, unless provision has been made for the survivor by an ante-nuptial agreement in writing (Dec. Est., sec. 35).

Topic 15. Estate of Deceased Husband or Wife—Share of Surviving Spouse.

The wife is barred of her dower right in cases of divorce for her misconduct (Real Prop., sec. 196) or in cases of dissolution of the marriage because of her absence for 5 successive years (Real Prop., sec. 196 (a)).

Where an estate in real property is conveyed to a person and his intended wife, or to the intended wife alone, for the purpose of creating a jointure for her, and with her assent, the jointure bars her dower right in all lands of her husband. The assent of the wife to the jointure is evidenced, if she be of full age, by her becoming a party to the conveyance; or if she be a minor by her joining with her father or guardian in the conveyance (Real Prop., sec. 197).

No distributive share of the estate of a decedent is allowed to: (1) a divorced spouse against whom or in whose favor a final decree of divorce has been rendered; (2) to a spouse who has procured a divorce in another State not recognized as valid in this State; (3) to a husband who has neglected or refused to provide for his wife or has abandoned her; (4) to a wife who has abandoned her husband; (5) or in the estate of a child to a parent who has neglected or refused to provide for him during infancy, unless the parental relationship and duties are subsequently resumed and continue until the death of the child (Dec. Est., sec. 87).

Topic 16. Provision for the Surviving Spouse During Administration of the Estate.

The surviving spouse is entitled to have set off as his or her property the following items when they appear among the assets of the decedent spouse's estate: Domestic animals with their necessary food for 60 days, the farm machinery, and one motor vehicle or tractor not exceeding \$1,000 in value; money or other personal property not exceeding \$1,000 in value, subject however to prior payment of reasonable funeral expenses of the decedent (Surrogate's Court Act, sec. 200 (1952) 1953 Supp.).

If real property is devised, given, or assured for the jointure of the wife, or pecuniary provision made for her in lieu of dower, she must make her election whether she will take the jointure or pecuniary provision, or be endowed of the lands of her husband; she is not entitled to both (Real Prop., secs. 199, 200).

II.—MARRIAGE AND DIVORCE

Topic 22. Grounds for Marriage Annulment—Respective Availability to Man or Woman.

Children born of parents who subsequently enter into a marriage ceremony are legitimate regardless of the validity of the marriage (Crim., Dom. Rel. Ct. Act, sec. 101).

Children of marriages annulled or void because of nonage, force, duress, fraud, or because of incest, are the legitimate children of both parents. Children of marriages annulled because of idiocy or lunacy of one party are the legitimate children of the party not incapacitated; children of marriages annulled because one of the parties had a husband or wife living, are the legitimate children of the party who contracted the marriage in good faith (Civ. Prac. Act, sec. 1135).

On granting annulment, the court may make orders for the custody and care of children of the marriage and may also in its discretion make such provision as justice may require for their education and maintenance out of the property of either or both parents (Civ. Prac. Act, sec. 1140).

Topic 23. Grounds for Divorce—Respective Availability to Spouses.

Where the action for divorce on ground of adultery is brought by the wife the legitimacy of children of the marriage is not affected (Civ. Prac. Act, sec. 1154). Where the action is brought by the husband, the legitimacy of children born before the commission of the act charged is not affected; but legitimacy of any other children of the wife may be determined as one of the issues in the action (Civ. Prac. Act, sec. 1157).

Following divorce, the defendant guilty of adultery is not entitled to any interest in any insurance policy on the life of the plaintiff wherein the defendant is named beneficiary. Where it is shown that the defendant contributed from his or her separate estate toward payment of premiums on such policy, the court may make equitable adjustment (Civ. Prac. Act, sec. 1160).

Court in its discretion may require the husband to pay the wife's expenses in bringing, carrying on, or defending actions for divorce, separation, or annulment (Civ. Prac. Act, secs. 1169, 1172-d). On granting decree of divorce, court may award costs in favor of or against either party (Civ. Prac. Act, sec. 1173).

Alimony and Maintenance.

Pending action for annulment of marriage or on granting decree, court may require husband to furnish wife with such maintenance as justice may require (Civ. Prac. Act., sec. 1140-a).

Where an action for divorce or separation is brought by either husband or wife, the court must give such orders as justice may require with respect to the custody, care, education and maintenance of children of the marriage, and where the action is brought by the wife, for the support of the plaintiff (Civ. Prac. Act, secs. 1164, 1169, 1170).

SPECIAL SUBJECTS**Inheritance of Children Born Out of Wedlock.**

If a woman dies leaving a child born out of wedlock or its legitimate descendants, but leaving no lawful issue, such children or descendants inherit her real and personal property as if they were legitimate (Dec. Est., sec. 83 (13)).

Seduction and Breach of Promise.

Actions for seduction and breach of promise to marry are abolished (Civ. Prac. Act, sec. 61-b).

Crimes of Married Women.

It is not a defense to a married woman charged with crime, that the alleged criminal act was committed by her in the presence of her husband (Pen., sec. 1092).

Teachers' Equal Pay.

There shall be no discrimination based on sex in the amount to be paid or the payments to be made to persons employed as teachers in the public schools (Educ., sec. 3014).