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The Legal Status of Women in the United States of America

REPORT FOR
WYOMING
as of January 1, 1960



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UNITED STATES DEPARTMENT OF LABOR

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WOMEN'S BUREAU

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The Legal Status of Women
in the
United States of America

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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 Wyoming
Compiled Statutes, 1949
Session Laws of Wyoming, 1959
Wyoming Reports
Pacific Reporter

EXPLANATORY NOTE

This pamphlet, Bulletin 157-49, presents a digest of the constitution and statutory provisions affecting the legal status of women in the State of Wyoming. It includes pertinent statutory changes enacted in that State up to January 1, 1960, and supersedes the previous report and addendum for Wyoming.

References to the State constitution are indicated by parenthetical insertions of article and section numbers following the abbreviation "Const.," as (Const. art. 15, sec. 3), placed after the related subject matter.

References to the code sections are likewise in parentheses, as (sec. 69-101).

Session laws are referred to by year of enactment and page number as (S.L. 1959, p. 27).

Case citations definitely construing statutes or declaring judicial policy in the absence of express statutory provision are indicated by footnote references. Cases showing historical development of a statute or policy are followed by the abbreviation "hist."

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."

3. Property exemptions from seizure for debt

A. Respective Rights of Men and Women

WYOMING**CIVIL RIGHTS*****Contracts and Property*****1. Age of majority**

The age of majority of both sexes is 21 years, by rule of common law.

By court decree, minors over 19 years of age may be declared of full age for all legal purposes except voting, if necessary for their material advantage (sec. 7-501).

2. Contractual powers of a minor

A minor's contracts are voidable, except when made for necessities suitable to the minor's condition in life and to his actual requirements at the time he receives the goods (sec. 41-102).

Minors may become stockholders in domestic building and loan associations and are subject to all duties and liabilities in connection with their stock as if they were adults (sec. 36-311). A minor or any other person under disability who has or makes a deposit in his or her name in any bank or banking institution in the State has full power to withdraw such deposit by check or order (sec. 35-148).

Minors may not serve as executors (sec. 6-702) or as administrators (sec. 6-903).

Minors over 18 years of age are fully responsible as owners or proprietors under liens accruing to mechanics and builders upon any building, erection, or improvements made for such minors (sec. 55-221).

A minor student who qualifies for a loan under the Wyoming Higher Education Loan Plan has full legal capacity to receive and repay such loan, and has all the rights, powers, privileges and obligations of a person of full age with respect to it (S.L. 1959, p. 51).

The marriage of a minor ward terminates the guardianship of the person but not of the estate of such ward. The estate does not terminate until the guardian is legally discharged or the ward reaches his majority (secs. 7-107, 7-116).

(See number 14 as to capacity to make a will.)

3. Property exemptions from seizure for debt

A. RESPECTIVE RIGHTS OF MAN AND WOMAN

The necessary wearing apparel of every person is exempt up to a value of \$150 (sec. 3-4507).

Any person who is the head of a family that resides with him in the State may hold exempt: The family Bible, pictures, schoolbooks, selected household equipment and provisions not exceeding \$500 in value, and a burial lot (sec. 3-4508). When the head of a family dies, deserts, or ceases to reside with such family, the exemptions allowed to him or her are available to the family. In any case where the above mentioned exempt property is the sole and separate property of the wife, it is exempt as to her debts to the same extent and for all purposes as when allowed to the head of a family (sec. 3-4509).

The tools, team, and implements, or stock in trade of any mechanic, miner, or other person, used and kept for the purpose of carrying on his trade or business, not exceeding \$300 in value, are exempt. Also exempt are the library, instruments, and implements of any professional man, not exceeding \$300 in value.

No article of property enumerated under the preceding statutes is exempt against levy for the purchase-price. Any person claiming exemption must be an actual resident of the State (sec. 3-4510).

One-half of the earnings of the judgment debtor for his personal services rendered at any time within 60 days immediately before levy for debt, when due and owing at the time levy is made, may be held exempt. In order to qualify for such exemption, however, it must be shown that such earnings are necessary for the use of the debtor's family residing in the State, supported wholly or in part by his labors (sec. 3-4713).

The lawful beneficiary under a life-insurance policy is entitled to its proceeds against the creditors and representatives of the person effecting the insurance. The amount of any premiums paid in fraud of creditors may be held for the benefit of the creditors, as provided by statute (sec. 52-514).

The proceeds of life-insurance policies or payments under endowment or annuity contracts may be protected by agreement, as provided by statute, so as to prohibit their encumbrance or assignment "by creditors of beneficiaries other than the insured," or their subjection to any legal process against such beneficiaries (sec. 52-601).

B. HOMESTEADS

A homestead as provided by law is exempt from forced sale under any process of law, and cannot be alienated without the joint consent

of husband and wife when that relation exists. However, no property is exempt from sale for taxes, for the payment of obligations contracted for the purchase of such homestead, or for the erection of improvements on it (Const., art. 19, sec. 9).

Every householder in the State of Wyoming, who is the head of a family, and every resident of the State who has reached the age of 60 years, whether the head of a family or otherwise, is entitled to a homestead exemption not exceeding in value \$4,000 (sec. 3-4501). However, the homestead must be occupied as such by the owner, or the person entitled to it, or his or her family (sec. 3-4502).

The statutory homestead may consist of a house and lot or lots in any town or city, or, if a farm, may consist of any number of acres, but the value of the homestead exemption may not exceed \$4,000 (sec. 3-4504). The exemption applies to the proceeds from the sale of such homestead to the extent of \$4,000 and to any subsequent homestead acquired with the proceeds of the former homestead (sec. 3-4506).

On the death of an owner of a homestead, the surviving spouse or minor children become entitled to such homestead (sec. 3-4503).

Any sale, mortgage, disposal, or encumbrance of homestead property is void unless the spouse of the owner or occupant voluntarily joins in the transaction (sec. 66-209).

Statutory provision is made for encumbrance or conveyance of the homestead by the husband when the wife is insane, and for safeguarding her interests and assuring her support after relinquishment of her homestead right (secs. 3-7202 to 3-7206).

When the separate property of a married woman becomes subject to seizure under a judgment rendered against her, she is entitled to the benefit of all exemptions available to heads of families (sec. 3-3510). Under this statute a married woman against whom a personal judgment is rendered is entitled to a homestead exemption in her separate property on which she lives with her husband, although she is not the head of a family.¹

If the homestead held prior to the death of the decedent does not exceed \$4,000, the court must set it off to the person in whom the title is vested. If there are liens against the homestead and there are funds in the estate sufficient to pay them, they must be paid from such funds. If the funds are insufficient, such liens must be paid proportionately with other debts, and can be enforced against the homestead only for any deficiency remaining after such payment (sec. 6-1506).

4. Ownership and control of property owned at marriage

All property which a woman owns at the time of her marriage, with

¹ *Bachman v. Hurtle* (1919), 26 Wyo. 332; 184 Pac. 709.

all rents, issues, increase, and profits from it, continues after the marriage to be her separate property and is subject to her control alone. It is exempt from execution or attachment for the debts of her husband (sec. 50-201).

The husband is not liable for debts or liabilities of his wife contracted before marriage unless he assumes them in writing (sec. 50-206).

5. Contractual powers of a married woman

A married woman may make contracts and incur obligations and liabilities in the same manner and to the same extent as if she were unmarried (sec. 50-202). She may sue and be sued in all matters having relation to her person, property or reputation (sec. 50-203).

Marriage does not affect a woman's capacity to serve as executrix or administratrix (secs. 6-704, 6-904).

The surviving husband or wife of a person who dies without a will, or some competent person selected by him or her, has preference for appointment as administrator of the estate (sec. 6-901).

No assignment of, or order for, wages of a married man to be earned in the future is valid, unless the written consent of his wife is attached to it (sec. 54-611).

6. Earnings of a married woman

The earnings of a married woman from her trade, business, labor, or services are her sole and separate property. She may sue in her own name to recover her earnings (sec. 50-205).

7. Liability for family support

The necessary 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 they may be sued jointly or separately on such obligations. But the personal expenses of the husband are not chargeable to the wife's separate estate (sec. 50-201).

A husband who, without just cause or lawful excuse, deserts or does not provide adequately for the support and maintenance of his wife, thus placing her in necessitous circumstances, is guilty of a felony. Likewise, any parent who, without just cause or lawful excuse, deserts or does not provide adequately for the care, support and maintenance of his child under 18 years is also guilty of a felony. Upon conviction of either crime the husband or parent may be sentenced to imprisonment in the State penitentiary for not more than 3 years (sec. 9-803).

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

A married woman may carry on any trade or business and perform any labor or services on her sole and separate account with all the rights and liabilities she would have if she were unmarried (sec. 50-205).

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

All property owned by a woman at the time of her marriage, or acquired by her in good faith during marriage from any person, including her husband, or by descent or otherwise, together with all income and profits from such property, is her sole and separate estate. This is under her control and for her use and enjoyment as if she were unmarried. Such property is not subject to the disposal, control, or interference of her husband, and is exempt from seizure for his debts. However, any property conveyed to the wife by the husband to defraud his creditors does not become her separate estate (sec. 50-201).

The separate deed of the husband can convey no interest in the wife's lands (sec. 50-209).

A married woman may dispose of her separate property, whether real or personal, to such persons and upon such terms as she chooses, in the same manner and to the same extent as if she were unmarried (sec. 50-202). Her deed or mortgage conveys her real estate as effectively as if she were unmarried (sec. 66-102).

Where the husband enters into a contract for performance of work or furnishing of material for the benefit of his wife's property, the husband is deemed to be the agent of his wife (sec. 55-221).

Whenever any judgment is rendered against a husband and wife for a tort of the wife, execution is first levied on her land (sec. 50-208).

10. Property acquired by joint efforts of husband and wife

In the absence of a specific statute to the contrary, the common law rule prevails that property acquired by joint efforts of husband and wife during marriage is under the management and control of the husband.

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

A woman may, while married, sue and be sued in all matters relating to her property, person, or reputation in the same manner as if she were unmarried (sec. 50-203). Her husband need not be joined as a party with her solely because of her marriage (sec. 3-604). When husband and wife are sued together, the wife may defend for her own right. If the husband neglects to defend she may defend for his right also (sec. 3-605).

Court actions to recover money damages for alienation of affections, seduction and breach of contract to marry have been abolished (secs. 3-512, 3-513).

A married woman may sue and be sued as if unmarried in regard to her trade, business, labor, services, and earnings. Her property acquired by trade, business, and services, and the proceeds from it, may be taken on any execution against her, except such portion as may be exempt by statute (sec. 50-205).

When a married woman sues or is sued alone, the same proceedings are followed, and judgment is rendered and enforced against her, as if she were unmarried. Her separate property and estate are liable for such judgment (sec. 3-3510).

A wife is entitled to recover from the estate of a decedent who impaired her ability to perform ordinary duties at home and other duties customarily performed by her. The sole right to recover for such loss is no longer vested in the husband alone.²

12. Damages for injury by spouse to person or property

There is no statute expressly empowering husband and wife to sue each other in tort actions. The court has held that a wife as an invited guest could not sue her husband for alleged gross negligence resulting in bodily injury, at least not in the absence of liability insurance taken out by the husband for his protection.³

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

No husband or wife may be a witness against the other, except in criminal proceedings for a crime committed by one against the other, or in a civil action or proceeding by one or against the other. But they may be witnesses for each other in all civil and criminal cases, as if the marital relation did not exist (sec. 3-2605).

Laws attaching a privilege against disclosure of communications between husband and wife are inapplicable to proceedings under the Uniform Enforcement of Support Act. Husband and wife are competent witnesses to testify to any relevant matter, including marriage and parenthood (sec. 3-8125).

14. Right to dispose of separate property by will

Any person of full age and sound mind may dispose of his property by will, except the portion required to pay his debts, or the portion allowed by law to the testator's family and surviving husband or wife (sec. 6-301).

² *Fox v. Fox* (1956), 296 Pac. (2d) 252.

³ *McKinney v. McKinney* (1943), 59 Wyo. 204; 135 Pac. (2d) 940.

A married woman may dispose of her property by will as if she were single (sec. 50-204).

(See number 17 as to right of surviving spouse to elect to take against the will.)

15. Inheritance rights in deceased spouse's estate

When any person dies intestate as to real or personal property, not otherwise limited by a marriage settlement, a surviving husband or wife is entitled to share in the estate, subject to payment of the decedent's debts and administration expenses, as follows: (a) One-half of such estate when the decedent leaves children or descendants of children; (b) all of such estate up to \$20,000, when no child or descendant of any child survives; (c) \$20,000, and three-fourths of the balance above \$20,000, when no child or descendant of any child survives; the remaining one-fourth to decedent's father and mother or the survivor of them, or if both are dead, then to brothers and sisters and descendants of deceased brothers and sisters; (d) all the estate, if decedent left no child, descendant of any child, parent, brother, sister, nor descendant of a deceased brother or sister.

Dower and the tenancy by the curtesy are abolished, and neither husband nor wife has any share in the estate of the other dying intestate, except as provided by statute (sec. 6-2501).

16. Provision for survivors during administration of estate

Until letters are granted and inventory filed on the estate of a decedent, the surviving husband, widow, or minor children may retain possession of the homestead, the family wearing apparel, and the decedent's household furniture. The widow and minor children are entitled also to a reasonable provision for support to be allowed by court order (sec. 6-1501). During settlement of the estate, the court makes additional reasonable allowance for maintenance of the widow and minor children, or either, as their circumstances require, if such provision becomes necessary (sec. 6-1502).

(See number 3 for exempt property set off to surviving spouse or minor children.)

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

If a married person by will deprives his spouse of over one-half of his property remaining after the payment of debts, the surviving spouse has the option to accept the condition of such will or take one-half of the estate, real and personal, of the deceased spouse. This option must be signified by an instrument in writing, signed by the surviving spouse, acknowledged before some officer authorized to take

acknowledgments, and filed within 6 months after the probate of the will. In default of such filing, the will governs and controls in the distribution of the testator's estate (sec. 6-301).

Marriage and Divorce

18. Age of consent to marriage

At the time of marriage the male must be 18 years of age or over and the female 16 years or over (sec. 50-102). If either party is a minor, no license to marry may be granted without consent of the father, or, if he is not living, of the mother or guardian of the minor, given in the form prescribed by statute (sec. 50-105).

19. Common-law marriage

Prior to the solemnization of any marriage a license must be obtained (sec. 50-104).

Common-law marriages are not recognized.⁴

20. Premarital requirements

It is unlawful for any person having syphilis, gonococcus infection or chancroid in an infectious stage, or having syphilis in such transmissible stage that the issue of the infected person could become diseased, to contract marriage or enter the marriage relationship (sec. 63-131).

Every male and female applicant for a marriage license must produce a certificate from an authorized physician showing that a physical examination was given, within 30 days, and that the applicant is free from any venereal disease in a communicable stage. Such certificate must include or be accompanied by a report of a standard approved serological test for syphilis from a laboratory authorized for this purpose, and the report of a laboratory examination for other venereal disease as indicated by the physical examination.

In lieu of the medical certificate, a physician's statement that the female applicant for the license is near the termination of her pregnancy, or the death of one or both applicants is imminent, may be submitted to the person authorized to issue marriage licenses. In this case the physician must take blood samples adequate for serological testing from such applicant or applicants, and forward them to the Wyoming Department of Health Laboratory. A certificate is not required of such applicant prior to issuance of a license (sec. 63-132).

⁴ *Roberts v. Roberts* (1934), 58 Wyo. 438; 133 Pac. (2d) 492 (hist.).

Violation of these provisions, or the making of a false certificate, subjects the offender, on conviction, to punishment by fine or imprisonment or both (sec. 63-133).

It is unlawful for anyone infected with any of the contagious venereal diseases, defined by statute, to expose another person to infection (sec. 63-138). Violation of this provision is a misdemeanor, punishable by fine or imprisonment or both (sec. 63-143).

Marriages between persons of specified races are illegal and void (sec. 50-108).

If contracted in the State, a marriage is void without court action when at the time of the marriage either party is insane or an idiot, has a living husband or wife, or is related to the other party within the degrees of kindred forbidden by statute (sec. 3-5901).

21. Interstate cooperation in marriage-law enforcement

A marriage contracted outside the State which is valid by the laws of the country in which the marriage took place is valid in Wyoming (sec. 50-118).

22. Annulment

A marriage is voidable if solemnized when either of the parties is under the age of legal consent, and the parties separate during such nonage and do not cohabit afterwards. It is also voidable if the consent of one of the parties is obtained by force or fraud and there has been no subsequent voluntary cohabitation (sec. 3-5902).

23. Divorce

An absolute divorce may be granted on petition of the aggrieved party for: (a) Adultery; (b) physical incompetence at the time of marriage and continuing until divorce suit is filed; (c) conviction of felony with sentence to imprisonment; (d) willful desertion for 1 year; (e) habitual drunkenness; (f) extreme cruelty; (g) intolerable indignities; (h) conviction of a felony prior to marriage, which fact was unknown to the other party at the time of marriage; (i) neglect of the husband to provide the common necessities of life for 1 year, which failure could have been avoided by ordinary industry; (j) vagrancy on the part of the husband; (k) pregnancy of the wife at the time of the marriage by a man other than her husband and without the husband's knowledge of the fact (sec. 3-5905); (l) incurable insanity for 2 years under conditions prescribed by statute, however, when divorce is granted for this reason the parties are not relieved of any legal liability for support (sec. 3-5935).

A divorce may be granted to the party not at fault when the husband and wife have lived apart for 2 consecutive years without cohabitation (sec. 3-5906).

On petition for annulment or divorce, the court may prohibit the husband from imposing any restraint upon the personal liberty of the wife (sec. 3-5912).

The court may make orders concerning the care, custody, and maintenance of the minor children of the parties during pendency of the action, or on granting an annulment or divorce (secs. 3-5914, 3-5915).

The legitimacy of the children of a marriage is not affected by a divorce granted on the ground of adultery committed by the wife (sec. 3-5923).

Alimony and maintenance

In divorce actions the court may require the husband to pay sums necessary for the wife to carry on or defend the action and for her support and that of the children (sec. 3-5913).

In granting a divorce, the court makes such disposition of the property for the benefit of the wife and children as is just and equitable. The court may also decree to the wife reasonable alimony out of the estate of her husband (sec. 3-3916).

When husband and wife are living separately, or when they are living together, but the husband does not contribute to the support of the wife and children within his means, and no divorce is pending, the court may grant the wife support for herself and children (sec. 3-5919).

Parents and Children

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

Parents have joint guardianship of the person of a minor child (sec. 7-105).

As to the labor and earnings of a minor child, the rule of common law appears to be favored by the court, that ordinarily the father is entitled to the services and earnings of the minor child, unless he waives the right.⁵

If a minor has no guardian of his estate, money or other property belonging to him not exceeding \$500 in value may be paid to the parent entitled to the minor's custody upon written assurance verified by oath that the total estate of the minor does not exceed \$1,000 in

⁵ *Kreigh v. Cogswell* (1933), 45 Wyo. 531; 21 Pac. (2d) 831.

value. It is the duty of the parent to apply any funds so received to the use and benefit of the minor (sec. 7-123).

25. Guardianship of a minor child

The father and mother are joint guardians of the person of their minor children, with equal rights and powers in regard to their custody. If the parents are unable to exercise joint custody, the proper court designates one of them to perform such trust. Upon the death of either husband or wife, the right of custody passes to the surviving parent (sec. 7-105).

The estate of a minor child is managed and accounted for by a legally appointed guardian (sec. 7-105). Such a guardian is appointed by the county district court (sec. 7-101). However, if the minor is 14 years of age or over he may nominate his own guardian, who must be appointed if approved by the court or judge as a suitable person (secs. 7-102, 7-103).

(See also number 24.)

26. Appointment of testamentary guardian for a minor child

An unmarried or widowed mother may by a duly acknowledged written instrument or by last will duly executed, dispose of the custody and tuition of her minor child. A surviving husband may likewise dispose of the custody and tuition of his minor child to any proper person. The same power is conferred upon either parent to whom custody of a minor child has been awarded in a divorce proceeding (sec. 7-105).

27. Inheritance—child

Upon the death of a person intestate, his real and personal property descends and is distributed as follows with regard to his parents: (a) If the decedent is survived by husband or wife, but no child or descendant of any child, and the net estate is more than \$20,000, the parents take one-fourth of that part of the estate above \$20,000 in equal parts between them, or if one is dead the living parent takes the one-fourth part; (b) if there is no surviving spouse, nor child or descendant of a child, the entire estate goes to the decedent's father, mother, brothers and sisters. Descendants of any deceased brother or sister take only the share which their parent would have taken if living (sec. 6-2501).

28. Child born out of wedlock

The parents of a child born out of wedlock and not legitimated owe it necessary maintenance, education, and support. The parental obli-

gations imposed by the laws for support of poor relatives apply to illegitimate children. If the child dies, both parents are liable for its funeral expenses. The father is liable for expenses of the mother's pregnancy and confinement (sec. 58-401).

The mother may recover from the father a reasonable share of the necessary support of the child (sec. 58-402). If paternity is established as prescribed by statute, a court judgment declaring paternity and ordering support of the child is entered against the adjudged father. This judgment requires payment of annual amounts, equal or varying as the court directs, until the child is 16 years of age. Such judgment also provides for payment of the necessary birth expenses (sec. 58-421).

Failure of the father, without lawful excuse, to perform his obligations to support the child where the child is not in his custody is a misdemeanor and subjects the offender to fine or imprisonment or both. The failure of either parent to support the child when it is in his or her custody is governed by the laws applicable to the failure to support a legitimate child (sec. 58-428).

29. Inheritance—child born out of wedlock

When a person born out of wedlock dies intestate, his real and personal property descends to the surviving spouse and children, as does the property of any other person (sec. 6-2509).

(See number 15.)

If no spouse nor descendant survives, the estate descends to the mother and her children and their descendants as follows: One-half to the mother, and the other half divided equally among her children, with descendants of her deceased children sharing in the deceased child's portion (sec. 6-2509).

An illegitimate child inherits the same as one born in wedlock if the parents subsequently intermarry, and paternity is acknowledged by the father. Otherwise, such child inherits from the mother and the mother from him (sec. 6-2507).

POLITICAL RIGHTS

30. Domicile of a married woman

In absence of a specific statute, the common-law rule governs that the domicile of a married woman is that of her husband.

For the purpose of obtaining a divorce, a married woman may be a resident of the State of Wyoming, although her husband resides elsewhere (sec. 3-5934).

31. Public office—eligibility of women

The right of citizens of the State of Wyoming to vote and hold public office is not denied or abridged on account of sex. Both male and female citizens of this State equally enjoy all civil, political and religious rights and privileges (Const., art. 6, sec. 1).

The rights of women to the elective franchise and to hold office are the same as those of men. Each woman, however, must possess the other qualifications of an elector (sec. 31-116).

32. Jury service—eligibility of women

Women are eligible for jury service. Among other qualifications one must be a citizen of the United States between 21 and 65, in possession of her natural faculties, of ordinary intelligence, and not decrepit (sec. 12-101). A woman may be excused from jury service when household duties or family obligations require (sec. 12-104).

