

UNITED STATES DEPARTMENT OF LABOR

MAURICE J. TOBIN, Secretary

WOMEN'S BUREAU

FRIEDA S. MILLER, Director



The Legal Status of Women in the United States of America

January 1, 1948

THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA
REPORT FOR

WASHINGTON

Individual State material, constituting part of a compilation to show the present legal status of women in the United States of America



BULLETIN OF THE WOMEN'S BUREAU, No. 157-46 (Revised)

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1949

For sale by the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C.
Price 10 cents

UNITED STATES DEPARTMENT OF LABOR
MRS. RICH. A. JOHNSON, Director
WOMEN'S BUREAU
FRANK B. HUNTER, Chief

♦

The Legal Status of Women in the
United States of America

THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA

In response to continuing domestic and international needs, the Women's Bureau has prepared a revised edition of its 1938 report on the legal status of women in the United States of America.

The revised report is based on an examination of the Constitutions, official statutes, and significant decisions of courts of last resort of the Federal Government and the several States, as well as pertinent law texts of recognized authority.

This pamphlet presents a digest of the material compiled for a single State, which has been incorporated in the complete report.

LETTER OF TRANSMITTAL

UNITED STATES DEPARTMENT OF LABOR,
WOMEN'S BUREAU,
Washington, September 12, 1949.

SIR: I have the honor to transmit to you a revised report on the legal status of women in Washington. This is one of 54 separate reports constituting a survey of the laws of the 48 States, the District of Columbia, the territories of Alaska, Hawaii, and Puerto Rico, and the United States possessions, the Canal Zone and Virgin Islands.

The original report for each jurisdiction represents a thorough search of statutes and decisions of appellate courts construing its statutes or establishing its judicial policy. Revision covers important changes by legislative action.

The study was made by Sara L. Buchanan, Attorney, aided by Mary L. Sullivan, Associate Economist, and Elizabeth Batson, Editorial Assistant, all of the Bureau staff.

Respectfully submitted.

FRIEDA S. MILLER, *Director.*

HON. MAURICE J. TOBIN,
Secretary of Labor.

LETTER OF TRANSMITTAL

UNITED STATES DEPARTMENT OF LABOR
Women's Bureau
Washington, September 12, 1912

I have the honor to transmit to you a revised report on the legal status of women in Washington. This is one of 34 separate reports comprising a survey of the laws of the 48 States, the District of Columbia, the territories of Alaska, Hawaii, and Porto Rico, and the United States possessions, the Canal Zone and Virgin Islands. The original report, published in 1909, contained a thorough search of statutes and decisions of the courts concerning the status of women in each of the jurisdictions mentioned. It was a comprehensive study of legislative action. The study was made by Miss E. Richman, Attorney, and by Miss E. Sullivan, Associate Economist, and Elizabeth Benson, Chief Assistant, all of the Bureau staff. Respectfully submitted,

Frank S. Sullivan, Director

Hon. Charles J. Tamm,
House of Representatives

CONTENTS

A.—CIVIL RIGHTS

I. CONTRACTS AND PROPERTY

1. Age of Majority.
2. Contractual Powers of Minors.
3. Property Exemptions from Seizure for Debt—Respective Rights of Men and Women.
4. Property of Married Woman Owned at Marriage—Ownership After Marriage.
5. Contractual Powers of Married Women.
6. Separate Earnings of Married Woman—Ownership and Control.
7. Liability of Married Woman for Family Necessaries.
8. Formal Procedure Required for a Married Woman to Engage in a Separate Business.
9. Married Woman's Separate Property—Control During Marriage—Liability for Husband's Debts.
10. Property Acquired After Marriage Through Cooperative Efforts of Spouses—Ownership and Control.
11. Damages Recovered for Injury by Strangers to a Married Woman's Person, Property, or Character—Ownership and Control.
12. Action to Recover Damages for Willful or Negligent Injuries to the Person or Property of One Spouse by the Other—Respective Rights of Husband and Wife.
13. Competency of Spouses to Testify For or Against Each Other.
14. Disposition of Separate Property by Will—Extent of Married Woman's Right.
15. Estate of Deceased Husband or Wife—Share of Surviving Spouse.
16. Provision for the Surviving Spouse During Administration of the Estate.
17. Disinheritance of Husband or Wife by Will of Deceased Spouse—Survivor's Alternative.

II.—MARRIAGE AND DIVORCE

18. Age of Consent to Marriage—Men and Women.
19. Validity of Common-Law Marriage.
20. Health Certificate Requisites Prior to Issuance of Marriage License—Men and Women.
21. Interstate Cooperation in Marriage Law Enforcement.
22. Grounds for Marriage Annulment—Respective Availability to Man or Women.
23. Grounds for Divorce—Respective Availability to Spouses.

III.—PARENTS AND CHILDREN

- 24. Services and Earnings of Minor Children—Parents' Respective Rights.
- 25. Guardianship of Minor Children—Parents' Respective Rights.
- 26. Appointment of Testamentary Guardian for Minor Children—Parents' Respective Rights.
- 27. Inheritance from an Intestate Child—Parents' Respective Rights.
- 28. Support of Children Born Out of Wedlock—Parents' Respective Responsibility.
- 29. Inheritance from Child Born Out of Wedlock—Mother's Right.

B.—POLITICAL RIGHTS

- 30. Domicile of Married Women.
- 31. Public Office—Eligibility of Women.
- 32. Jury Service—Eligibility of Women.

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, natural male dominance, and the social status of women. Shifts in these have effected an almost complete overturn in laws governing the property owned by a woman prior to her marriage and that coming into her individual ownership after her marriage, by gift, inheritance, will, or accumulation from her premarital possessions.

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 largest remaining area to be reformed to the present-day trend lies in the matter of ownership and control of property acquired by the cooperative efforts of husband and wife after marriage.

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, with the exception of the discrimination in some States which bars women from jury duty; or of distinctions, such as variance between men and women in the statutory age of majority or age of consent to marriage.

WASHINGTON

SOURCES

Constitution of Washington.
Revised Statutes of Washington, Annotated (Remington) 1932.
Session Laws, 1933, 1939, 1945.
Washington Reports.
Pacific Reporter.

EXPLANATORY NOTE

References to the State Constitution are indicated by parenthetical insertions of section numbers following the abbreviation Const., as (Const., art. 3, sec. 25), placed after the related subject matter.

Code section references are likewise in parentheses, thus (sec. 6890).

Session laws are referred to by year of enactment and page number, as (1933, p. 192).

Case citations, definitely construing statutes or declaring judicial policy in the absence of express statutory provision, are indicated by numerical footnote references, and appear immediately after the related paragraphs. Cases showing historical development of a statute or policy are followed by the abbreviation (Hist.).

Subject headings are preceded by numbers, which remain constant for their respective topics through the entire State series. Cross references among topics employ these numbers for brevity, as "See Number 6," which refers to the subject heading "Separate Earnings of Married Woman—Ownership and Control."

WASHINGTON

A.—CIVIL RIGHTS

I.—CONTRACTS AND PROPERTY

1. Age of Majority.

All persons are considered of full age for all purposes at the age of 21 years and upward (sec. 10548). All females married to a person of full age are considered of full age (sec. 10549).

This statute merely removes the common-law disabilities of minority. A girl under 18 years of age is within the purview of the juvenile law and within the jurisdiction of the juvenile court, notwithstanding her prior marriage to a person of full age.¹

For the purposes of guardianship, all persons are declared to be of full and legal age when they become 21 years old, and females are considered of full and legal age under 21, when, with the consent of the parent or guardian, or the person under whose care or government they may be, they have been legally married (sec. 1572).

¹ *In re Lundy* (1914), 82 Wash., 148, 153; 143 Pac. 885.

2. Contractual Powers of Minors.

Generally, contracts or conveyances by an unmarried female minor are voidable at her majority, by common-law rule. But a minor is liable for the reasonable price of necessities supplied him, if suitable and actually required (sec. 5836-2). If legally married to a person of full age, a female minor has the same rights of contract as if she were 21 (sec. 10549).

3. Property Exemptions from Seizure for Debt—Respective Rights of Men and Women.

Personal Property.

Exemptions of personal property are to "persons," "householders," "families," and to certain occupational and professional classes (sec. 563). The statute defines a householder, as used in the exemption laws, to be (1) the husband and wife, or either; or (2) every person who has residing with him or her, and under his or her care and maintenance, any of certain specified classes of dependents (sec. 565).

The proceeds of life insurance which inure to the separate use and benefit of a married woman are exempt to her and to her children, unless it be shown that the premiums on such insurance were paid in fraud of creditors (sec. 7230-1).

Homestead.

The exemption of a homestead, to be selected and claimed in lands and improvements, of value not exceeding \$2,000, consisting of the claimant's residence actually used as such, is to the "head of the family." The designation "head of the family" as here used includes: (1) The husband or wife, when the claimant is a married person; or a widow or widower still residing upon the premises occupied by her or him as a home while married; and (2) every person who has residing on the premises with him or her, and under his or her care and maintenance, any of the classes of dependent persons enumerated in the statute (secs. 528, 552, 558) (1933, p. 192).

4. Property of Married Woman Owned at Marriage—Ownership After Marriage.

See Number 9.

5. Contractual Powers of Married Women.

The text under this topic refers to the separate property of a spouse, as distinguished from community property. For that subject, see Number 10.

Contracts may be made by a wife, and liabilities incurred, and these may be enforced by or against her to the same extent and in the same manner as if she were unmarried (sec. 6902).

Every married person has the same right and liberty to acquire, hold, enjoy, and dispose of every species of property, and to sue and be sued as if he or she were unmarried (sec. 6900).

All laws which impose or recognize civil disabilities upon a wife, which are not imposed or recognized as existing as to the husband, are abolished, and for any unjust usurpation of her natural or property rights she shall have the same right to appeal in her own individual name to the courts of law or equity for redress and protection that the husband has: "Provided always, that nothing in this chapter shall be construed to confer upon the wife any right to vote or hold office, except as otherwise provided by law" (sec. 6901). As to the present force of the proviso, see Number 31.

The statute does not intend to emancipate the wife from all civil disabilities, but the express language is that all civil disabilities which are not imposed or recognized as existing as to the husband are abolished, and that for any usurpation of her natural or property rights she shall have the same right to appeal and the same protection and redress that the husband has. The only object that the statute had was the commendable one of abolishing the tyranny of sex, and the placing of the husband and wife upon an equal footing.¹

A wife may transfer without her husband's signature, and in other ways control, her shares of stock as if she were unmarried (sec. 3819-1).

Every avenue of employment shall be open to women; and any business, vocation, profession, and calling followed and pursued by men may be followed and pursued by women, and no person shall be disqualified from engaging in or pursuing any business, vocation, profession, calling, or employment on account of sex; provided, that this

section shall not be construed so as to permit women to hold public office (sec. 7620). See Number 31.

¹ *Schultz v. Christopher* (1911), 65 Wash. 496; 118 Pac. 629.

6. Separate Earnings of Married Woman—Ownership and Control.

The statute provides that a wife may receive the wages of her personal labor, and maintain an action to recover them in her own name, and hold them in her own right; she may prosecute and defend all actions at law for the preservation and protection of her rights and property as if unmarried (sec. 6895).

The earnings and accumulations of the wife and of her minor children living with her, or in her custody while she is living separate from her husband, are the separate property of the wife (sec. 6896).

The court holds, however, that when these statutes are construed together the conclusion must be that only when a married woman is living separate from her husband do her earnings become her separate property.¹

Only by agreement between husband and wife can the personal earnings of either become the separate property of the one through whose efforts they accrue. And under such an agreement, property purchased with the separate earnings becomes the separate property of the contributing spouse.²

It is further provided by statute that when a married woman is a party to a suit, her husband must be joined with her, except: (1) When the action concerns her separate property, or her right or claim to the homestead property, she may sue alone; (2) when the action is between herself and her husband, she may sue or be sued alone; or (3) when she is living separate and apart from her husband, she may sue or be sued alone (sec. 181).

Also, that husband and wife may join in all causes of action arising from injuries to the person or character of either or both of them, or from injuries to the property of either or both of them, or arising out of any contract in favor of either or both of them (sec. 182).

But the court holds that in an action by a married woman for damages for personal injuries, where the right of action arises during the existence of the community between the spouses, the husband is a necessary party to the suit.^{3 4}

¹ *Abbott v. Wetherby* (1893), 6 Wash. 507, 512; 33 Pac. 1070; 36 A. S. R. 176.

² *Dobbins v. Dexter Horton & Co.* (1911), 62 Wash. 423, 427; 113 Pac. 1088.

³ *Schneider v. Biberger* (1913), 76 Wash. 504, 507; 136 Pac. 701.

⁴ *Hammond v. Jackson* (1916), 89 Wash. 510, 512; 154 Pac. 1106.

7. Liability of Married Woman for Family Necessaries.

The expenses of the family and the education of the children are chargeable upon the property of both husband and wife, or either of them, and the spouses may be sued jointly or separately for such debts (sec. 6906).

8. Formal Procedure Required for a Married Woman to Engage in a Separate Business.

Apparently a married woman may engage in any business in her own name without court order, if she is using only her separate property (secs. 6900, 7620).

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

The property and pecuniary rights of every married woman at the time of her marriage, or afterward acquired by gift, devise, or inheritance, with the rents, issues, and profits thereof, are not subject to the debts or contracts of her husband, and she may manage, lease, sell, convey, encumber, or devise by will such property, to the same extent and in the same manner that her husband can deal with property belonging to him (sec. 6891).

Should either husband or wife obtain possession or control of property belonging to the other, either before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if he or she were unmarried (sec. 6903).

The wife's separate property and her personal earnings are specifically exempted by statute from seizure for any liability against the husband, during her life or that of any minor heirs of her body (sec. 570).

10. Property Acquired After Marriage Through Cooperative Efforts of Spouses—Ownership and Control.

The community-property system exists in this State. Excluding any property received through gift, will, or inheritance, and its rents, issues, and profits, all property acquired by husband and wife, or either of them, after marriage, is owned in community by the spouses (secs. 6890, 6891, 6892).

Management and Control.

The husband has the management and control of community personal property, and may dispose of it as he could if it were his separate personal property, except that he may not in his will dispose of more than one-half of it (sec. 6892).

The husband has the management and control of the community real property. But he cannot sell, convey, or encumber the community real estate unless the wife join with him in executing the deed or other instrument of conveyance by which the real estate is sold, conveyed, or encumbered, and both parties must acknowledge the instrument. Such real estate is subject to the liens of mechanics and materialmen and judgments for community debts (sec. 6893).

Husband and wife may agree jointly concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterward to be acquired, such agreement to take effect at the death of either. Such an agreement may be made at any time by the husband and wife by the execution of an instrument in writing under seal, executed as required for deeds, and may be altered or amended in like manner, provided rights of creditors are protected (sec. 6894).

For disposition of community property on death of one spouse, see Number 15.

11. Damages Recovered for Injury by Strangers to a Married Woman's Person, Property, or Character—Ownership and Control.

In an action by a married woman for damages from personal injuries, where the right of action arises during the existence of the community between the spouses, the husband is a necessary party to the suit.^{1 2}

When a married woman is a party to a suit, her husband must be joined with her, except (1) when the action concerns her separate property, or her right or claim to the homestead property, she may sue alone, or (2) when the action is between herself and her husband she may sue or be sued alone, or (3) when she is living separate and apart from her husband, she may sue or be sued alone (sec. 181).

¹ *Schneider v. Biberger* (1913), 76 Wash. 504, 507; 136 Pac. 701.

² *Hammond v. Jackson* (1916), 89 Wash. 510, 512; 154 Pac. 1106.

12. Action to Recover Damages for Willful or Negligent Injuries to the Person or Property of One Spouse by the Other—Respective Rights of Husband and Wife.

Neither husband nor wife has the right to sue the other for a tort committed by one upon the other during the marriage.¹

¹ *Schultz v. Christopher* (1911), 65 Wash. 496; 118 Pac. 629; 38 L. R. A. (N. S.) 780.

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

Husband and wife are competent witnesses for or against each other in prosecutions under the abandonment or nonsupport statutes (sec. 6912).

Neither spouse may testify for or against the other without the other's consent; nor can either be examined as to private communications between them during the marriage. But this exception does not apply to a civil action or proceeding by one against the other, nor to a criminal proceeding for a crime committed by one against the other (sec. 1214).

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

Every person who has attained the age of majority, and is of sound mind, may by last will devise all of his or her real and personal estate (sec. 1394).

"His or her estate" includes all of the separate estate owned by the testator, together with one-half the community estate existing at the date of death (secs. 6890, 6891, 1342).

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

The estates by dower and curtesy do not exist (secs. 1343, 6897). Nor does either spouse, prior to the death of one, have any interest in the other's property acquired before marriage, nor in that acquired subsequent to marriage by gift, devise, bequest, or descent (secs. 6890,

6891). Such property is the separate estate of the owner-spouse, and upon the owner's death intestate and after payment of debts, descends to the surviving spouse as described in the paragraphs following.

Real Estate.

1. An equal share, if the spouse and only one child or the lawful issue of one child be living.
2. One-third, if the spouse and more than one child or one child and the lawful issue of one or more deceased children be living.
3. One-half, if no issue survive and decedent's father and mother or either be living.
4. One-half, if no issue or parent survive, but there are living brothers and sisters of the decedent, or any children of deceased brothers or sisters.
5. All of it, if no issue, nor father, mother, brother, sister, nephew, or niece of the decedent, survive (sec. 1341).

Personal Estate.

After allowances for family maintenance, and for payment of the debts and charges of settling the estate, the residue, if any, of the personal property is distributed to the same persons in the same proportions as provided for the real estate, except that if the intestate left a spouse and issue, the spouse is entitled to one-half the residue; if no issue survive, the living spouse takes the whole residue (sec. 1364).

Disposition of Community Property.

All other property than the separate property just described, acquired after marriage by either husband or wife or both, is community property (sec. 6892).

Upon the death of either husband or wife, one-half of the community property, subject to the community debts, goes to the surviving spouse; the other half, subject also to the community debts, is subject to the testamentary disposition of the deceased spouse, or if no will was made it is distributed in accordance with the provisions of the statute (sec. 1342).

16. Provision for the Surviving Spouse During Administration of the Estate.

A widow is allowed all articles of her apparel or ornament, according to the degree and estate of her husband, together with provisions and other necessaries allowed by statute [secs. 1473, 1474, 1476] for herself and the family under her care; such allowance is to be made whether the widow accepts the provisions of her husband's will or whether he dies intestate (sec. 1364).

If no homestead has been claimed, a surviving husband or wife is entitled to have set off and awarded to him or her, property of the estate, either separate or community, of not more than \$4,000 in value above encumbrances, in lieu of the homestead.

If a homestead has been selected, but is of a net value of \$4,000 or less, the surviving spouse is entitled to have additional property of the estate awarded, so that taken with the homestead the entire statutory allowance of \$4,000 is made (1945, pp. 570, 572).

In addition, a reasonable cash allowance for family maintenance during administration according to their circumstances may be authorized by the court (sec. 1476). See Numbers 3 and 15. Wages payable to a deceased person, not over \$300 in amount, may be paid to the surviving spouse on request, when no administration has been granted (1939, p. 419).

17. Disinheritance of Husband or Wife by Will of Deceased Spouse—Survivor's Alternative.

The rights of a surviving spouse in the estate of a deceased husband or wife are protected by the community-property provision. See Numbers 10 and 15.

II.—MARRIAGE AND DIVORCE

18. Age of Consent to Marriage—Men and Women.

If otherwise capable, males of the age of 21 years, and females of the age of 18 years, may marry without parental consent (sec. 8437). If the consent in writing is obtained of the father, mother, or legal guardian of the person for whom license is required, license to marry may be granted in cases where the female is under the age of 18 years or the male is under the age of 21 years. But no consent can be given, nor license issued, unless the female be over the age of 15 years (sec. 8451).

It is held that the age of consent to marriage is governed by the common-law rule of 14 years for males and 12 years for females.¹ If either party is under the designated age, the marriage is voidable (sec. 8449).

¹ *Tisdale v. Tisdale* (1922), 121 Wash. 138, 141 ; 209 Pac. 8.

19. Validity of Common-Law Marriage.

The State does not recognize the common-law marriage. Holding that the purpose of the legislature was to make void all attempts to establish the marriage relationship in any way other than in accordance with the method provided by the statute, the court said in an early decision¹ which is still the judicial rule:²

* * * While the married state is a most commendable one, and ought to be encouraged in all legitimate ways, having, as it does, its origin in divine law, it seems to us if the statutory requisites are dispensed with, it would, to some extent, set a premium upon illicit intercourse. * * * It is contrary to public policy and public morals, and revolting to the senses of enlightened society, that parties could place themselves in such a condition that they might mutually repudiate an arrangement of this kind previously entered into, whatever the reason might be, and yet this would follow if common-law marriages are to be recognized. By adhering to the statutory provisions, all objectionable cases of this kind are eliminated, parties are led to regard the contract as a sacred one, as one not lightly to be entered into, and are forcibly impressed with the idea that they are forming a relationship in which society has an interest, and to which the State is a party. Illicit intercourse would to a great extent be prevented, and there would be no attempts upon the part of either one to form the relationship in any clandestine way, or any attempt by one to overreach the other in such a way, knowing that such attempts would be ineffectual.

There is a growing belief that the welfare of society demands further restrictions in this direction, and that this will find voice in future legislation; that an institution of this kind, which is so closely and thoroughly related to the State, should be most carefully guarded, and that improvident and improper marriage

should be prevented. * * * Certainly it is a legitimate subject for legislation, for the State has an interest in each act, contract, and relation of its individual members that in anywise affects the public welfare or tends to the injury of the individual, and these will become regulated more and more in various ways as the government of man approaches greater degrees of perfection, and the rights, relations, and responsibilities of one person with regard to another, and to all others, become better understood. Every thoughtful person would desire this should be so, even though in some cases it might seem to result in individual hardship.

* * * We think the lesser injury will come from an adherence to the statutory requisites than otherwise, to the end that these contracts shall be permanent, and not revocable at the will and pleasure of the parties; that parents may be made responsible for the support, maintenance, and care of their offspring, and the legitimacy of the offspring established beyond dispute.

Property acquired by a man and woman not married, but living together as husband and wife, is not community property, and, in the absence of some trust relation, must be regarded as belonging to the one in whose name the legal title stands.³

A common-law marriage is valid in the State if contracted and consummated in another State where common-law marriages are lawful.⁴

¹ *In re McLaughlin's Estate* (1892), 4 Wash. 570, 588, 590; 30 Pac. 651; 16 L. R. A. 699. (Hist.)

² *Melton v. Industrial Insurance Dept.* (1919), 104 Wash. 652, 655; 177 Pac. 696.

³ *Engstrom v. Peterson* (1919), 107 Wash. 523, 530; 182 Pac. 623.

⁴ *Nelson v. Carlson* (1908), 48 Wash. 651, 654; 94 Pac. 477.

20. Health Certificate Requisites Prior to Issuance of Marriage License—Men and Women.

A waiting period of 3 days must elapse between the application for license to marry and the issuance of the license (1939, p. 716).

Each applicant must file an affidavit with the license officer of the county showing that he or she is not feeble-minded, an imbecile, epileptic, insane, a common drunkard, or afflicted with pulmonary tuberculosis in its advanced stages; and in addition, the affidavit of the male applicant must show that he is not afflicted with any contagious venereal disease. Also, the affidavit of some disinterested credible person showing that neither of said persons is an habitual criminal, must be filed (sec. 8451).

21. Interstate Cooperation in Marriage Law Enforcement.

The general rule is followed, that a marriage will be held valid if it is valid where contracted; provided it is not prohibited by either natural or positive law.¹

¹ *State v. Fenn* (1907), 47 Wash. 561, 563; 92 Pac. 417.

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

Consent obtained through force or fraud, or mental incapacity to contract through non-age or want of sufficient understanding, renders a marriage voidable, at the suit of the party under disability or upon whom the force or fraud was imposed (sec. 8449).

The statute provides that no woman under the age of 45 years, or man of any age (except he marry a woman over the age of 45 years), either of whom is a common drunkard, habitual criminal, epileptic, imbecile, feeble-minded person, idiot, or insane person, or person who has heretofore been afflicted with hereditary insanity, or who is af-

flicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, may intermarry or marry any other person within the State (sec. 8439). The court holds that marriages consummated under this statute are voidable, since there is no declaration in the law that such marriages are void.¹

When there is any doubt as to the facts rendering a marriage void, either party may apply for, and on proof obtain, a decree of nullity of marriage (sec. 983).

¹*In re Hollingsworth's Estate* (1927), 145 Wash. 509, 514; 261 Pac. 403.

23. Grounds for Divorce—Respective Availability to Spouses.

On application of the aggrieved party, divorce may be granted for the following causes: Fraudulent contract without subsequent voluntary cohabitation; adultery, when unforgiven, and the application is made within 1 year after such misconduct has come to the knowledge of the party applying for divorce; impotency; abandonment for 1 year; cruel treatment; personal indignities rendering life burdensome; habitual drunkenness of either party; the neglect or refusal of the husband to make suitable provisions for his family; imprisonment in a State penal institution, if complaint filed during the term of imprisonment; incurable, chronic mania or dementia existing for 5 years or more, while under confinement by order of a court of record, if the court, in its discretion, will grant the decree of divorce. A divorce may be granted to either or both parties where they have lived separate and apart for a period of 5 consecutive years or more (sec. 982).

A period of 6 months must elapse between the court's interlocutory order, declaring the party, in whose favor the court decides, entitled to a decree of divorce, and the actual decree granting such divorce. Until such final decree is granted, the marriage is not dissolved (secs. 988 to 988-1).

III.—PARENTS AND CHILDREN

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

The rights and responsibilities of the parents, in the absence of misconduct, are equal, and the mother shares equally with the father the custody, control, and earnings of the children. In the event of the father's death, the mother comes into as full and complete control of the children and their estate as the father does in case of the mother's death (sec. 6907).

25. Guardianship of Minor Children—Parents' Respective Rights.

The statute makes no discrimination between father and mother in prescribing the qualifications for the guardian of their minor child (secs. 1566, 1567). As to natural guardianship, see Number 24.

26. Appointment of Testamentary Guardian for Minor Children—Parents' Respective Rights.

When either parent is dead, the surviving parent of any minor child may appoint by last will in writing a guardian or guardians for such minor child (sec. 1580). See Number 24.

27. Inheritance from an Intestate Child—Parents' Respective Rights.

If a decedent leaves no issue, his separate estate in lands not devised by will goes in equal shares to the surviving husband or wife, and to the decedent's father and mother, or to the surviving parent, if only one is living. If the decedent leaves no issue, nor husband, nor wife, the estate goes to his father and mother or the survivor of them (sec. 1341).

The separate personal estate not devised by will is taken by the father and mother of a decedent, or the survivor of them, where the decedent leaves no issue nor spouse surviving (sec. 1364).

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

When the child's paternity has been determined by legal proceedings, the adjudged father is charged by court order with the payment, in quarterly installments, of a sum specified by the court decree, during each year of the life of the child until it reaches the age of 16 years, for the care, education, and support of such child; and he is charged also in the order with the mother's confinement expense and costs of the suit. Bond is required to secure such payments and costs (sec. 1978).

29. Inheritance from Child Born Out of Wedlock—Mother's Right.

The estate of any illegitimate child, who dies intestate without lawful issue, descends to his mother, or if she is dead, to her heirs at law (sec. 1346).

B.—POLITICAL RIGHTS

30. Domicile of Married Women.

Generally speaking, it is the privilege of the husband to fix the family domicile. His duty to maintain and support the family and his right to establish the domicile are correlative. But where the husband has deserted the wife, or where there has been a mutual abandonment of the marriage relation, so that every purpose of marriage is destroyed, the reason for the rule that the husband can fix the family domicile ceases, and the rule ceases. The wife is then at liberty to establish a separate domicile for all purposes.¹

¹ *Buchholz v. Buchholz* (1911), 63 Wash. 213; 115 Pac. 88.

31. Public Office—Eligibility of Women.

Women are eligible for election to public office (Const., art. 3, sec. 25; also Amend. 5) (sec. 9929).

32. Jury Service—Eligibility of Women.

Women are eligible for jury service, but they cannot be compelled to serve as jurors. They may claim exemption by giving proper notice to the sheriff before the date for appearance (sec. 95). If a woman files her claim for exemption with the tax assessor when the jury lists are in preparation, she will not be included on the list (sec. 96).

