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*Addendum to*

**BULLETIN 157-33.—THE LEGAL STATUS OF WOMEN IN THE  
UNITED STATES OF AMERICA, JANUARY 1, 1948**

**Report for NORTH DAKOTA, as of January 1, 1953<sup>1</sup>**

Source: North Dakota Revised Code, 1949 Supplement; Session Laws 1949, 1951.

**A.—CIVIL RIGHTS**

**I.—CONTRACTS AND PROPERTY**

**Topic 2. Contractual Powers of Minors.**

Bank deposits made by a minor may be paid to him, and if he has a guardian it is not necessary to obtain the consent of the guardian to the payment. A check or receipt signed by such minor is valid and binding (sec. 6-0364). Shares in building and loan associations purchased by a minor shall be held for the exclusive right and benefit of the minor. The receipt of such minor is sufficient release or discharge of the association from liability for such shares (sec. 7-0410).

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

Amount of homestead exemption from seizure for debt is raised to \$25,000 (sec. 47-1801, 1951, ch. 277, p. 394).

Any person who is the head of a family may make a declaration of homestead. Failure to make such declaration does not impair the homestead right (sec. 47-1817). In order to select a homestead, the husband, or other head of the family, or in case the husband has not made such selection, the wife, must execute and acknowledge a declaration of homestead (sec. 47-1818).

If a homestead claimant is married, the homestead may be selected from the separate property of the husband, or, with the consent of the wife, from her separate property (sec. 47-1803).

**Topic 7. Liability of Married Woman for Family Necessaries.**

Every husband who, without lawful excuse, deserts his wife with intent wholly to abandon her or who willfully fails to furnish necessary food, shelter, clothing, and medical attention, is guilty of a felony (sec. 14-0716). Desertion or failure to support a child or pregnant wife for a period of 3 months is presumptive evidence of intention to abandon (sec. 14-1717).

<sup>1</sup> This 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.

Every parent legally responsible for the care or support of a child under 16, who abandons such child or willfully fails to furnish necessary food, shelter, clothing, and medical attention, is guilty of a felony. Divorce of the parents does not relieve them from the requirements of this section, except with respect to compliance with the terms of a support decree (sec. 14-0715).

**Topic 9. Married Woman's Separate Property—Control During Marriage—Liability for Husband's Debts.**

The separate property of the husband is not liable for the debts of the wife; and the separate property of the wife is not liable for the debts of the husband, but is liable for her own debts contracted before or after marriage (sec. 14-0708).

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

Under provisions of Reciprocal Enforcement of Support Act, laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage (1951, ch. 122, p. 180).

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

If the testator marries after making a will, and the spouse survives, the will is revoked unless provision has been made for the survivor by marriage contract or in the will, or unless the will shows an intention not to make such provision (sec. 56-0410). If after making a will the testator marries and has children of the marriage, and such children survive him, the will is revoked, unless provision has been made for them by some settlement or in the will, or they are mentioned in the will so as to show an intention not to make provision (sec. 56-0409).

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

Where the decedent leaves no issue, and both the father and mother are dead, and the estate does not exceed \$50,000, the whole estate descends to the surviving husband or wife (sec. 56-0104 (c) (2), 1951, ch. 311, p. 458).

II.—MARRIAGE AND DIVORCE

**Topic 21. Interstate Cooperation in Marriage Law Enforcement.**

A decree of divorce or annulment obtained in another State shall be of no force or effect if the parties to the marriage were domiciled in this State at the time the decree was rendered (1951, ch. 121, p. 179). When residents of this State contract a marriage in another State which is prohibited under the laws of North Dakota, such marriage is invalid (sec. 14-0308).

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

An incestuous marriage may be annulled (sec. 14-0401). No white person residing or being in this State may intermarry with any Negro person. Every such marriage is void (sec. 14-0304).

When a marriage is annulled, children begotten before the judgment are legitimate and succeed to the estate of both parents (sec. 14-0403). The court must award custody of children of a marriage annulled on the ground of fraud or force to the innocent parent, and may also provide for their education and maintenance out of the property of the guilty party (sec. 14-0404).

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

Willful neglect as a ground for divorce is defined as the failure of the husband to provide for his wife the common necessities of life, he having the ability to do so, or the failure to do so by reason of idleness, profligacy, or dissipation. Willful neglect is also the failure of the wife to provide for her husband the common necessities of life when the husband is unable from infirmity or other cause to support himself and she has the means and ability to provide for him (sec. 14-0507).

Willful desertion as a ground for divorce is defined to include the following: (1) persistent refusal to have reasonable matrimonial intercourse, when health or physical condition does not make such refusal reasonably necessary, or the refusal of either party to dwell in the same house with the other; (2) when one party is induced by strategem or fraud to leave the family dwelling or be absent, and during such absence the offending party deserts the other; (3) departure or absence of one party from the family dwelling caused by cruelty or threats of bodily harm is desertion by the offending party; (4) failure of the wife to conform to husband's choice of a reasonable dwelling place or mode of life; (5) selection of unreasonable and grossly unfit place or mode of life by husband is desertion by him from time wife's reasonable objections are made known to him (sec. 14-0506).

When a divorce is granted for the adultery of the wife, the legitimacy of children begotten prior to commission of adultery is not affected, but legitimacy of other children may be determined by the court (sec. 14-0521).

In a divorce action, the court, before or after judgment, may give such direction for the custody, care, and education of the children of the marriage as may seem necessary or proper (sec. 14-0522).

The decree of separation from bed and board confers upon both husband and wife all the rights of property, business, and contracts as if unmarried, and releases both of them from all obligations of maintenance, except as may be required by the decree (sec. 14-0604).

**Alimony and Maintenance.**

Upon decreeing a separation, the court may make orders for the suitable support and maintenance of the wife, or husband, and chil-

dren, out of the separate or joint property of either spouse (sec. 14-0603).

When the wife has a separate estate sufficient to give her proper support, the court may withhold any allowance to her out of the separate property of the husband. In granting a divorce decree, the court may assign the homestead to the innocent party (sec. 14-0525).

Pending action for separation or divorce, the court may require either party to support the other or the children of the marriage, or to pay sums necessary to prosecute or defend the action (secs. 14-0523, 14-0602).

On granting divorce, court may make equitable distribution of real and personal property of the parties, and may compel either of them to provide for the maintenance of children of the marriage, and to make suitable allowance for support of the other party (sec. 14-0524).

### III.—PARENTS AND CHILDREN

#### **Topic 24. Services and Earnings of Minor Children—Parents' Respective Rights.**

The wages of an employed minor may be paid to him until the parent or guardian entitled thereto gives the employer notice that he claims such wages (sec. 14-0918).

The parent, whether solvent or insolvent, may relinquish to the child the right of controlling him and receiving his earnings. Abandonment by the parent is presumptive evidence of such relinquishment (sec. 14-0917).

#### **Topic 25. Guardianship of Minor Children—Parents' Respective Rights.**

The authority of a parent ceases upon the child's marriage (sec. 14-0920), as does the power of a guardian appointed by a parent or the court (secs. 30-1015, 30-1016). Marriage terminates the guardianship of the minor's person but not of his estate (sec. 30-1201).

The husband and father has no rights superior to those of the wife and mother in regard to the care, custody, education, and control of children of the marriage while such husband and wife live separate and apart (sec. 14-0906).

If the father of a minor is living and is competent to transact his own business and is not otherwise unsuitable, he is entitled to the guardianship of the minor. In case of his death, the mother, if a competent and proper person, is entitled to the guardianship (sec. 30-1013).

#### **Topic 28. Support of Children Born Out of Wedlock—Parents' Respective Responsibility.**

Children of a woman who has been married, born within 10 months after dissolution of marriage, are presumed to be legitimate children of that marriage. A child born before wedlock becomes legitimate by the subsequent marriage of his parents (sec. 14-0902). The father of a child born out of wedlock by publicly acknowledging him as his

own and receiving him into the family, with the consent of the wife, and otherwise treating him as if he were a legitimate child, thereby adopts him as such (sec. 14-1115).

## B.—POLITICAL RIGHTS

### Topic 30. Domicile of Married Women.

For purposes of public welfare legislation, the residence of a married woman follows that of her husband if he has any within or without the State. A marriage between a woman who has residence within the State and a man who has no residence within or without the State, shall not divest the woman of residence for relief purposes until she acquires a new residence elsewhere. If the husband deserts his wife within 1 year after marriage, the wife may reacquire such residence as she had in this State at time of marriage (sec. 50-0201).

If a woman has residence within the State, her marriage to a man who has no residence does not endow him with residence within the State for relief purposes (sec. 50-0202).

## SPECIAL SUBJECTS

### Inheritance of Child Born Out of Wedlock.

Every child born out of wedlock is an heir of the person who in writing, signed in the presence of a competent witness, acknowledges himself to be the father of such child. In all cases, such child is an heir of his mother. He does not inherit through his father or mother any part of the estate of their kindred, either lineal or collateral, unless before his death his parents have intermarried and his father after such marriage has acknowledged him or has adopted him into the family (sec. 56-0105).

### Guardianship.

When the widow of a decedent marries again, her husband is not competent to serve as guardian of such decedent's minor children (sec. 30-1101).

### Responsibility of Parents for Children's Actions.

Neither parent nor child is answerable as such for the act of the other (sec. 14-0921).