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

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REPORT FOR  
**UTAH**  
as of January 1, 1959



WOMEN'S BUREAU BULLETIN 157-43 (Revised)

**UNITED STATES DEPARTMENT OF LABOR**  
**JAMES P. MITCHELL, Secretary**

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

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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 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. Material for Alaska and Hawaii will be incorporated in the United States Summary when the latter is revised.

## SOURCES

Constitution of Utah  
Annotated Code, 1953  
Utah Reports  
Pacific Reporter

## EXPLANATORY NOTE

This pamphlet, Bulletin 157-43, presents a digest of the Constitution and statutory provisions affecting the legal status of women in the State of Utah. It includes pertinent statutory changes enacted in that State up to January 1, 1959, and supersedes the previous report and addendum for Utah.

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

References to the code sections are likewise in parentheses, as "(sec. 75-3-15)."

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 in the Summary. Cross references employ these numbers for brevity, as "See No. 6," which refers to the subject heading "Earnings of a married woman."

# UTAH

## CIVIL RIGHTS

### *Contracts and Property*

#### 1. Age of majority

Males attain majority at 21 years; females, at 18 years. All minors attain majority by marriage (sec. 15-2-1); but in the discretion of the court, a guardianship of the estate of the minor may be continued until his majority (sec. 75-13-14).

#### 2. Contractual powers of a minor

A minor is bound not only for the reasonable value of necessaries but also by his contracts, unless he disaffirms them before he attains his majority or within a reasonable time afterward, and restores to the other party all money or property received through such contracts and remaining within his control at any time after attaining his majority (secs. 15-2-2, 60-1-2). No contract can be disaffirmed, however, where the other party had good reason to believe the minor capable of contracting because of his own misrepresentations as to his majority or from his having engaged in business as an adult (sec. 15-2-3).

Wages may be paid to a minor in full satisfaction for his personal services actually rendered under a contract made with him alone for his services, and when so paid the parent has no claim on the employer for such wages (sec. 15-2-4).

Minors may become shareholders and depositors in credit unions established under State law (sec. 7-9-15). They may make and draw bank deposits, draw dividends, and give valid receipts for them (sec. 7-3-46).

A minor may not serve as executor or executrix (sec. 75-3-15), nor as administrator or administratrix (sec. 75-4-4).

Any minor who is a veteran of World War II, otherwise eligible for a loan under the Servicemen's Readjustment Act of 1944, and his or her spouse, are empowered to contract and bind themselves for a loan guaranteed under the act. Such loan contracts are legally binding upon the minor and his spouse, and may not be disaffirmed on the basis of minority (sec. 71-1-24).

(See No. 14 as to capacity to will property.)

### 3. Property exemptions from seizure for debt

#### A. RESPECTIVE RIGHTS OF MAN AND WOMAN

The following property is included in that exempt from execution: (a) Chairs, tables, and desks to the value of \$200 and the library belonging to the judgment debtor; also, musical instruments in actual use in the family; (b) necessary household, table, and kitchen furniture belonging to the judgment debtor to the value of \$300; laundry equipment, refrigerator, stove, and sewing machine; family pictures, paintings, drawings, and portraits; rugs and provisions actually provided for individual or family use sufficient for 3 months; specified livestock; wearing apparel of every person or family; beds or bedding; and, if the judgment debtor is the head of a family consisting of five or more members, a further exemption of additional livestock; (c) the farming utensils or implements of husbandry of a farmer not exceeding in value the sum of \$300; farm animals and vehicles; seed, grain, or vegetables to be used in planting or sowing within 6 months, not exceeding in value \$200; crops, whether growing or harvested, and the proceeds thereof, not exceeding in value \$200; (d) tools and professional equipment; (e) one-half of the earnings of the debtor for his personal services rendered at any time within 30 days preceding the levy of execution or attachment by garnishment or otherwise, when it appears by the debtor's affidavit that he is a married man, or head of family, and that such earnings are necessary for the use of his family residing in the State and supported wholly or in part by his labor; provided, that a married man or head of family shall be entitled to an exemption of not less than \$50 per month; (f) all moneys, benefits, privileges, or immunities accruing or in any manner growing out of any life insurance, if the annual premiums paid do not exceed \$500; and (g) the earnings of a minor child of debtor and the proceeds thereof, where the debt was not contracted for the special benefit of such child (sec. 78-23-1).

A husband cannot give a valid mortgage on exempt personal property unless the wife also joins in making it (sec. 9-1-2).

#### B. HOMESTEADS

A homestead, "consisting of lands, appurtenances and improvements" in one or more localities, not exceeding \$2,000 in value for the head of a family, a further sum of \$750 for the spouse, and \$300 for each other member of the family is declared wholly exempt from debts except for taxes, mortgage judgments, and purchase-money (sec. 28-1-1, Const., art. XXII, sec. 1). Insurance proceeds from loss of

homestead improvements are likewise exempt (sec. 28-1-3); as are water rights and interests to the extent they are necessary for supplying water to the homestead for domestic and irrigating purposes (sec. 28-1-4).

The phrase "head of a family" includes: (1) The husband or wife when the claimant is a married person; (2) every person who has residing with him and under his care and maintenance any of the relatives or dependents specified by statute (sec. 28-1-5).

If the claimant is married, the homestead may be selected from the husband's separate property, or with the consent of the wife from her separate property (sec. 28-1-6). The exemption continues to a deserted spouse (sec. 28-1-7). When the judgment debtor fails to claim and select a homestead, such debtor's husband or wife has full right to make claim and selection (sec. 28-1-8). If the owner is married, no transfer of right or title to premises previously selected and recorded as a homestead is valid unless both husband and wife join in executing the instrument (sec. 28-1-13).

The homestead and exempt personal property of a decedent become the absolute property of the surviving husband or wife and minor children, or of the minor children if no spouse survives, or of the surviving spouse if there are no minor children. Such property passes wholly exempt from the decedent's debts, and is to be set apart on petition and notice, at any time after inventory is made of the estate (sec. 74-4-6).

If the surviving spouse remarries, or when all minor children become of age, the homestead may be partitioned, one-half to the surviving spouse and the other half to the children (sec. 74-4-7). The value of such part of the homestead and exempt personal property as may be set aside to the surviving husband or wife or minor children is to be deducted from the distributive share provided for such survivors (sec. 74-4-8).

Neither husband nor wife can remove the other or their children from the homestead without the consent of the other, unless the owner of the property provides in good faith another homestead suitable to the condition in life of the family (sec. 30-2-10).

#### **4. Ownership and control of property owned at marriage**

The real and personal estate which a woman acquires before marriage remains her property, and is not subject to the liabilities of her husband. She may convey it or will it as if she were unmarried (Const., art. XXII, sec. 2; sec. 30-2-1).

### **5. Contractual powers of a married woman**

Contracts may be made by a wife and liabilities incurred and enforced by or against her to the same extent and in the same manner as if she were unmarried (sec. 30-2-2).

For civil injuries committed by a married woman, damages may be recovered from her alone, and her husband is not liable, except in cases where he would be jointly liable with her if the marriage did not exist (sec. 30-2-7).

A conveyance, transfer, or lien executed by either husband or wife to or in favor of the other is valid to the same extent as between other persons (sec. 30-2-3).

A husband or wife may make the other an attorney in fact to control property for the mutual benefit of both or otherwise, and may revoke the appointment the same as other persons (sec. 30-2-8).

When an unmarried woman appointed executrix marries, the court or a judge thereof may, upon the motion of any person interested in the estate, revoke her authority and appoint another person in her place. When a married woman is named in a last will as executrix, she may be appointed and may serve in every respect as a feme sole (sec. 75-3-17).

A married woman may not be appointed administratrix when objection is made by any person interested in an estate. When an unmarried woman appointed administratrix marries, the court may, upon the motion of any such interested person, revoke her authority and appoint another in her place (sec. 75-4-5).

A surviving husband or wife of an intestate decedent is first in order for appointment to administer the estate (sec. 75-4-1).

No assignment of or order for payment of any salary, wages, commissions, or other compensation for services earned or to be earned, is valid if the borrower is married, unless it is signed in person by both husband and wife. However, the written assent of the spouse is not required when husband and wife are not living together (sec. 7-10-17).

### **6. Earnings of a married woman**

A wife may receive the wages for her personal labor, maintain an action for them in her own name, and hold them in her own right (sec. 30-2-4).

### **7. Liability for family support**

The expenses of the family and the education of the children are chargeable on the property of both husband and wife or of either

of them, and in respect to such expenses husband and wife may be sued jointly or separately (sec. 30-2-9).

Despite many changes in law respecting the status of married women, the husband is under a duty to support his wife.<sup>1</sup>

When a married woman becomes liable in a statutory action for support of poor relatives, her liability may not exceed the income of the estate she holds in her own right (sec. 17-14-2).

Any person who, without just excuse, deserts or wilfully neglects or refuses to provide for the support and maintenance of his or her minor child or children under the age of 16 years in destitute or necessitous circumstances, or any man who refuses or neglects to support his wife, is guilty of a felony and punishable by imprisonment in the State prison at hard labor for a period not to exceed 5 years (sec. 76-15-1).

#### **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**

A married woman retains as her own the real and personal estate which she acquired before marriage, and all property to which she becomes entitled after marriage by purchase, gift, grant, inheritance, or will. Such property is not liable for the debts, obligations, or engagements of her husband. She may convey it or dispose of it by will as if she were unmarried (Const., art. XXII, sec. 2; sec. 30-2-1).

Neither husband nor wife is liable for the debts or liabilities of the other incurred before marriage, nor for the debts of the other contracted after marriage. The wages, earnings, or property, or the rents or income from the property, of either husband or wife may not be subject to the separate debts of the other (sec. 30-2-5).

#### **10. Property acquired by joint efforts of husband and wife**

In the absence of a specific statute, the common-law rule applies that property acquired by joint efforts of husband and wife is under the management and control of the husband.

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

A married woman may prosecute and defend all actions for the preservation and protection of her rights and property, as if unmarried. The husband has no right of recovery on account of personal

<sup>1</sup> *Openshaw v. Openshaw* (1932), 80 Utah 9; 12 Pac. (2d) 364.

injury or wrong to his wife, or for expenses incurred on that account, but the wife may recover against a third person for such injury or wrong as if unmarried. Such recovery includes expenses of medical treatment and other expenses paid or assumed by the husband (sec. 30-2-4).

A married woman may sue and be sued in the same manner as if she were unmarried (sec. 78-11-1).

If husband and wife are sued together, the wife may defend for her own right, and if either neglects to defend, the other may defend for both (sec. 78-11-2).

When either spouse has deserted his or her family, the other may prosecute or defend in the name of the deserting spouse any action which he or she might have prosecuted or defended, and with the same powers and rights (sec. 78-11-3).

## **12. Damages for injury by spouse to person or property**

If the husband or wife obtain possession or control of property belonging to the other before or after marriage, the owner of the property may maintain an action for such property, or for any right accruing from it, in the same manner and to the same extent as if they were unmarried (sec. 30-2-6).

A wife may recover from her husband for intentionally inflicted injuries.<sup>2</sup>

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

In criminal prosecutions, a wife may not be compelled to testify against her husband, nor a husband against his wife (Const., art. I, sec. 12; sec. 77-1-10). In general, neither husband nor wife may be a competent witness for or against the other in a criminal action or proceeding to which one or both are parties without the consent of the other. Exceptions to this rule includes cases of criminal violence upon one by the other, and of desertion or neglect to support a wife or minor child (sec. 77-44-4).

In all prosecutions under the Uniform Reciprocal Enforcement of Support Act, laws attaching a privilege against disclosure of confidential communications between husband and wife are not applicable. Both husband and wife are competent witnesses to testify to any and all relevant matters, including the fact of marriage and parentage of children (sec. 78-45-11).

<sup>2</sup> *Taylor v. Patten* (1954), 2 Utah (2d) 404; 275 Pac. (2d) 696.

#### **14. Right to dispose of separate property by will**

Every person over the age of 18 years, of sound mind, may by last will dispose of all his estate, real and personal; but a married man cannot by his will deprive his wife of more than two-thirds in value of his legal or equitable estates in real property without her consent in writing (sec. 74-1-1).

A married woman may dispose of all her estate by will without the consent of her husband, and may alter or revoke her will in the same manner as if she were single. Her will must be executed and proved as other wills (sec. 74-1-3).

If after making a will the testator marries and his wife survives him, the will is presumed to be revoked, unless provision has been made for her by marriage contract, or by some written settlement showing the testator's intention to substitute such contract or settlement for a provision in her favor in his will, or unless she is provided for in the will or mentioned therein so as to show an intention not to make such a provision (sec. 74-1-25).

If after making a will the testator marries and has children, and the children survive him, the will is presumed to be revoked, unless provision is made for such children by settlement, or they are provided for in the will, or mentioned therein so as to show an intention not to make such provision (sec. 74-1-24).

#### **15. Inheritance rights in deceased spouse's estate**

When a person having title to any property, not otherwise limited by marriage contract, dies without disposing of the estate by will, a surviving husband or wife shares in the distributable estate as follows:

One-half the estate, when only one child or the issue of one child survives decedent;

One-third, when more than one child survives, or one child and the issue of one or more deceased children, or when no child survives but lineal decendants are living;

The entire net estate when not more than \$25,000 in value, and decedent leaves no issue. If the estate is over that value, the first \$25,000 and one-half the remainder, when a decedent leaves parents or a parent, or brothers, sisters, or children or grandchildren of a deceased brother or sister;

The whole estate, when no issue, father, mother, brother, sister, or the children or grandchildren of a deceased brother or sister survive (sec. 74-4-5).

Dower and curtesy are abolished (sec. 74-4-9).

A surviving wife has set apart to her as her property absolutely one-third in value of all the legal or equitable estates in real property possessed by the husband at any time during the marriage, to which she has not relinquished her rights, provided she was a resident of the State at the time the husband conveyed the lands or had been a resident prior thereto. Such property passes to the widow free from the husband's debts except liens for labor or material for improvement of the property, purchase-money, or taxes. The value of the widow's share in the homestead is deducted from any interest she takes under this statute (sec. 74-4-3). The wife's right, here defined, is not against the husband's estate, but is in the nature of a vested and enforceable interest and encumbrance in her favor against each specific parcel of the land, to be apportioned to her one-third in value out of each parcel.<sup>3</sup>

The share secured to the widow by right of succession in the legal and equitable estates in real property which an intestate husband possesses at his death is not in addition to the interest provided for her by statute (sec. 74-4-5).

When a wife is permanently insane or otherwise mentally incompetent, her interest in her husband's lands may be relinquished only by a prescribed court proceeding (secs. 75-13-22 through 75-13-27).

#### **16. Provision for survivors during administration of estate**

Upon the death of husband or wife, the right to remain in possession of the homestead, and to have the use of other property exempt from execution, is assured to a surviving spouse and decedent's minor children, until the court directs otherwise. During administration of the estate, a living spouse and the minor children may receive such allowance for support from the estate as the court finds necessary and reasonable, although the court has discretion to exclude from the family allowance, except homestead rights, any person having separate property or income. Such an allowance is a preferred claim against the estate except as to expenses of decedent's last illness, funeral and administration charges (sec. 75-8-1).

In proper proceeding, the court may set apart and distribute all the property of a decedent, if the total value does not exceed \$1,500; but before distribution is ordered, expenses of last illness, funeral charges, and administration costs must be paid. Such property passes to the surviving spouse if there is no minor child; but if there are minor children, the living spouse takes one-half. A surviving spouse or minor child having separate property or income may be excluded, in the court's discretion, from the distribution of the decedent's prop-

<sup>3</sup> *In re Park's Estate* (1906), 31 Utah 255; 87 Pac. 900.

erty other than the homestead. In all cases where the estate has a greater value than \$1,500, the court may set apart and distribute from the estate property not exceeding \$1,500 in value to the surviving spouse and minor children according to the above provisions. This statute does not affect the decedent's right to dispose of the estate by will according to law (sec. 75-8-2).

When the estate of a decedent does not exceed \$1,500 in value, the surviving spouse, or the decedent's children, if no spouse survives, may, without obtaining letters of administration, collect from any bank any sum which the decedent had on deposit at his death so long as the entire amount in such banks does not exceed \$300. An affidavit in statutory form is sufficient release to the bank in such cases (sec. 7-3-47).

Wages or other specified forms of compensation due a deceased person, not over \$300 in amount, are payable to a surviving husband or widow, or if neither of these survives, then to the children of the deceased person without administration of the estate (sec. 75-8-3).

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

If the husband makes any provision in his will for his widow, it will be presumed that the provision is in lieu of, and not in addition to, her inchoate share in her husband's lands. This presumption controls unless it appears from the will itself that the provision for her was intended to be in addition to the share given her by statute. Unless she files her written acceptance of the terms of the will within the period provided by law, she is conclusively presumed to have renounced the will and accepted the statutory share (sec. 74-4-4). She is limited thereby to a one-third interest in real property, and receives no personal property.<sup>4</sup>

If she is insane or incompetent, her guardian elects for her (sec. 74-4-4).

No provision is made by statute for the husband to renounce his wife's will.

### *Marriage and Divorce*

#### **18. Age of consent to marriage**

Marriage is prohibited and declared void when at the time of marriage the male is under 16 or the female is under 14 years of age (sec. 30-1-2). Consent of parent or guardian of the party under age is required if at the time application is made for license to marry

<sup>4</sup> *In re Hansen's Guardianship* (1926), 67 Utah 256; 247 Pac. 481.

the male is under 21, or the female under 18 years of age, and not previously married (sec. 30-1-9).

If a marriage license is issued to parties under age without the written consent of the father, mother, or guardian, the marriage is not void unless the male is under 16 or the female under 14 years of age. A marriage is not invalidated by the fact that the male has not reached the age of 21 or the female the age of 18.<sup>5</sup>

### 19. Common-law marriage

No marriage may be solemnized without a license (sec. 30-1-7). Common-law marriages are not recognized in Utah,<sup>6</sup> including those entered into in a jurisdiction where they are valid.<sup>7</sup>

### 20. Premarital requirements

A standard serological test and examination for syphilis or other venereal disease, must be made of each applicant within 30 days before issuance of license to marry (sec. 30-1-18).

A marriage between persons within the degrees of kinship forbidden by statute is incestuous and void from the beginning (sec. 30-1-1). Marriage is prohibited and void; (1) With an idiot or lunatic, or a person afflicted with syphilis or gonorrhoea that is uncured, or with a person subject to chronic epileptic fits unless the epileptic has been sterilized; (2) when there is a husband or wife living from whom the person marrying has not been divorced; (3) in general, when the marriage was not solemnized by an authorized person, and this fact was known by the parties; (4) when the male is under 16 or the female under 14 years of age; (5) between persons of specified races; (6) between a divorced person and any person other than the one from whom the divorce was secured until the divorce decree becomes absolute (sec. 30-1-2).

### 21. Interstate cooperation in marriage-law enforcement

Marriages solemnized in any other country, State, or territory, if valid where solemnized, are valid in Utah (sec. 30-1-4).

But when a resident of the State contracts a marriage elsewhere which is positively forbidden by Utah statute, and returns to Utah to live, the marriage is declared invalid.<sup>8</sup>

<sup>5</sup> *State v. Stewart* (1920), 57 Utah 224; 193 Pac. 855.

<sup>6</sup> *Schurler v. Industrial Commission* (1935), 86 Utah 284; 43 Pac. (2d) 696.

<sup>7</sup> *In re Vetas' Estate* (1946), 110 Utah 187; 170 Pac. (2d) 183.

<sup>8</sup> *Sanders v. Industrial Commission* (1924), 64 Utah, 372; 230 Pac. 1026.

## 22. Annulment

When doubt is felt as to the validity of a marriage, either party may, in a court of equity, demand its avoidance or affirmance, but when one of the parties was within the age of consent at the time of the marriage, the other party, being of proper age, may have no proceeding for that cause against the party under age (sec. 30-1-17).

When a marriage is contracted in good faith and in the mistaken belief of the parties that a former husband or wife is dead or legally divorced, the children of such marriage are legitimate (sec. 30-1-3).

## 23. Divorce

The court may decree a dissolution of the marriage contract when the party making complaint has been an actual resident of the State, and of the county where suit is filed for 3 months, for any of the following causes: (1) Impotency at the time of marriage; (2) adultery committed after marriage; (3) willful desertion for more than 1 year; (4) willful neglect to provide necessaries; (5) habitual drunkenness; (6) conviction for felony; (7) cruel treatment causing bodily injury or great mental distress; (8) permanent insanity; (9) living apart for 3 consecutive years without cohabitation under a decree of separate maintenance of any State (sec. 30-3-1).

The husband may in all cases obtain a divorce from his wife for the same causes and in the same manner as the wife may obtain a divorce from her husband (sec. 30-3-2).

When a divorce is decreed, the guilty party forfeits all rights acquired by marriage (sec. 30-3-9).

Unless an appeal is taken, a decree of divorce ordinarily becomes absolute at the expiration of 3 months from the date it is entered of record (sec. 30-3-7).

It is unlawful for either party to a divorce to marry any person, other than the husband or wife from whom the divorce was granted, until the decree becomes absolute at the expiration of 3 months, or if an appeal is taken, until after affirmance of the decree (sec. 30-3-8).

In any case of separation of husband and wife, the wife is entitled to care, control, and custody of the minor children. If they are 10 years of age or older and of sound mind, they have the privilege of selecting the parent with whom they will live. If the wife is an immoral, incompetent, or an otherwise improper person, the court may award the custody of the children to the husband or some other proper person (sec. 30-3-10).

**Alimony and maintenance**

The Court may order either party to a suit for divorce or separation to pay to the clerk a sum of money for the separate support and maintenance of the other party and the children, and to enable such other party to prosecute or defend the action (sec. 30-3-3).

On complaint because of desertion or neglect, the plaintiff may procure court order restraining the defendant from disposing of or encumbering defendant's real property (sec. 30-4-4).

In actions for divorce or separation, court may provide for care, custody, and maintenance of minor children of the parties and may determine with which of the parties or any of them the children shall remain; may award to the wife possession of any real or personal estate of the husband, and decree support money for her and the minor children (secs. 30-3-5, 30-4-3).

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

Husband and wife living together are joint guardians of their minor children, with equal powers, rights, and duties as to the services and earnings of such children. Neither husband nor wife has any right paramount to that of the other (sec. 75-13-18).

**25. Guardianship of a minor child**

Husband and wife living together are joint guardians of their minor children with equal powers as to control and custody. Neither has any right superior to that of the other (sec. 75-13-18).

A general guardian is the guardian of the person, or of all the property of the ward within the State, or of both person and property (sec. 75-13-1).

No person, whether the parent or not, has any power as a guardian of property, except by appointment from the court (sec. 75-13-3).

When formal appointment of a guardian is necessary, the court will give preference generally to a parent. But as between parents adversely claiming the guardianship, neither is entitled to it as of right. Other things being equal, the mother will be chosen if the child is of a tender age; the father, if the child is of an age to require education and preparation for labor or business. A minor over 14 years of age may nominate his own guardian subject to approval by the court (sec. 75-13-13).

## 26. Appointment of testamentary guardian for a minor child

A guardian of the person or estate, or of both, of a child born or likely to be born, may be appointed by will or by deed to take effect upon the death of the parent appointing. Such appointment may be made by the father, with the written consent of the mother; or by either parent if the other is dead or incapable of consenting (sec. 75-13-2).

## 27. Inheritance—child

When a decedent dies intestate, leaving no issue but survived by husband or wife, his parents inherit nothing if the estate, exclusive of debts and expenses, does not exceed \$25,000 in value. When the estate is of greater value, one-half of the amount above \$25,000 goes to the living spouse, and the other half to the decedent's father and mother in equal shares, or, if either parent is dead, the survivor receives the shares of both.

If the decedent leaves no issue or spouse, the estate goes to his father and mother in equal shares; if either is dead, the other takes the entire estate (sec. 74-4-5).

(See also No. 15.)

## 28. Child born out of wedlock

When paternity has been established by court proceeding, the father must pay a reasonable sum for support, maintenance, and education of the child until his 18th birthday, together with actual hospital and medical expense incurred by the mother in prenatal care and delivery. The adjudged father may be required to give bond to secure these payments (sec. 77-60-7).

Default under the bond may subject the defendant and his sureties to court process to enforce payment of an unpaid installment (sec. 77-60-10). If the default is willful, the defendant may be adjudged in contempt of court and committed to jail until payment is made (sec. 77-60-11).

If the mother and father of a child born out of wedlock intermarry, the child shall be legitimate in all respects, and any bond for his support becomes void (sec. 77-60-14). The father of an illegitimate child, by publicly acknowledging the child as his own, receiving him, with the consent of his wife, if he is married, into the family, and otherwise treating the child as legitimate, thereby adopts him as such, and the child is deemed legitimate from time of birth (sec. 78-30-12).

The father of a child born out of wedlock does not have a right to the custody and control until after the child is 10 years of age, unless it appears that the mother is not a suitable person to have control and custody (sec. 77-60-12).

### **29. Inheritance—child born out of wedlock**

If an illegitimate child dies intestate, leaving neither spouse nor lawful issue, his estate goes to his mother, or, if she is dead, to her heirs at law (sec. 74-4-11).

An illegitimate child is an heir of the person who acknowledges himself to be the father, and in all cases is an heir of the mother (sec. 74-4-10).

## **POLITICAL RIGHTS**

### **30. Domicile of a married woman**

The husband has the right to establish or change the family domicile, and the wife must follow him if he requests her to do so and supplies her with the necessary means.<sup>9</sup>

### **31. Public office—eligibility of women**

"The rights of citizens of the State of Utah to vote and hold office shall not be denied or abridged on account of sex. Both male and female citizens of this State shall enjoy equally all civil, political and religious rights and privileges" (Const., art. IV, sec. 1).

### **32. Jury service—eligibility of women**

Women are eligible for service on trial and inquest jury service and grand juries under the same qualifications that are required of men (secs. 77-18-2, 78-46-8). A female citizen who has the active care of minor children is entitled to exemption from jury service (sec. 78-46-10) if she claims her exemption by affidavit in the required form upon receiving summons as a juror (sec. 78-46-11).

<sup>9</sup> *Speak v. Speak* (1933), 81 Utah 423; 19 Pac. (2d) 386.