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

REPORT FOR
NEW YORK
as of January 1, 1960



WOMEN'S BUREAU BULLETIN 157-31 (Revised)

UNITED STATES DEPARTMENT OF LABOR

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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 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 48 States and the District of Columbia. Separate reports are available for Alaska and Hawaii. Material for these States will be incorporated in the Summary when it is revised.

SOURCES

Constitution of New York State
McKinney's Consolidated Laws of New York Annotated
Cahill-Parsons New York Civil Practice
New York State Reports
New York Supplement
New York Miscellaneous Reports
New York Appellate Division Reports
Northeastern Reporter

EXPLANATORY NOTE

This pamphlet, Bulletin 157-31, presents a digest of the statutory provisions affecting the legal status of women in the State of New York. It includes pertinent statutory changes enacted in that State up to January 1, 1960, and supersedes the previous report and addendum for New York.

References to McKinney's Consolidated Laws of New York Annotated are indicated by parenthetical insertions of chapter titles and section numbers as (Dom. Rel., sec. 1123).

References to Cahill-Parsons New York Civil Practice are likewise in parentheses as (Civ. Prac. Act, sec. 664).

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

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 YORK

CIVIL RIGHTS

Contracts and Property

1. Age of majority

Minors of both sexes attain majority at the age of 21 years (Dom. Rel., sec. 2).

The lawful marriage of a female minor terminates a general guardianship as to her person, but not with respect to her property (Dom. Rel., sec. 84).

2. Contractual powers of a minor

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

Where necessaries are sold and delivered to a minor, the law requires him to pay a reasonable price for them. Necessaries are goods suitable to the condition in life of the minor and to his actual requirements at the time of delivery (Pers. Prop., sec. 83).

A minor authorized to participate in the rights, privileges and benefits conferred by the Servicemen's Readjustment Act, and the minor wife of such person, may make and execute all contracts necessary to obtain full benefits conferred under the Act. Such contracts have the same force and effect as if they were obligations of persons over 21 years of age (Dr. & Cr., sec. 261).

Minors are incapable at law to make binding transfers of their estate or interest in real property (Real Prop., sec. 11).

A minor not less than 15 years of age is competent to contract for life insurance and to exercise and enjoy every right, privilege and benefit provided by the contract (Ins., sec. 145).

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

3. Property exemptions from seizure for debt

A. RESPECTIVE RIGHTS OF MAN AND WOMAN

The following personal property owned by a householder is exempt from seizure for debt: (*a*) Wearing apparel; (*b*) household furniture, tableware, cooking utensils, refrigerator, stove and fuel and family provisions for 60 days; (*c*) sewing machine; (*d*) family Bible, pictures and books; (*e*) radio; (*f*) domestic animals and feed; (*g*) wedding ring and watch not exceeding \$35 in value; (*h*) tools and implements, including furniture and library not exceeding in value \$600, necessary to carry on debtor's profession or vocation; and (*i*) church pew. These articles are not exempt from execution for a debt owed for work performed by a domestic, laborer or mechanic, or for the purchase price (Civ. Prac. Act, sec. 665).

Where the judgment debtor is a woman, whether or not she is a householder, she is entitled to the same exemptions as a householder (Civ. Prac. Act, sec. 665-a).

Exempt personal property owned by a man who is not a householder includes: (*a*) Church pew; (*b*) wearing apparel; (*c*) wedding ring; (*d*) watch not exceeding \$35 in value; and (*e*) working tools and implements including furniture and library not exceeding in value \$400 necessary for the debtor's profession or vocation. These items are not exempt from execution for money owed a laborer, mechanic, or domestic; or for purchase price (Civ. Prac. Act, sec. 666).

The earnings of a judgment debtor for his personal services rendered within 60 days before the action was begun, are exempt where it is established satisfactorily that those earnings are necessary for the use of him and his family if dependent upon him (Civ. Prac. Act, sec. 792).

The amount collectible under a wage assignment relating to any indebtedness aggregating less than \$1,000 may not exceed 10 percent of the assigner's future wages in any month (Pers. Prop., sec. 48-a). No portion of the assigner's future earnings may be withheld by reason of any wage assignment unless such earnings amount to at least \$30 a week, if the assigner is employed in a city of 250,000 or more population, or \$25 a week if employed elsewhere (Pers. Prop., sec. 48-b).

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).

Life insurance proceeds payable to or for the benefit of a married woman are exempt from claims of creditors or representatives of her husband or her own creditors (Ins., sec. 166).

B. HOMESTEADS

A plot of land with one or more buildings not exceeding in value \$1,000, owned and occupied as a residence by a householder, designated as a homestead, is exempt from sale by execution issued upon a judgment unless the debt was contracted before the designation of the property or for the purchase money. No property is exempt from sale for nonpayment of taxes (Civ. Prac. Act, sec. 671). In order to designate property as a homestead, a conveyance stating that it is designed to be held as a homestead must be recorded (Civ. Prac. Act, sec. 672). A woman may designate a homestead in the same manner as a male householder (Civ. Prac. Act, sec. 673).

If the homestead exceeds \$1,000 in value the lien against the judgment debtor attaches to the surplus as if the property had not been designated as an exempt homestead (Civ. Prac. Act, sec. 676).

A homestead exemption continues after the death of the owner for the benefit of the surviving spouse and children until the youngest child reaches the age of majority and until the death of the surviving spouse. The exemption lapses if the property ceases to be occupied as a residence by the person for whose benefit it continued (Civ. Prac. Act, sec. 674).

4. Ownership and control of property owned at marriage

Property, real or personal, owned by a woman at the time of her marriage continues to be her sole and separate property. It is not subject to her husband's control or disposal nor liable for his debts (Dom. Rel., sec. 50).

5. Contractual powers of a married woman

A married woman may make contracts regarding property with any person including her husband, and be liable on such contracts as if she were unmarried (Dom. Rel., sec. 51). She has a right to contract for insurance on her husband's life (Ins., sec. 146). A husband or wife, however, cannot contract to alter or dissolve the marriage or to relieve the husband from his responsibility to support his wife (Dom. Rel., sec. 51). A contract made by a married woman does not bind her husband or his property (Dom. Rel., sec. 55).

A judgment for or against a married woman may be rendered or enforced as if she were unmarried (Dom. Rel., sec. 51).

6. Earnings of a married woman

A married woman has a cause of action in her own right for all wages, salary, profits, compensation, or other remuneration for which she may render work, labor, or services, or which may be derived from

any trade, business, or occupation carried on by her. Her husband has no right of action therefor unless she, or he with her knowledge and consent, has otherwise expressly agreed with the person obligated to pay such wages, salary, profits, compensation, or other remuneration (Dom. Rel., sec. 60).

The statute relates to services rendered by a married woman to others in occupations or businesses not connected with the duties performed by the wife as a member of her husband's household.¹

7. Liability for family support

A husband and father is liable for the support of his wife and his children under 21 years of age. He cannot contract with his wife to relieve himself of his liability for her support. If the father is dead, cannot be found, or is incapable of supporting his minor children, the mother is liable for their support. Parents are severally liable for the support of their children over 21 years of age who are unable to maintain themselves. Whenever a husband is incapable of supporting himself, his wife must provide for him (Dom. Rel., secs. 32, 51).

A parent who abandons his child under 16 years of age or willfully omits to furnish necessary food, clothing and shelter for him is guilty of a felony (Pen., sec. 480). A husband who abandons his wife while she is pregnant and in destitute circumstances is also guilty of a felony (Pen., sec. 50).

The court may order a wage deduction from an employee's salary or wages where such employee is liable for the support of his or her minor child and/or spouse. The amount deductible must be paid into the court by the employer to be used for such support (Pers. Prop., sec. 49-b).

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

A married woman may carry on any business, trade or occupation, and exercise all powers and enjoy all rights with respect to it as if she were unmarried (Dom. Rel., sec. 51).

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

Real or personal property owned by a married woman at the time of her marriage, or acquired by her after marriage, with the rents, issues, proceeds, and profits from it, is her sole and separate property as if she were unmarried. It is not subject to her husband's control or disposal nor liable for his debts (Dom. Rel., sec. 50).

¹ *Johnson v. Tait* (1916), 97 Misc. 48; 160 N.Y.S. 1000.

If the husband acquires property of the wife by antenuptial contract or otherwise, he is liable for her debts contracted before marriage to the extent of the property so acquired (Dom. Rel., sec. 54).

10. Property acquired by joint efforts of husband and wife

Property acquired by joint efforts of husband and wife during the marriage is under the management and control of the husband by rule of common law, unless provision has been made for joint ownership.

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

A married woman has a right of action for an injury to her person, property, or character, as if unmarried (Dom. Rel., sec. 57).

All sums that may be recovered in actions or special proceedings by a married woman for damages to her person, estate, or character are her separate property (Dom. Rel., sec. 51).

Civil actions for alienation of affections, seduction, breach of promise to marry and criminal conversation are abolished (Civ. Prac. Act, sec. 61-b).

12. Damages for injury by spouse to person or property

A married woman has a right of action for an injury arising out of the marital relation, as if unmarried. She may sue her husband for his wrongful or tortious acts resulting in any personal injury to her or to her property. She is also liable for any wrongful acts resulting in injuries to the person or property of her husband (Dom. Rel., sec. 57).

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

In civil actions generally, the husband and wife are competent as witnesses (Civ. Prac. Act, sec. 346). Neither spouse is competent to testify against the other in an action or special proceeding founded on a charge of adultery, except to prove the marriage or disprove the allegation of adultery. If the offending party offers evidence tending to prove bad faith on the part of the plaintiff when a divorce is denied although adultery is proved, the plaintiff is competent to testify in order to disprove such defense. A husband or wife may not be compelled or, without consent of the other if living, allowed to disclose a confidential communication made by one to the other during marriage (Civ. Prac. Act, sec. 349).

In criminal actions, the husband or wife of a person indicted or accused of a crime is in all cases a competent witness, on the exam-

ination or trial of such a person. Neither, however, can be compelled to disclose a confidential communication made by one to the other during their marriage (Pen., sec. 2445).

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 support proceedings (Children's Ct. Act, sec. 33-c).

14. Right to dispose of separate property by will

Persons of the age of 21 years, other than idiots and persons of unsound mind, may devise their real property by will (Dec. Est., sec. 10). Real property attempted to be devised by minors is controlled by and passes under the statute of descent.²

Persons of the age of 18 years of sound mind and memory may make a valid will as to personal property (Dec. Est., sec. 15).

No person having a husband, wife, parent, child or descendant may devise or bequeath more than one-half of his estate to charity (Dec. Est., sec. 17).

If a testator marries after making a will, the will is revoked unless provision is made for the surviving spouse by an antenuptial agreement (Dec. Est., sec. 35). Birth of a child after the making of a will also revokes the will unless a settlement was provided for such child or he was mentioned in the will (Dec. Est., sec. 26).

15. Inheritance rights in deceased spouse's estate

The real and personal property of a person who dies without a will descends and is distributed to the surviving spouse in the following manner:

If there are 2 or more children or their legal representatives, one-third of the estate goes to the surviving spouse. If there is only 1 child, or there are legal representatives of only 1 child, the surviving spouse is entitled to one-half of the real and personal property;

If there is no child or descendant, but a parent survives, the surviving spouse is entitled to \$5,000 and one-half of the residue;

If there is a brother, sister, nephew, or niece, but no descendant or parent, the surviving spouse is entitled to \$10,000 and one-half of the residue;

If there is no descendant, parent, brother, sister, nephew, or niece, the surviving spouse is entitled to the entire estate (Dec. Est., sec. 83).

The common-law estate of curtesy has been abolished (Real Prop., sec. 189). A widow may be entitled to dower, which is one-third of the real property owned by her husband during marriage, if she

² *Wells v. Seeley* (1888), 47 Hun. 109; 18 N.Y. St. R. 239.

married prior to September 1, 1930. A widow whose marriage was solemnized after that date may not claim dower (Real Prop., sec. 190).

The intestate share of the surviving spouse is in lieu of her right to dower (Dec. Est., sec. 82). However, a widow who is entitled to dower may elect to take dower instead of the statutory share.³ If her husband makes a provision in his will for his widow, she must make an election between such provision and her right of dower. She is not entitled to both (Real Prop., sec. 200). If jointure is made before marriage without her assent, or after marriage, the widow must elect to take jointure or the provision of the will (Real Prop., sec. 199).

(For the elective right to take against the will see number 17).

Dower is barred by divorce for misconduct on the part of the wife or her absence for 5 years (Real Prop., secs. 196, 196-a). Assent to a provision in her husband's will also bars dower (Real Prop., sec. 198). Where an estate in real property is conveyed for the purpose of creating a jointure, the wife's assent to the jointure bars her dower right (Real Prop., sec. 197).

No distributive share of the estate of a decedent is allowed to a divorced spouse or one who has abandoned the other (Dec. Est., sec. 87).

An instrument or transaction which does not create a right of survivorship in personal property between persons who are not husband and wife does not create a right of survivorship between the spouses (Dom. Rel., sec. 56-a).

16. Provision for survivors during administration of estate

The surviving spouse, or minor children if there is no spouse, is entitled to have certain assets set apart for support. The following items may be set off when they appear among the assets of the decedent's estate: (a) Household utensils, musical instruments, sewing machine, household furniture, fuel, provisions, and the clothing of the decedent not exceeding in aggregate value \$1,000; (b) family Bible and pictures, school books, and family library not exceeding in value \$50; (c) domestic animals with food for 60 days, farm machinery, one motor vehicle and one tractor, not exceeding in aggregate value \$2,000; (d) money or other personal property not exceeding \$1,000, subject, however, to prior payment of the reasonable funeral expenses of the decedent.

No property or money may be set apart to a surviving spouse who cannot inherit or claim any rights against the estate of a deceased spouse (Surrogate's Court Act, sec. 200).

³ *Bush v. Bush* (1934), 151 Misc. 196; 270 N.Y.S. 14, aff. 241 App. Div. 912; 271 N.Y.S. 1047.

A widow may remain in the principal house of her husband 40 days after his death, whether her dower is assigned to her within that period or not, without being liable for any rent. In the meantime she may have reasonable support from the estate (Real Prop., sec. 204).

Upon the death of an employee, wages due may be paid to his or her surviving spouse. The amount of the wages and other debts which may be collected without administration may not exceed a total of \$1,000 (Dec. Est., sec. 103-a).

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

The surviving spouse of a testator has a personal right to elect to take against the will. In lieu of the provisions in the will, or if there is no provision, the surviving spouse may take the share of the estate to which he would be entitled under the intestacy succession laws. In no event, however, may the portion allowed be in excess of one-half of the net estate (Dec. Est., sec. 18).

Marriage and Divorce

18. Age of consent to marriage

Males of the age of 21 years and females of 18 years may contract a valid marriage without parental consent. Males between the ages of 16 and 21 and females between 16 and 18 may marry with the consent of their parents or guardian. Between the ages of 14 and 16 females must obtain the consent of the court in addition to parental consent before a license to marry may be issued (Dom. Rel., sec. 15).

Marriages of males under age 16 and females under age 14 are prohibited (Dom. Rel., sec. 15-a).

19. Common-law marriage

Common-law marriages are not recognized in New York. No marriage is valid unless it is solemnized by an authorized person (Dom. Rel., sec. 11).

Common-law marriages were abolished by a statutory provision effective April 29, 1933. Such marriages contracted prior to that date are valid.⁴

20. Premarital Requirements

Before a license to marry may be issued each applicant must file a statement from an authorized physician showing that the applicant has been given a standard serological test necessary for the discovery

⁴ *People v. Massaro* (1942), 288 N.Y. 211; 42 N.E. (2d) 491.

of syphilis not more than 30 days prior to the time application is made, and that the applicant is not infected with syphilis in a communicable stage. For good cause shown the court, in its discretion, may waive these requirements if the public health and welfare will not be injuriously affected. A physical examination is not required when the female is pregnant at time of application for the marriage license (Dom. Rel., sec. 13-a).

A marriage may not be solemnized within 3 days after the date of the physical examination, nor until 24 hours after the issuance of the marriage license. A waiver of the waiting period may be granted by the court for good cause shown (Dom. Rel., sec. 13-b).

Marriages between persons within specified degrees of kinship are prohibited and void. A marriage contracted by a person who has a living spouse of a former undissolved marriage is also void, unless such former spouse has been finally sentenced to life imprisonment or has been absent for 5 years and thought to be dead by the other (Dom. Rel., sec. 6).

21. Interstate cooperation in marriage-law enforcement

A marriage valid where it is performed is valid in New York, in the absence of contrary public policy, even though it might not have been valid if it had been performed in New York.⁵

This is true even though the parties left the State of their domicile in order to evade its laws.⁶

22. Annulment

A marriage is voidable and may be dissolved on the ground of nonage; lack of understanding; physical incapacity; consent obtained by force, duress or fraud; incurable insanity for a 5-year period; or presumption of death after a 5-year absence of the spouse. The dissolution of a marriage on the ground of the insanity of a wife does not relieve a husband of his responsibility to provide suitable support, care and maintenance for her. If the marriage is annulled on the ground of the husband's insanity, the court may require the wife to provide for his support if her financial circumstances permit (Dom. Rel., secs. 7, 7-a).

Children born of parents who subsequently enter into a marriage ceremony with each other are legitimate, regardless of the validity of the marriage (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

⁵ *Herndon v. Herndon* (1957), 9 Misc. (2d) 1047; 174 N.Y.S. (2d) 568.

⁶ *Boura v. Haskell* (1943), 182 Misc. 307; 43 N.Y.S. (2d) 877.

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).

Upon granting an annulment, the court may make orders for the custody and care of children of the marriage. It 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).

When an action is brought to annul a marriage or to declare the nullity of a void marriage, the court may give such direction for support of the wife by the husband as justice requires (Civ. Prac. Act, sec. 1140-a).

23. Divorce

Absolute divorce: A husband or a wife has an equal right to maintain an action against the other to procure a judgment divorcing the parties and dissolving the marriage on the ground of adultery (Civ. Prac. Act, sec. 1147).

Limited divorce or legal separation: An action may be maintained by a husband or wife against the other party to the marriage to procure a judgment separating the parties from bed and board, forever or for a limited time, for one of the following causes: (a) Cruel and inhuman treatment; (b) such conduct on the part of the offending spouse as may render it unsafe and improper for the aggrieved party to cohabit with him or her; (c) abandonment; or (d) adultery.

A wife is entitled to separation upon proof of the neglect or refusal of her husband to provide for her (Civ. Prac. Act, sec. 1161).

A person for whose adultery a divorce has been granted may not marry again during the lifetime of the other spouse unless the court modifies the decree. Such modification may be made only upon proof that 3 years have elapsed from the date the divorce was granted, and that the adulterer's conduct since the dissolution of the marriage has been uniformly good (Dom. Rel., sec. 8).

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. 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 an 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).

The 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). Upon granting a decree of divorce the court may award costs in favor of or against either party (Civ. Prac. Act, sec. 1173).

Alimony and maintenance

In an action for divorce or separation brought by either party, the court may make orders as justice requires with respect to the care, custody, education and maintenance of the children of the marriage.

In an action for divorce brought by the wife, the court may require the husband to provide for the support of the wife, having regard to the circumstances of the respective parties (Civ. Prac. Act, secs. 1155, 1164, 1169, 1170).

Parents and Children

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

The mother and father are joint guardians of their minor children (Dom. Rel., sec. 81) and presumably jointly entitled to their services and earnings.

A mother who has the duty of supporting a minor child has a right of action for loss of services of such child.⁷

A parent or guardian is entitled to the payment of wages for the employment of his minor child if he has notified the minor's employer of his claim for them. In the absence of such claim, payment to the minor of his wages is valid (Dom. Rel., sec. 72).

25. Guardianship of a minor child

The mother and father are joint guardians of their minor children and have equal powers, rights, and duties in regard to them (Dom. Rel., sec. 81).

Where a minor for whom a general guardian of the property has not been appointed acquires real property, the guardianship of the property with the rights, powers, and duties of a *guardian in socage* belongs to the parents jointly. If they are separated or divorced it is given to the parent who has custody of the minor by court decree.

⁷ *Pokeda v. Nash* (1944), 47 N.Y.S. (2d) 954.

If no decree has been made it is given to the parent having the actual custody of the minor. When one of the parents is dead, the surviving parent is awarded guardianship (Dom. Rel., sec. 80).

26. Appointment of testamentary guardian for a minor child

Either parent, during the lifetime of both of them, may appoint by will the other as guardian of the person and property of their child during its minority. Either parent may appoint the other and a third person as testamentary guardians, upon the written consent of the parent so appointed.

The surviving parent of a minor child may appoint by deed or last will any person or persons as guardian of the child's person and tuition. He may appoint a guardian or guardians of the person and of the property of the minor. He is not limited to the appointment of the same person or persons in both capacities (Dom. Rel., sec. 81).

27. Inheritance—child

The real and personal property of a person who dies intestate descends and is distributed to his children in the following manner:

Two-thirds in equal shares if two or more children or their legal representatives survive and the deceased leaves a surviving spouse;

If only one child survives or there are persons legally representing one child, and there is a surviving spouse, one-half of the estate descends and is distributed to the child or his representatives;

If there is no surviving spouse, the entire estate is divided equally among the children.

If an intestate decedent leaves no child, but a surviving spouse and parents, \$5,000 and one-half of the residue of the real and personal property descends and is distributed to the spouse, and the remainder goes to the parents in equal shares. The parents share the entire estate if there is no surviving spouse and no surviving child; if one parent is dead, the surviving parent receives the entire estate (Dec. Est., sec. 83).

28. Child born out of wedlock

The parents of a child born out of wedlock are liable for the necessary support and education of the child and for the child's funeral expenses. The father is liable to pay the expenses of the mother's confinement and recovery, and must pay such expenses in connection with her pregnancy as the court in its discretion may deem proper (Dom. Rel., sec. 120).

The paternity of the child may be established by paternity proceedings. An action may be brought during the pregnancy of the mother or within 2 years after the birth of the child (Dom. Rel., sec. 122).

In the order establishing paternity, the court may specify the sum to be paid for the support and education of the child until it reaches the age of 16, and make any other necessary provisions in this regard (Dom. Rel., sec. 127).

Bond may be required of either parent to secure compliance with the court order for support of the child, with penalties in default of such security. Where bond is required of the mother, however, the father is not relieved of his liability for support and education of the child (Dom. Rel., secs. 129, 132).

The liability of a father for support of his child born out of wedlock is not enforceable unless he has been adjudicated the child's father by the court or has acknowledged paternity of the child. Inter-marriage of parents of a child born out of wedlock legitimates the child regardless of the validity of such marriage (Dom. Rel., sec. 33).

29. Inheritance—child born out of wedlock

The entire estate of a person born out of wedlock who dies intestate descends and is distributed to his mother if there is no child or descendant and no surviving spouse. If there is a surviving spouse, such spouse takes \$5,000 and one-half of the residue of the estate, and the mother takes the balance. If the mother is dead, the relatives of the decedent on the part of the mother inherit from the estate as if the deceased had been legitimate.

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).

No statutory right of inheritance is granted either from or in favor of a putative father.⁸

POLITICAL RIGHTS

30. Domicile of a married woman

A married woman takes the domicile of her husband under the common-law rule. The husband selects the place of abode of the family. It is the duty of the wife to abide by his decision unless it is unsafe or imprudent for her to do so. It is his choice that governs.⁹

The domicile of a married woman for purposes of voting or office holding is no longer necessarily that of her husband, but is determined by the same facts and rules of law as that of any other person (Dom. Rel., sec. 61).

⁸ *In re Vincent's Estate* (1947), 189 Misc. 489; 71 N.Y.S. (2d) 165.

⁹ *Matter of Daggett* (1931), 174 N.E. 641.

A married woman residing in the State when she commences an action against her husband for divorce or separation is deemed a resident of the State even though her husband resides elsewhere (Civ. Prac. Act, sec. 1166).

31. Public office—eligibility of women

Women must meet the same qualifications as men for holding public office (Public Officers, sec. 3).

32. Jury service—eligibility of women

Women may qualify for service on juries under the same qualifications that apply to men (Civil Rights, sec. 13). But a woman called for jury service, although fully qualified, may claim exemption from service solely on the ground of sex (Judiciary, sec. 507).

POLITICAL RIGHTS

30. Rights of a married woman

A married woman takes the domicile of her husband under the common law rule. The husband's domicile is the domicile of the family. It is the duty of the wife to follow her husband in his choice of domicile or residence for her. The domicile of a woman for purposes of voting or office holding is no longer necessarily that of her husband, but is determined by the same fact and rules of law as that of any other person (Dom. Rel. sec. 61).

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