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

REPORT FOR
TENNESSEE
as of January 1, 1960



WOMEN'S BUREAU BULLETIN 157-41 (Revised)

UNITED STATES DEPARTMENT OF LABOR
JAMES P. MITCHELL, Secretary

WOMEN'S BUREAU
MRS. ALICE K. LEOPOLD, Director

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in the
United States of America

REPORT FOR
TENNESSEE
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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 Tennessee
Tennessee Code, Annotated 1956
Tennessee Reports
Tennessee Appeals Reports
Tennessee Civil Appeals Reports
Southwestern Reporter

EXPLANATORY NOTE

This pamphlet, Bulletin 157-41, presents a digest of the constitution and statutory provisions affecting the legal status of women in the State of Tennessee. It includes pertinent statutory changes enacted in that State up to January 1, 1960, and supersedes the previous report and addendum for Tennessee.

References to the State constitution are indicated by parenthetical insertions of article and section numbers following the abbreviation "Const.," as (Const., art. 2, sec. 17), placed after the related subject matter.

References to the code sections are likewise in parentheses, as (sec. 23-1201).

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."

TENNESSEE

CIVIL RIGHTS

Contracts and Property

1. Age of majority

The age of majority is 21 years for both sexes, as at common law.

A minor between the ages of 18 and 21 years may petition the court and, upon sufficient cause shown, may be emancipated from minority disabilities, either for a specific act or for the general conduct of his or her affairs (secs. 23-1201—23-1205).

The marriage of a female minor does not terminate her guardianship as to her property.¹

2. Contractual powers of a minor

The general rule is followed that the contract of a minor is voidable and may be repudiated either before or after attaining majority, except in cases where the minor has fraudulently misrepresented his age.²

If necessaries are sold and delivered to a minor he must pay a reasonable price therefor. Necessaries are defined as goods suitable to the condition in life of the minor and to his actual requirements at the time of delivery (sec. 47-1202).

The disability of minority of minor veterans of the Armed Forces and their spouses has been removed for purposes of benefits and transactions arising under the Servicemen's Readjustment Act (sec. 7-1003).

(See number 14 for power to make a valid will.)

3. Property exemptions from seizure for debt

A. RESPECTIVE RIGHTS OF MAN AND WOMAN

Personal property up to a total value of \$450 is exempt to the head of a family who is a citizen and permanent resident of the State. "Head of a family" includes the mother when the father is dead or has deserted his family. On dissolution of a marriage, the property

¹ *Mayo v. Bank of Gleason* (1918), 140 Tenn. 423; 205 S.W. 125.

² *Tuck v. Payne* (1929), 159 Tenn. 192; 17 S.W. (2d) 8.

exempt to the husband under this provision is exempt to the wife until she remarries. Enumerated articles which are exempt include: (a) Specified furniture; (b) household furnishings; (c) books; (d) provisions; (e) livestock; (f) tools; (g) office and professional equipment (sec. 26-201).

The following articles are allowed to every debtor exempt from execution: (a) All necessary wearing apparel for use of himself and family; (b) storage containers for such clothing; (c) family portraits and pictures; (d) family Bible and school books (sec. 26-203).

If the head of the family is engaged in agriculture, additional specified livestock and farm equipment is exempt from execution (sec. 26-202).

An exemption is allowed to each mechanic in the State, engaged in his trade or occupation, of one set of tools necessary for such work (sec. 26-204).

One gun is exempted to every male citizen 18 years of age or over and to every female who is the head of a family, and one sewing machine for every woman who uses it to obtain a livelihood (sec. 26-205). Also exempt from execution are State pensions (sec. 26-206).

Exemptions of personal property are set apart for the wife and family of a debtor who absconds or leaves them. These continue to the widow and children of a deceased debtor (sec. 26-212).

An exemption of \$60 per month of wages, salary, or income, or of the entire income if it is less than \$60 per month, is provided for every person who is the head of a family and a resident of the State. This exemption cannot be waived by the debtor (sec. 26-207).

In addition, there is exempt to the head of the family \$5 per month for each of his dependent children under 16 years of age, residing in the State (sec. 26-208).

A wage exemption, limited to \$30 per month, is provided for persons who are residents of the State but not heads of families. Such persons must be at least 18 years of age or emancipated minors (sec. 26-209).

Life insurance procured by a husband on his own life or by a wife on her husband's life inures at his death to the benefit of his widow and children. The proceeds are divided between them according to the statutes of distribution, without being subject to the husband's debts (secs. 56-1108, 56-1109).

The net amount payable under a life-insurance policy or an annuity contract on any person's life made for the benefit of or assigned to the wife, children, or dependent relatives of such person, is exempt from claims of the creditors of such person (sec. 56-1110).

B. HOMESTEADS

A homestead with improvements, in the possession of the head of a family to the value of \$1,000 is exempt from sale under legal process during the life of the head of the family. It inures to the benefit of the widow and is exempt during the minority of the children who occupy it. The homestead cannot be alienated without the joint consent of the husband and wife. The exemption is not effective against debts for taxes, purchase money, or improvements (Const., art. 11, sec. 11) (sec. 26-301).

If the husband and/or father is dead or has absconded and deserted his family, the wife and/or mother is entitled to the homestead exemption. The homestead or real estate owned by the husband may be sold, but only by the joint consent of husband and wife. If the homestead or other exempt real estate is owned by a married woman, it may be sold and conveyed by her sole act and deed (sec. 26-301).

A homestead with improvements to the value of \$1,000, belonging to a married woman is exempt from execution, attachment or sale during her life, and inures to the benefit of her children during their minority. This exemption, however, applies only if her husband has no real property in which he can claim a homestead exemption. The exemption does not apply to any indebtedness for purchase money owing for such homestead, or recorded indebtedness executed by her upon the homestead (sec. 26-302).

A homestead exempt at the husband's death goes to his widow for her lifetime, together with the products from it, for her use and benefit and that of her family who reside with her, regardless of any contrary provision in the decedent's will (sec. 31-104).

A homestead inuring to the benefit of a widow or minor children is assigned and set apart in the same manner as dower. Where a widow is entitled to both homestead and dower out of the same lands, the homestead is set apart first and then one-third of the remainder of such lands as dower (secs. 30-901, 30-912).

4. Ownership and control of property owned at marriage

Marriage imposes no disability or incapacity on a woman as to ownership or disposition of property. Whatever property a woman owns in her own right at the time of her marriage remains her property after marriage (sec. 36-601).³

5. Contractual powers of a married woman

Married women are fully emancipated. The common-law disabilities on a married woman's property rights are totally abrogated.

³ *Henderson Grocery Co. v. Johnson* (1918), 141 Tenn. 127; 207 S.W. 723.

Marriage does not impose any disability or incapacity on a woman as to the ownership, acquisition, or disposition of property, or as to her capacity to make contracts and to do all acts in reference to property which she could lawfully do if she were not married. Every married woman has the same capacity to acquire, hold, manage, control, use, enjoy, and dispose of all her property, real and personal, and to make any contract in reference to it, and to bind herself personally, and to sue and be sued with all the rights and incidents thereof, as if she were not married (sec. 36-601).

Nothing in the previous paragraph may be construed as abolishing tenancies by the entirety, or as affecting the husband's right of curtesy consummate (sec. 36-602).

A married woman may convey her realty as if unmarried.⁴

Although the statute does not expressly authorize the wife to contract with her husband, it is broad enough to confer on her the right to contract to render services to a business in which he has an interest.⁵

A married woman has the same right to convey realty to her husband as the husband has to convey realty to his wife.⁶

All the statutes of limitation that apply in favor of or against a feme sole and her property apply and operate in favor of or against married women and their property (sec. 36-603).

A married woman may cause life insurance to be effected upon her husband's life. This insurance is in no case subject to the debts of the husband, but inures to the benefit of the widow and children, or either of them, as the case may be (sec. 56-1109).

An action in law or equity by or against a woman is not abated by her marriage (sec. 20-622).

Any married person owning property in his or her own name, desiring to convert his interest into an estate by entireties, may do so by a direct conveyance to his or her spouse, showing an intention to create an estate by the entirety (sec. 64-109).

Where property is held by a husband and wife as tenants by the entirety, either spouse may by direct conveyance of his or her interest therein vest the absolute title in the other (sec. 64-110).

When a contract for improving real property is made with a married person not living apart from his or her spouse, and the property is owned by the other or both, the spouse who contracts is deemed to be the agent of the other, unless within 10 days after learning of the contract the other spouse repudiates it by written notice to the contractor (sec. 64-1103).

⁴ *Jefferson County Bank v. Hale* (1925), 152 Tenn. 648; 280 S.W. 408.

⁵ *Hull v. Hull Bros. Lbr. Co.* (1948), 186 Tenn. 53; 208 S.W. (2d) 338.

⁶ *Howell v. Davis* (1954), Tenn.; 268 S.W. (2d) 85.

6. Earnings of a married woman

The earnings of a wife are part of her separate personal estate and belong to her to the exclusion of common-law rights of her husband.⁷

7. Liability for family support

A married woman is liable for contracts made by her on her own credit. This includes contracts for necessaries (sec. 36-601).⁸

Any person legally chargeable with the care of a child under 18 who willfully and without good cause neglects or fails to provide for such child according to his means is guilty of a misdemeanor (sec. 39-210). If he leaves the State with intent to leave such child destitute or liable to become a public charge, he is guilty of a felony (sec. 39-217).

Any husband who willfully and without good cause, neglects or fails to provide for his wife according to his means, or leaves her destitute or in danger of becoming a public charge, is guilty of a misdemeanor. If he leaves the State, he is guilty of a felony (secs. 39-201, 39-208).

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

There are no statutory restrictions on a married woman's right to engage in a separate business.

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

Every married woman has the same capacity to acquire, hold, manage, control, use, enjoy, and dispose of all property, real and personal, and to sue and be sued with respect to such property, as if she were unmarried (sec. 36-601).

(See also number 5.)

No husband is liable for the debts, contracts, or obligations of his wife incurred by her prior to marriage (sec. 36-604).

10. Property acquired by joint efforts of husband and wife

In the absence of a statute, the common-law rule governs, that property acquired jointly during marriage belongs to and is controlled by the husband, unless joint ownership is established by deed or contract.

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

A wife may bring action in her name alone to recover damages for personal injuries to herself received at the hands of strangers.⁹

⁷ *Hull v. Hull Bros. Lbr. Co.* (1948), 186 Tenn. 53; 208 S.W. (2d) 338.

⁸ *Baird v. Lebeck Bros.* (1916), 7 Tenn. Civ. App. 225.

⁹ *Knowville Ry. & Light Co. v. Vangilder* (1915), 132 Tenn. 487; 178 S.W. 1117.

In all suits for damages for breach of promise to marry, the judge must instruct the jury to take into consideration the age and experience of the parties and whether the plaintiff has been previously married. Any former marriage on the part of the plaintiff may be considered by the court and jury in mitigation of damages (sec. 36-703). Where the defendant in an action for breach of promise to marry is more than 60 years of age at the time of trial, proof of damages is limited to actual financial loss of the plaintiff up to the date of trial. No punitive damages are allowed (sec. 36-704).

An unmarried female may prosecute an action for her own seduction and recover damages therefor (sec. 20-107).

The common-law right of action of the husband for loss of his wife's services has not been taken away by the Married Women's Emancipation Act.¹⁰

A married woman may bring an action for the alienation of her husband's affections¹¹ or for criminal conversation of her husband with another woman.¹²

12. Damages for injury by spouse to person or property

The common-law rule remains unchanged, that neither spouse can maintain an action in tort against the other for a personal injury.¹³

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

A husband and wife are equally competent witnesses in all civil actions, although neither may testify as to any matter that occurred between them by virtue, or in consequence, of the marital relation. In actions for divorce either spouse is at liberty to testify to all matters occurring by virtue of the marital relation (sec. 24-103).

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, and may be compelled to testify to any relevant matter, including marriage and parentage (sec. 36-1022). In all criminal cases the husband or the wife is a competent witness to testify for or against the other (sec. 40-2404).

14. Right to dispose of separate property by will

Any person of sound mind 18 years of age or over may make a valid will. "Person" means man or woman, single or married (secs. 32-101, 32-102).

¹⁰ *Dunn v. Alabama Oil & Gas Co.* (1956), Tenn.; 299 S.W. (2d) 25.

¹¹ *Wilson v. Bryant* (1934), 167 Tenn. 107; 67 S.W. (2d) 133.

¹² *Scates v. Nailling* (1954), Tenn.; 268 S.W. (2d) 561.

¹³ *Raines v. Mercer* (1932), 165 Tenn. 415; 55 S.W. (2d) 263.

Married women, after February 15, 1941, may dispose of their property by will. Wills executed prior to that date by married women over 21 are valid to dispose of their real or personal estate; such disposition does not bar the husband's curtesy right (sec. 32-111).

A child born after making the will who is not provided for in the will, disinherited, or provided for by settlement made in the testator's lifetime, succeeds to the same portion of the estate he would receive if the decedent had died without a valid will (sec. 32-303).

15. Inheritance rights in deceased spouse's estate

Real property

The surviving spouse of a deceased person who dies intestate is entitled to the decedent's real property as follows: (a) No absolute estate if the decedent is survived by a child or the issue of a child; brothers or sisters of the half or whole blood or their issue; the parents or the heirs of the parent (sec. 31-101); (b) if the intestate leaves no heirs at law capable of inheriting, the real estate descends to the surviving spouse absolutely after payment of the decedent's debts (sec. 31-103).

A valid settlement prior to marriage bars the husband's or wife's interest in a decedent's estate.¹⁴

A widow is entitled to dower which is a life estate in one-third of all the lands her husband owned at the time of his death or in which he had equitable title (secs. 31-601, 31-603).

The family dwelling house and appurtenances are included in the dower third, unless the widow agrees otherwise or the court makes other provision (sec. 31-604).

The husband has an estate of curtesy in the wife's real property which attaches only at her death (sec. 36-602).

Personal property

After payment of debts and charges, the surviving spouse receives the following share of a decedent's personal property:

- (a) A child's share, if children or their issue survive;
- (b) The entire distributable share if no children or their issue survive (sec. 31-201).

(See number 17 for spouse's rights if he or she dissents from the will of deceased husband or wife.)

16. Provision for survivors during administration of estate

When a husband dies intestate, his widow, until administration is granted, is empowered by law to take possession of and manage all his

¹⁴ *Key v. Collins* (1921), 145 Tenn. 106; 236 S.W. 3.

personal estate and to make use of such part of crops and provisions as may be necessary for the support of herself and family (sec. 30-801).

On application of such a widow or of one who dissents from her husband's will, the court appoints three property owners not related to the widow to set apart the necessary assets for 1 year's family support (sec. 30-802).

The assets so set apart become the absolute property of the widow for use as family support, free from estate debts or claims (sec. 30-803).

Whatever property is exempt by law from execution to the husband continues exempt after his death and vests in the widow for herself and in trust for the benefit of the children of the deceased without regard to the size or solvency of the estate (sec. 30-807).

Employers are authorized to pay to the widow of a deceased employee any wages or salary due said employee at the time of death not in excess of \$500. However, any such payments are charged against the year's support, homestead and other claims or exemption of such widow (sec. 30-804).

(See number 3 for property exempt from execution and survivor's right to the family homestead.)

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

A widow may dissent from her husband's will:

(a) If a satisfactory provision in real or personal estate is not made for her and she dissents within 9 months after probate;

(b) If a provision in the decedent's personal estate is made, but the entire personal estate, including the bequest, is taken for payment of creditors. In such case no formal dissent is required and she may sue for her dower.

In either case she is provided for as if her husband had died intestate and is entitled to her distributive share of the personal property (sec. 31-605).

If the husband leaves a will from which his widow dissents and not more than 2 children survive, his widow is entitled to one-third of the personal estate in addition to dower. If more than 2 children survive, the estate is divided equally among the widow and children, the widow taking a child's share (sec. 31-606).

The husband may dissent from his wife's will within 9 months after probate. If not more than 2 children survive, the husband is entitled to one-third of her personal estate in addition to curtesy. If more than 2 children survive, the husband and children share the estate equally. He is entitled to a child's part of the personal estate (sec. 31-608).

Marriage and Divorce

18. Age of consent to marriage

A marriage license may not be issued if either of the contracting parties is under the age of 16 years (sec. 36-407).

The marriage license must state the names, ages, and addresses of the applicants, and the names and addresses of the female's parents, guardian, or next of kin (sec. 36-406) unless they join in the application under oath stating she is over 18 years of age (sec. 36-408).

The court may waive the minimum age requirement and order a marriage license to be issued if good cause is shown for such action (sec. 36-409).

If the issuing clerk knows that both of the contracting parties are over age 21 years, compliance with the provisions regarding names and addresses, notice to the female's parents, guardian or next of kin, and waiting period is not required (sec. 36-410).

Immediately on filing, the county clerk must send a notice of the application to the parents, guardian, or next of kin of the female by registered mail (sec. 36-406).

(See number 20 for waiting period between application for and issuance of marriage license.)

19. Common-law marriage

Statutes requiring parties proposing to marry to procure a license, and contract in the presence of an authorized officer or minister, abrogate the common-law mode of constituting marriages.¹⁵

20. Premarital requirements

Each applicant for license to marry must file with the licensing officer the certificate of a qualified physician, showing that the applicant has had a physical examination, including standard laboratory tests for venereal diseases, and showing that such diseases are not present in a communicable stage. Such tests must be made not more than 30 days prior to the issuance of the marriage license to which they apply.

No license to marry may be issued ordinarily to any person who has not filed a certificate showing that he is free from any venereal disease. But a license may be authorized by the court in exceptional cases for specified causes. Penalties may be imposed for misrepresentation and other violations (secs. 36-502-36-510).

An application for marriage license must remain on file, open to the public for 3 days before the license is issued (sec. 36-406) unless

¹⁵ *Bashaw v. State* (1829), 9 Tenn. 177.

the court waives this requirement for good cause (sec. 36-409), or the county clerk to his own knowledge knows that the parties are both over 21 years of age (sec. 36-410).

Interracial marriages and marriages within specified degrees of consanguinity are prohibited (secs. 36-401, 36-402).

Issuance of marriage licenses to applicants who are drunk, insane or imbeciles is prohibited (sec. 36-411).

A valid second marriage cannot be contracted before the dissolution of the first. However, a marriage is considered dissolved if either party has been absent for 5 years and is not known to the other to be living (sec. 36-404).

21. Interstate cooperation in marriage-law enforcement

Tennessee recognizes the general rule that if a marriage is valid where solemnized it is valid everywhere.¹⁶

22. Annulment

In an action for divorce, if the complaining party, in the judgment of the court, is entitled to such relief, a marriage may be declared void or be annulled (secs. 36-817, 36-819).

(See number 23 for grounds for divorce.)

23. Divorce

Absolute divorce may be granted to the injured party for any of the following causes: (a) Other party at the time of the marriage was, and still is, naturally impotent and incapable of procreation; (b) other party knowingly entered into a second marriage without dissolution of a prior marriage; (c) other party has committed adultery; (d) willful or malicious desertion or absence, without reasonable cause, for 2 years; (e) conviction of infamous crime; (f) conviction of a felony, and sentence to the penitentiary; (g) attempt on the life of the other, by poison or other means showing malice; (h) habitual drunkenness, if the habit was contracted after marriage.

A divorce may be granted to the husband for the wife's refusal to remove with him to this State without a reasonable cause, and willfully absenting herself from him for 2 years. The husband may obtain a divorce if the wife was pregnant at the time of the marriage by another person, without the knowledge of the husband (sec. 36-801).

In the discretion of the court, a legal separation or an absolute divorce may be decreed on the following grounds: (a) The husband or wife is guilty of such cruel and inhuman treatment or conduct

¹⁶ *Keith v. Pack* (1945), 182 Tenn. 420; 187 S.W. (2d) 618.

toward the other spouse as renders cohabitation unsafe and improper, and in the case of the wife, causes her to be under the dominion and control of the husband; or (b) the husband has committed such indignities to the wife's person as to render her condition intolerable, and thereby forced her to leave him; or (c) the husband has abandoned her, or refused or neglected to provide for her (sec. 36-802).

After annulment or divorce either party may marry again. But a defendant guilty of adultery cannot marry the person with whom the act was committed, during the life of the former husband or wife (sec. 36-831).

The annulment or dissolution of a marriage does not affect the legitimacy of the children of the marriage (sec. 36-832).

Alimony and maintenance

On divorce or legal separation, the court may order suitable support and maintenance for the complainant wife and her children by the husband according to the nature of the case and the circumstances of the parties (secs. 36-820, 36-825). In such case the court may decree to the wife such part of the husband's real and personal estate as appears appropriate, having reference to the property of the husband received through his wife on marriage or afterwards, as well as to separate property secured to her by marriage contract or otherwise (sec. 36-821).

If the wife obtains a divorce because of misconduct of the husband, the title to the homestead is vested in her, and after her death it passes to their children (sec. 36-824).

If the bonds of matrimony are dissolved at the suit of the husband, the wife is not entitled to dower in his real estate, nor to any part of his personal estate in case of intestacy, nor to alimony (sec. 36-826). If divorce is granted the wife, she is not entitled to dower or distributive share in the husband's estate. However, in any award of alimony this is taken into consideration in her favor (sec. 36-823). On divorce the husband has no curtesy in the wife's realty nor distributive share of her personalty (sec. 36-827).

Parents and Children

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

The father and mother have equal powers, rights, and duties with respect to the services and earnings of their minor child. However, so much of the net income of such minor child as is necessary may be expended for his care, maintenance, and education (sec. 34-101).

The father, or in case of his death or desertion of the family, the mother, may maintain an action for the expenses and actual loss of

service resulting from injury to a minor child in the parent's service or living in the family (sec. 20-105), or for the seduction of a daughter. This suit may also be brought if the daughter is not living with the plaintiff and there is no loss of service. However, recovery by one bars suit by the others for the same cause (sec. 20-107).

25. Guardianship of a minor child

The father and mother are joint natural guardians of their minor children, and have equal powers, rights and duties with respect to their custody. The parents are jointly charged with the care, nurture, welfare, education, and support of their children, and with the care, management, and expenditure of their estates (sec. 34-101).

If either parent dies or is incapable of acting, the guardianship of such minor child or children devolves upon the surviving parent, or the parent capable of acting (sec. 34-103).

If the parents are separated or divorced, the court may award the guardianship of the minor child to that parent who the court deems will best safeguard the child's interests (sec. 34-105).

26. Appointment of testamentary guardian for a minor child

The parents jointly, or the survivor of them, may appoint by written instrument or will a guardian to have custody and tuition of their legitimate unmarried child during his minority (sec. 34-301).

The mother of an illegitimate child may appoint a testamentary guardian of his custody and tuition (sec. 34-302).

27. Inheritance—child

The parents of an intestate person dying without descendants inherit as follows:

Real property

(a) Without regard to source of title: If the decedent left no brothers or sisters or their issue, then the parents inherit all the land.

(b) If the land was acquired by the decedent: If there are no brothers or sisters or their issue, the father and mother inherit as tenants in common.

(c) If the land was acquired by gift, devise, or descent from a parent or the ancestor of a parent: If decedent left no brothers or sisters, then the parent from whom or from whose ancestors it came, inherits, in preference to the other parent. If the transmitting parent is dead the other parent takes the inheritance (sec. 31-101).

(See number 15 for inheritance rights of the surviving spouse.)

Personal property

If no spouse survives, the net personal estate is taken by the decedent's parents in equal parts. If one parent is dead, the whole estate passes to the surviving parent (sec. 31-201).

28. Child born out of wedlock

A petition to establish the paternity of a child born out of wedlock and to compel the father to furnish support and education for the child may be filed by the mother. However, proceedings to establish paternity may not be brought after the lapse of more than 2 years from the birth of the child unless paternity has been acknowledged by the father in writing or by the furnishing of support (sec. 36-224).

The father is liable for the support and education of the child until the child reaches the age of 18 years. In addition, he must provide for the payment of necessary expenses incurred by or for the mother in connection with her confinement and recovery; for the funeral expenses if the child has died; for the support of the child prior to the issuance of the order of support; and such expenses in connection with the pregnancy of the mother as the court may deem proper (secs. 36-223, 36-229).

An application to legitimate a child born out of wedlock must be made in writing, signed by the person wishing to legitimate such child and setting forth reasons therefor (sec. 36-302). The effect of legitimation is to create the relation of parent and child between petitioner and person legitimated (sec. 36-306). Children born out of wedlock whose parents have intermarried are legitimate (sec. 36-307).

29. Inheritance—child born out of wedlock

The mother of a child born out of wedlock inherits his real and personal estate if he leaves no issue or spouse (secs. 31-105, 31-203).

If a woman dies intestate, having children born out of wedlock, they inherit the mother's real and personal property equally with her legitimate children (secs. 31-107, 31-205).

When the paternity of a child born out of wedlock is established, the child is considered a legitimate child for the purpose of inheriting from the father (sec. 36-234).

POLITICAL RIGHTS**30. Domicile of a married woman**

The domicile of the wife is presumed to be that of her husband.¹⁷

¹⁷ *Clothier v. Clothier* (1950), 33 Tenn. App. 532; 232 S.W. (2d) 363.

31. Public office—eligibility of women

All persons, 21 years of age, who are citizens of the United States, and have been inhabitants of Tennessee, the county, and district or circuit for the period required by State law, are eligible for public office (sec. 8-1801).

32. Jury service—eligibility of women

Every person over 21, who is a citizen of the United States, and who has resided for a period of 12 months in the State and in the county in which he or she is summoned for jury service, is qualified to act as a grand or petit juror, if not otherwise incompetent to so serve. A woman has the option of serving or not when summoned for jury duty (sec. 22-101).

