The Legal Status of Women in the United States of America

REPORT FOR RHODE ISLAND as of January 1, 1960

Women's Bureau Bulletin 157-38 (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 Rhode Island
General Laws of Rhode Island, 1956
Session Laws, 1959
Rhode Island Reports
Atlantic Reporter

Explanatory Note

This pamphlet, Bulletin 157–38, presents a digest of the constitution and statutory provisions affecting the legal status of women in the State of Rhode Island. It includes pertinent statutory changes enacted in that State up to January 1, 1960, and supersedes the previous report and addendum for Rhode Island.

References to the code sections are in parentheses, as (sec. 32–4–32).

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.”
RHODE ISLAND
CIVIL RIGHTS

Contracts and Property

1. Age of majority

The age of majority is 21 years for men and women, by common-law rule.

2. Contractual powers of a minor

The general rule is followed that minors are incapable of making valid contracts except those for necessaries.1

Where necessaries are sold and delivered to a minor, he must pay a reasonable price for them. Necessaries are defined as goods suitable to the minor’s condition in life and his actual requirements at the time of delivery (sec. 6–3–2).

A married woman minor may release her dower right in any estate of her husband (sec. 15–4–6).

If any estate, real or personal, is conveyed during the minority of a woman for her jointure in lieu of dower, upon the death of her husband, she may waive such jointure and take dower instead (sec. 33–4–32).

If a person named as executor in a will is under 21 years of age at the time of probate, the other executor administers the estate until the minor reaches the age of majority when the minor may be admitted as a joint executor of the will. If no other executor qualifies, administration may be granted with the will annexed during the minority of the person named as executor until he qualifies (sec. 33–8–2).

Every minor who is eligible for benefits under the Servicemen’s Re-adjustment Act of 1944 may carry out all acts necessary to obtain a loan, guaranty or other benefit under the Act with the same legal capacity as a person of the age of 21 years or over (sec. 30–19–1).

The minor spouse of a person qualified for benefits under the Act may join with such person in the execution of any necessary instrument and may release dower or curtesy in any property described in such instrument (sec. 30–19–5).

1Jacobs v. United Electric Railways Co. (1924), 46 R.I. 230; 125 Atl. 286.
Minors may make, transfer, control, and withdraw bank deposits and receive dividends or interest thereon (sec. 19-11-1). Shares in credit unions may be issued and deposits received in the name of a minor, and in the discretion of the directors may be withdrawn by such minor, or by his parents or guardian (sec. 19-21-25).

Minors may hold shares in any building and loan association and may control, transfer, and receive the proceeds of any surrender thereof (sec. 19-22-14).

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

3. Property exemptions from seizure for debt

A. Respective Rights of Man and Woman

The statute providing for exemptions of both real and personal property as enumerated applies to both sexes, except for specific items clearly limited to one sex or the other. Among items that are exempt from attachment for debt are: (a) Necessary wearing apparel of a debtor and his family; (b) household furnishings, not exceeding $1,000; (c) specified livestock; (d) working tools necessary in the debtor's occupation; (e) Bible and books not exceeding $300 in value; (f) church pew; (g) burial lot; (h) salary or wages due, not exceeding $30; and (i) salary and wages of his wife and minor children (sec. 9-26-4).

The following benefits of a debtor are exempt from attachment and seizure for debt: (a) Pay and allowances of any member of the militia for active service (sec. 30-7-9); (b) firemen's and policemen's pension fund (sec. 9-26-5); (c) employment security benefits (sec. 28-44-58); (d) public assistance benefits (sec. 40-9-17); (e) benefits provided by fraternal benefit societies (sec. 27-28-9); and (f) insurance benefits (sec. 27-15-10).

B. Homesteads

There is no provision for exemption of the family homestead from sale for debt.

(For widow's right to remain in family homestead until administration of estate, see number 16.)

4. Ownership and control of property owned at marriage

The real and personal property owned by a women at the time of her marriage remains her sole and separate property. A wife retains such property free from the control of her husband (sec. 15-4-1).

5. Contractual powers of a married woman

A married woman may make any contract whatsoever, and has the same rights and liabilities as if she were unmarried (sec. 15-4-3).
She may convey any estate or interest in any real or personal property to or from her husband or any other person in the same manner and with the same effect as if she were unmarried. She may deal directly with her husband in all transactions not intended to defraud creditors (sec. 15-4-4).

Either husband or wife may create a tenancy by the entirety by direct deed to himself or herself and the other spouse (sec. 34-11-3).

A married woman may bar her dower right in her husband’s estate by joining with him in the deed of conveyance and releasing her claim to dower, or by executing a separate deed of release (sec. 15-4-6).

A married woman may enter into a partnership with her husband (sec. 15-4-9).

A married woman has full power to serve in a fiduciary capacity, when duly appointed (sec. 15-4-10).

If an unmarried woman is appointed an executor or administrator and thereafter marries, such marriage does not make her husband an executor or administrator in her right, nor does her marriage disqualify her (sec. 33-8-11).

A married woman may sue and be sued alone in all legal actions, suits and proceedings (sec. 15-4-14).

Under the provisions of the Small Loan Act no assignment or order for wages or other compensation for services, or any chattel mortgage or lien on household furniture then in possession and use of the borrower is valid if he is married, unless it is signed by both husband and wife. The written assent of a spouse is not required when husband and wife have been living separate and apart for at least 5 months (sec. 19-25-33).

Upon a husband’s abandonment of his wife and absence for a period of 1 year or more, or sentence to imprisonment for 1 year or more, his property may be vested in his wife absolutely if it is of a value of less than $300. If the property is in excess of this amount, control and management of it is exercised by a trustee appointed by the court (sec. 15-4-16).

A husband is not liable for any contract made by his wife, nor for any tort committed by her. A wife’s property is not liable for the contracts or torts of her husband (sec. 15-4-12).

No female may be arrested on original writ in any action founded on contract where damages do not exceed $50 (sec. 9-25-17).

6. Earnings of a married woman

The property of a married woman acquired by her own industry is her separate property, free from the control of her husband (sec. 15-4-1). In all court actions, suits, and proceedings by or against a married woman, she sues or is sued alone (sec. 15-4-14).
7. Liability for family support

The father and mother are equally charged with the support of their minor children, and in this connection they may be sued either jointly or separately (sec. 33–15–1).

A husband is liable for the support of his wife if she is over 50 years of age or physically incapacitated and a father is liable for the support of any child under 18. A mother is liable for the support of a child under 18 when the father is dead, cannot be found, or is incapable of furnishing such support. Parents are severally liable for the support of a child 18 or older whenever such child is unable to maintain himself. A parent's liability to support his child is not affected by a divorce decree (secs. 15–11–5, 15–11–8).

A married woman may contract for the purchase of goods and so bind herself for payment on delivery and render herself liable to be sued if she does not pay, as if she were unmarried (secs. 15–4–3, 15–4–12, 15–4–13).²

Any person who abandons his wife or minor child, or who neglects to provide according to his means for their support, is guilty of a misdemeanor (sec. 11–2–1).

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

A married woman may carry on any trade or business as if she were single. Her husband is not liable for her debts, contracts, or torts arising in connection with it (sec. 15–4–9).

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

The real and personal property owned by a woman before marriage, or acquired by her after marriage, with the proceeds from it, remains her separate property free from the control of her husband (sec. 15–4–1).

The wife's property is not liable for the contracts or torts of her husband (sec. 15–4–12).

10. Property acquired by joint efforts of husband and wife

In general, by common-law rule, the property acquired during marriage by the cooperative efforts of husband and wife is under the control of the husband unless there is joint ownership, such as joint deeds, or joint bank accounts.

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

Damages recovered in suits or proceedings for a married woman's benefit and compensation for her property taken for public use, are

²Merriam v. White (1894), 18 R.I. 727; 30 Atl. 601.
her separate property and free from her husband's control (sec. 15-4-1). In all actions, suits, and proceedings, at law or in equity, by or against a married woman, she sues or is sued alone (sec. 15-4-14). Either spouse may sue to recover damages for the malicious alienation of the other's affections, resulting in loss of conjugal society and cohabitation.  

12. Damages for injury by spouse to person or property

The statute law relating to the property rights of married women confines no authority on a wife to sue her husband for damages for personal injuries caused by his negligence.  

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

In civil cases, a husband or wife is a competent witness, but neither is permitted to give testimony tending to incriminate the other or to disclose any communication between them during the marriage, except in cases involving divorce, their separate property rights, or enforced prostitution (sec. 9-17-13). The husband or wife of any respondent in a criminal prosecution, offering himself or herself as a witness, may not be excluded from testifying because he or she is the spouse of such respondent (sec. 12-17-10). Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under the Uniform Reciprocal Enforcement of Support Act. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parentage (sec. 15-11-28).  

14. Right to dispose of separate property by will

Every person of sound mind, when 21 years of age or over may dispose of any property by will. At 18 years of age a testator may dispose of personal property by will (secs. 15-4-7, 33-5-2, 33-5-3). The will of a married woman may not impair the rights of her husband, as tenant by the curtesy, upon her death (sec. 33-6-21). (See numbers 15 and 17 as to wife's dower.) Marriage of the testator revokes a will made by him prior thereto, unless it appears from the will that it was made in contemplation of marriage (sec. 33-5-9).
15. Inheritance rights in deceased spouse's estate

Real property

The widow's right of dower and the husband's right of curtesy are recognized in this State, as at common law (secs. 15-4-8, 33-1-9, 33-4-1, 33-6-21).

A surviving spouse does not inherit absolutely any portion of the real estate belonging to an intestate decedent unless there are no children or their descendants, parents, brothers or sisters, paternal or maternal kindred (secs. 33-1-1—33-1-3). A surviving spouse is entitled to a life estate in the decedent's real property when the intestate dies without issue (sec. 33-1-5). In the discretion of the court, upon petition properly filed, an absolute title to the real estate of the intestate not exceeding $25,000 in value, above encumbrances, may be set off to the surviving spouse if there are no issue and the property is not needed for payment of the decedent's debts (sec. 33-1-6).

An estate devised or bequeathed for the jointure of the wife in lieu of dower is a bar to dower. However, if the conveyance was made before marriage and during the minority of the woman, or after marriage, the widow may elect to waive the jointure and take dower. Such election must be made in writing within 12 months of the probate of the will or granting of letters of administration (sec. 33-4-32).

Whenever a divorce is granted for the fault of the husband, the wife is entitled to dower as if the husband were dead (sec. 15-5-6). Whenever divorce is granted for the fault of the wife, the husband, if entitled to curtesy-initiate, may enjoy a life estate in all the lands of the wife, subject to such allowance to the wife as the court may deem just and proper (sec. 15-5-7).

Personal property

If the intestate died without issue, after payment of debts the surplus personalty up to a value of $50,000 and one-half the remainder is distributed to the surviving spouse. If the deceased left issue, the living spouse is entitled absolutely to one-half of the surplus personal property. The residue in either case is distributed to the heirs of the intestate by the rule that governs the descent of real estate (sec. 33-1-10).

16. Provision for survivors during administration of estate

The wearing apparel of the deceased, other than jewels and watches, is not included among the estate's assets, but distributed according to law, if not disposed of by will (sec. 33-9-2). The wearing apparel of the widow and minor children of a deceased person belongs to them
respectively. The widow is entitled for herself and for the family under her care, to household effects, supplies, and such other exempt personal property of the husband, as in the court’s judgment is necessary, having regard to all the circumstances of the case (sec. 33–10–1). The court also makes a reasonable allowance out of the estate for the support of the family until other provisions can be made, for a period not exceeding 6 months from the decedent’s death. In the court’s discretion, upon petition, a similar allowance for a second 6 months’ period may be made (sec. 33–10–3).

If no descendants of the deceased survive, the court also allows and sets off to the widow such portion of the real estate of her deceased husband, not required for the payment of his debts, as may be suitable for her situation and support. In accordance with the circumstances of the estate, such allowance is in addition to dower, and held by her subject to the same conditions and for the same time as she holds her estate of dower (sec. 33–10–4).  

Until dower is assigned, or until the widow elects to receive her jointure in lieu of dower, she may remain in the mansion house without charge, provided she brings the writ for dower within 6 months after probate of the will or granting of letters of administration (sec. 33–4–6).

An employer may, at any time after 30 days from death of an employee, pay all wages or personal earnings due the decedent to the surviving spouse, provided the amount does not exceed $150 (sec. 28–14–6).

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

The widow has the right to refuse to accept the provisions of her husband’s will made for her in lieu of dower. If she so elects she must signify her decision in writing within 6 months from the probate of the will (sec. 33–6–23).

**Marriage and Divorce**

18. Age of consent to marriage

No minor under the control of a parent or guardian may apply for or receive a license to marry, without the written consent of the parent or guardian given in the presence of an authorized person. Proof must be submitted that the minor has attained the age of 16 years if a female, or the age of 18 years if a male. This rule may be waived if

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6 Cronshaw v. Cronshaw (1898), 21 R.I. 126; 43 Atl. 1038.
7 Smith v. Smith (1879), 12 R.I. 466.
the applicant is 18 years of age and has no parent or guardian competent to act residing in the State. If the applicant is a nonresident of the State and has no parent or guardian residing in the United States a license may be granted. The rule may also be waived as to a female of 16 years or a male of 18 years, resident in the State, upon the consent in writing of the director of public welfare of the place where the minor resides, as required of parents. No license may be issued to any female under 16 or male under 18 without a formal order from the court (sec. 15-2-11).

19. Common-law marriage

The statutes do not declare marriage without solemnization to be void. In the absence of such an express provision, the statutory requirements as to license, registration, and solemnization are merely directory and do not invalidate any common-law marriage.89

20. Premarital requirements

Before a license to marry may be issued, each applicant must file a physician's statement showing that a physical examination and standard laboratory tests were made not more than 40 days prior to the issuance of the license to determine the presence of syphilis, gonorrhea or tuberculosis. The statement must also show that the applicant is not infected with tuberculosis in the infectious stage nor with syphilis or gonorrhea in any stage in which they may become communicable. Residents of the State contracting marriage outside the State must conform to the physical examination requirements if they return within 6 months of solemnization of the marriage (secs. 15-2-3—15-2-6).

These requirements may be waived if, in the discretion of the court, public policy requires that the marriage be celebrated without delay (sec. 15-2-10).

A waiting period of 5 days between execution of and issuance of the marriage license is required where the woman is a nonresident of the State (sec. 15-2-1). This provision does not apply to women immigrants from a foreign country (sec. 15-2-2).

Prior to issuance of a marriage license to any person previously divorced such person must submit an authenticated copy of his or her divorce decree (sec. 15-2-1).

The following types of marriages are void: (a) Those contracted by parties within specified degrees of kinship; (b) where either party

is an idiot or a lunatic; or (c) if either party has a living spouse of a prior undissolved marriage (secs. 15-1-1—15-1-3, 15-1-5).

21. Interstate cooperation in marriage-law enforcement

The general rule is followed that a marriage will be recognized in the State if it is valid where contracted, unless violative of public policy.10

A divorce obtained in another jurisdiction is of no force and effect in this State if both parties to the marriage were domiciled within the State at the time the proceedings were commenced (sec. 15-6-2).

Proof that a person obtaining a divorce in another jurisdiction maintained a place of residence in Rhode Island during his absence, or was domiciled in the State within 12 months prior to the commencement of the proceeding and resumed his residence within 18 months after his departure, is evidence that he was domiciled in Rhode Island when the divorce action was commenced (sec. 15-6-3).

22. Annulment

There are no statutory provisions for annulment of marriage.

Children of marriages declared void because either party had a former wife or husband living, who was not divorced, are legitimate (sec. 15-1-5). The issue of marriages declared null in law are legitimate (sec. 15-8-21).

23. Divorce

Either a limited or an absolute divorce may be granted for any one of the following causes: (a) a legally void or voidable marriage; (b) loss of citizenship rights of one party due to crime; (c) presumption of death due to absence or other cause; (d) impotency; (e) adultery; (f) extreme cruelty; (g) willful desertion for 5 years, or for a shorter period within the court’s discretion; (h) continued drunkenness; (i) addiction to drugs; (j) husband’s willful neglect to provide necessaries for the wife for 1 year; (k) any other gross misbehavior of either party, repugnant to and in violation of the marriage covenant; or (l) separation for at least 10 years (secs. 15-5-1—15-5-3).

A woman, to whom a divorce is granted, may be authorized by the decree to change her name (sec. 15-5-17).

After final decree of divorce either party may marry again; but no divorce decree becomes final and operative until 6 months after the trial and decision (sec. 15-5-23).

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10 Ex parte Chace (1904), 26 R.I. 351; 58 Atl. 978.
Alimony and maintenance

Dower or curtesy may be allowed the spouse granted an absolute divorce, if it is claimed within 6 months after the decree. However, a claim made for alimony waives and releases any claim for dower or curtesy. Neither party is granted any other right in the other spouse’s estate on divorce (secs. 15-5-6—15-5-8).

On granting a limited divorce, the court may assign to the petitioner a separate maintenance out of the estate or property of the husband or wife, in such manner and of such amount as is necessary and proper (sec. 15-5-9).

The court may also, on petition of either party, permit the sale of real estate free from dower or curtesy rights (sec. 5-5-10).

The court may regulate the custody and provide for the education, maintenance, and support of the children of parties to a divorce proceeding. In its discretion the court may make an allowance to the wife, out of the estate of the husband, for the purpose of enabling her to prosecute or defend against the divorce petition or separate maintenance, if she has no property of her own available for such purpose (sec. 15-5-16).

Parents and Children

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

The father and mother have equal rights to the services and earnings of a minor child. Payment of earnings to either parent is a valid and sufficient discharge by a minor’s employer until notice in writing is given to the employer of the intention of both parents to claim such earnings (sec. 33-15-1).

25. Guardianship of a minor child

The father and mother are the joint natural guardians of their minor children with equal rights to their custody. Neither parent has any right paramount to the other nor any priority of preference in any proceeding or suit in any matter relating to their minor children. The court has a right to appoint a guardian of the person or estate of a minor child. Such appointment supersedes the natural guardianship (secs. 33-15-1, 33-15-2). If the minor is 14 years of age or more he may nominate his own guardian, who will be appointed by the court if he is otherwise qualified (sec. 33-15-4).

26. Appointment of testamentary guardian for a minor child

Though any person competent to make a will may appoint a testamentary guardian of his minor children, subject to the approval of
the probate court, a surviving parent becomes the guardian of the children of the marriage, if otherwise qualified (sec. 33-15-6).

27. Inheritance—child
Parents inherit the real and personal estate of a child in equal shares if the decedent dies intestate and without a spouse, children or descendants of children. Real and personal property passes to children or their descendants when an intestate decedent is not survived by a spouse (secs. 33-1-1, 33-1-10).

28. Child born out of wedlock
If the paternity of the child is established by court procedure, the adjudged father remains under the custody of the court, and is required to pay in the manner which the court determines for the expenses attending the care of the mother and birth of the child, and for the support and education of the child until he is 18 years of age, or if the child is disabled or mentally incompetent until he is 21 (sec. 15-8-10).

Children born out of wedlock are legitimated by the subsequent marriage of their parents (sec. 15-8-21).

29. Inheritance—child born out of wedlock
A child born out of wedlock is capable of inheriting or transmitting inheritance on the part of his mother as if he were born in lawful wedlock (sec. 33-1-8). Inheritance is governed by the laws of descent and distribution of an intestate decedent.21

POLITICAL RIGHTS

30. Domicile of a married woman
There is no specific provision as to the domicile of a married woman. The common-law rule has been recognized by the court as applying generally that so long as the unity of the marriage relation continues a wife cannot acquire a domicile distinct from that of her husband.22

31. Public office—eligibility of women
There are no restrictions on the right of women to hold elective or appointive office.

21 Briggs v. Greene (1873), 10 R.I. 493.
22 Howland v. Granger (1900), 22 R.I. 1; 45 Atl. 740.
32. Jury service—eligibility of women

All persons over 25 years of age who are qualified electors are liable for jury service in the superior court in the county of their residence, subject to the exemptions available to men jurors. A woman who is unable or unwilling to serve, and so notifies the summoning officer or the jury commissioner, is excused from jury service (secs. 9-9-1, 9-9-11).