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KNOW YOUR RIGHTS

WHAT A WORKING WIFE SHOULD KNOW ABOUT HER LEGAL RIGHTS



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HER LEGAL RIGHTS /

PREFACE

Publication of a leaflet titled "Know Your Rights" was recommended by the President's Commission on the Status of Women, at the suggestion of the Committee on Civil and Political Rights, "to enable more women to become aware of their legal position."

After studying the application of State family and property laws to married women, who as a group form the largest category of women in the labor force, the Committee came to the conclusion that there was need for such a leaflet "dealing with the rights and obligations which women have under existing laws."

The Committee member who originated the suggestion is Mrs. Harriet F. Pilpel, a New York attorney and a co-author of this leaflet.

CONTENTS

	<i>Page</i>
INTRODUCTION	i
DURING MARRIAGE	1
As a Homemaker—What Are Your Rights and Responsibilities in Your Home?	1
As a Working Woman—What Are Your Rights if You Take a Job Outside Your Home?	6
WHEN MARRIAGE ENDS	8
By Death—What Are Your Rights and Responsibilities on the Death of Your Husband?	8
By Divorce—How Will Your Rights and Responsibilities Be Affected by Separation or Divorce?	11

INTRODUCTION

Today, one worker in every three is a woman. Three out of five women workers are married. One out of three married women works.

Today, 45 percent of all women age 18 through 64 are in paid employment. Last year 32 million women worked at some time during the year. So we see that working for wages does not end with marriage.

The modern woman can reasonably expect that she will work at some time in her life and so is likely to be both a homemaker and a wage earner.

It is just as important for you to know what your rights are as it is to have those rights. If you don't know what your rights are—at least in general—you won't be able to use them.

This leaflet should give you a general idea of what your rights are. However, laws differ in each State concerning property, marriage and divorce, and the relations of parents and children.

Historically, family and property laws provided different rights for married women than for married men. Under the old law, it has been said, husband and wife were one and that one was the husband. Many of the differences between the rights of married men and married women have been abolished, but some remain.

The law governing property rights of husbands and wives in the United States today comes from two basic legal sources:

- The community-property system, brought to this country by the French and Spanish settlers and in effect in eight States—Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington.

- The common law brought from England which forms the legal basis for the laws in the other 42 States.

The questions and answers that follow can be a general guide to your rights as a married woman who works outside her home.

For further information as to what the law is in your State, write to the Women's Bureau, Department of Labor, for the material they have prepared on the legal rights of women in each State.

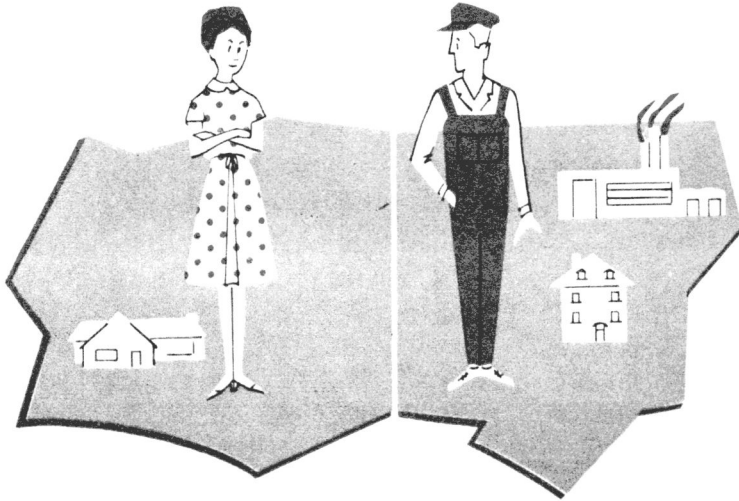
The address is:

Women's Bureau
U.S. Department of Labor
Washington, D.C. 20210

If you have a particular problem, you should talk to a lawyer or the nearest Legal Aid Society in your neighborhood, or consult the local Bar Association which will help you locate a lawyer.

DURING MARRIAGE . . . as a homemaker

WHAT ARE YOUR RIGHTS AND RESPONSIBILITIES IN YOUR HOME?



Who has the right to decide where the family lives?

Your husband, as the person legally responsible for family support, has the right to make this decision. Unless he agrees to a separate residence, legally you must live where he provides the home, which is usually where he works.

Who is responsible for family support?

In almost all States, your husband must support you and the children to the best of his ability. If he is sick or for some other good reason is unable to provide support, then you must support the family to the extent that you are able. In some States, both the husband and the wife are legally obligated to pay family expenses.

The law increasingly takes into account the need to assure the rights of a married woman as basic to the stability of the family. She is a better wife and mother if she understands what her rights are.

What type of support must your husband provide?

Support includes "necessaries" such as food, clothing, medical care, a place to live, and other things, in accordance with your family's income and position in life.

If your husband does not support you, what can you do?

Whether you live in the same house or not, you can charge to your husband everything that is necessary for your support and the support of your children. If you cannot get these "necessaries" on credit, the law in all States makes special provision for the court to help you. If you need advice on the laws in your State, consult the Legal Aid Society or a family service agency.

Can your husband assign his wages to someone other than you without your consent?

In many States he cannot arrange for his creditors to collect his wages directly from his employer. However, in some States there are no regulations. It may be helpful to find out if the law in your State permits a husband to assign his wages and, if so, whether the written consent of the wife is required.

Can your husband mortgage the family furniture as a security for a loan without your consent?

Approximately half the States do not allow furniture to be used as security for a loan without the signature of both husband and wife.

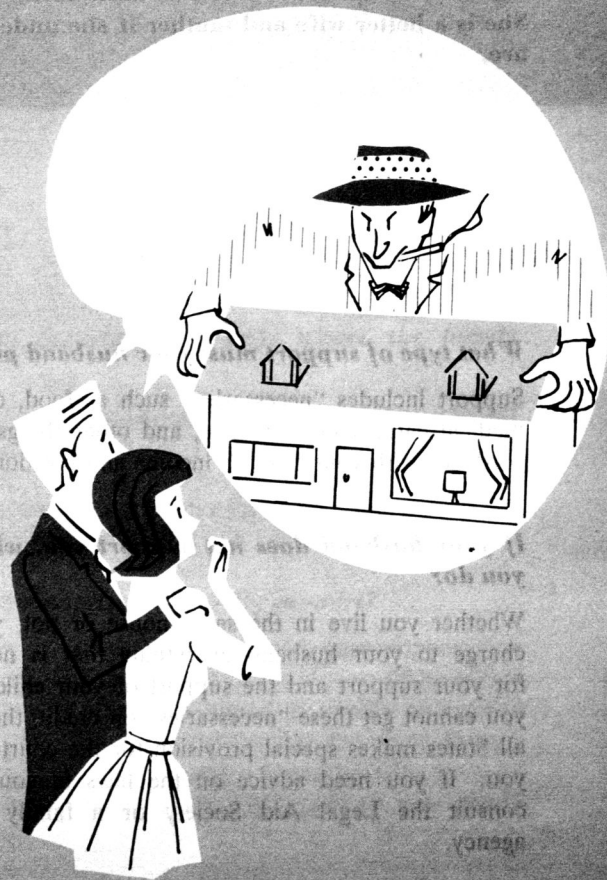
Does the law protect the family home from being taken by creditors?

In most States the family home or homestead cannot be sold to satisfy debts, except to pay the mortgage placed on the home to meet the purchase price.

If your husband is injured in a way that affects your marriage, can you collect damages from the person who injured him?

Generally, no. However, about a fourth of the States now permit you to bring a legal action against a third party to recover damages for injuries that interfere with your husband's support or companionship.

If you are injured so that you can no longer make and manage a home for your husband and children, in most States your husband can collect damages from the person who injured you.



Do you have the right to any cash money from your husband for your own use?

Legally, you have only the right to be supported in accordance with your husband's income and mode of living. Usually, the husband and wife decide between themselves how the money and income will be handled.

Can you own money or other property separately from your husband?

Yes. Your separate property may be:

- Personal property, such as money, bonds, stock, jewelry, clothing, other personal possessions.
- Real property, like a house or a farm or a piece of land.

Can you dispose of your separate property without your husband's consent?

Generally, you may dispose of your personal property in any way that you wish. However, if you wish to sell or mortgage your separate real property, in the majority of States it is necessary for both you and your husband to sign the deed or legal paper, just as in many States in order for your husband to sell or mortgage his separate real property, you as well as he must sign the legal document. This is because each of you has a right to inherit a certain portion of the other's real estate and the law gives you the right to sign or refuse to sign.

Are you legally responsible for your husband's debts?

Generally, no. You may be responsible, however, if your husband gives you property for the purpose of keeping it out of the hands of his creditors.



What is your right to a gift your husband gives you, such as a fur coat, jewelry, or a car?

The gift is yours to keep, sell, or otherwise dispose of. However, if your husband's creditors insist that the gift was given to avoid payment of his debts, you may be called on to prove the gift was not made for this purpose.

Who owns property bought for family use?

Whether you work for wages or work in the home, your efforts as a member of the marriage partnership make it possible for the family to acquire possessions such as a house, furniture, and an automobile. In the community-property States, property acquired by joint efforts during the marriage belongs equally to husband and wife. In other States, it is a wise practice to buy the property in both names; otherwise, it belongs to the person named in the title.

What are your rights to the property your husband owned before marriage?

This is his separate property just as what you owned before marriage is your separate property. However, what he owned before marriage may provide you with

a better basis of support and credit. Each spouse has certain inheritance rights in the separate property of the other spouse.

What are your rights to the money your husband gets during marriage as a result of his work?

In community-property States—Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, and Washington—money that either of you gets through earnings, or investment of earnings, or profits after your marriage goes into a common fund that belongs to both of you.

In common-law States you each own what you earn.

Do you have as much to say as your husband about bringing up the children?

Yes, in most States you and your husband have equal rights in the care, discipline, education, and rearing of minor children. However, in a few States the husband has the preferred right.

Can you make a trip, get a passport, and leave the country without your husband's consent?

Yes.

DURING MARRIAGE . . . as a working woman

WHAT ARE YOUR RIGHTS IF YOU TAKE A JOB OUTSIDE THE HOME?

Do you have the right to earn money by working outside your home whether your husband agrees or not?

Yes. In our democracy married women have the freedom to choose whether to work or not to work. However, partners to a marriage find that a major decision like this requires open and frank discussion between them before a decision is made, since it is essential that the welfare of the children receive primary consideration.

Does a working mother have any tax offset for child care expenses?

Yes. The Federal law and some State income tax laws permit certain deductions for child care expenses. Talk with your local tax office, a lawyer, or your Legal Aid Society to find out about this.

Can you have a bank account in your own name?

Yes. In all States, whether you are employed or not, you do not need to have your husband's consent to start a bank account.

Can you use the money you earn in any way you wish?

Yes. In most States it is your separate property and you may buy things, or invest your money, or keep it in your own bank account. However, in the 8 community-property States, earnings belong to the common fund and usually are controlled by the husband.

Can you make contracts of your own as you wish?

Yes. In most States your right to make contracts is part of your right to own, hold, and sell property in your own name. Some States limit this right in regard to special kinds of contracts. For example, in some States a wife cannot guarantee the payment of another person's debt.

Married women who worked in 1963 accounted, on the average, for about one-fifth of the total family income. Of the married women who worked in March 1964, nearly two out of five had children under 12 years of age.

Can you make a contract with your husband?

In most States you can, but in some you and your husband can do so only through a third person who acts as trustee.

If you work in your husband's business, do you have a legal right to be paid?

No. Legally, in most States your husband does not have to pay you if you work in his business. Some States, however, allow you to make a contract with your husband which obligates him to pay you for working in his business or profession.

Can you establish a separate business?

Yes. In most States you may have your own business that you can set up and run with your own property and earnings. A few States require court approval for you to do this, and some States require your husband's consent. Also, you are responsible for the debts of

your own business; your husband does not have to pay them any more than you have to pay his.

If your husband borrows money from you, can you make him pay it back?

Yes, in most States; but you would probably have to bring a legal action to accomplish this. If you have a problem getting borrowed money back, discuss it with a lawyer or the Legal Aid Society.

If you buy or contribute money toward a major family purchase, such as a car or a television set, what are your rights to ownership?

Unless there is a title or a record establishing otherwise, such purchases are generally considered to be the property of the husband. It is wise family practice to put the bill of sale in both names. This will help protect your interest in the event your husband dies or the marriage ends in separation or divorce.

WHEN MARRIAGE ENDS . . . by death

WHAT ARE YOUR RIGHTS AND RESPONSIBILITIES ON THE DEATH OF YOUR HUSBAND?

How can you get money for living expenses until your husband's estate is settled?

In most States, the laws provide that small savings accounts in the husband's name may be taken by the wife right away, before his estate is probated. The limit, usually between \$300 to \$1,000, varies by State. Larger amounts are part of his estate and, as such, must be handled through the courts. This takes time. Your husband's safe deposit box or one you own jointly with him usually will be locked upon his death until certain formal steps are taken.

Therefore, it is wise to have money that you can get hold of quickly in emergencies. Money in a joint bank account usually can be drawn on immediately. You

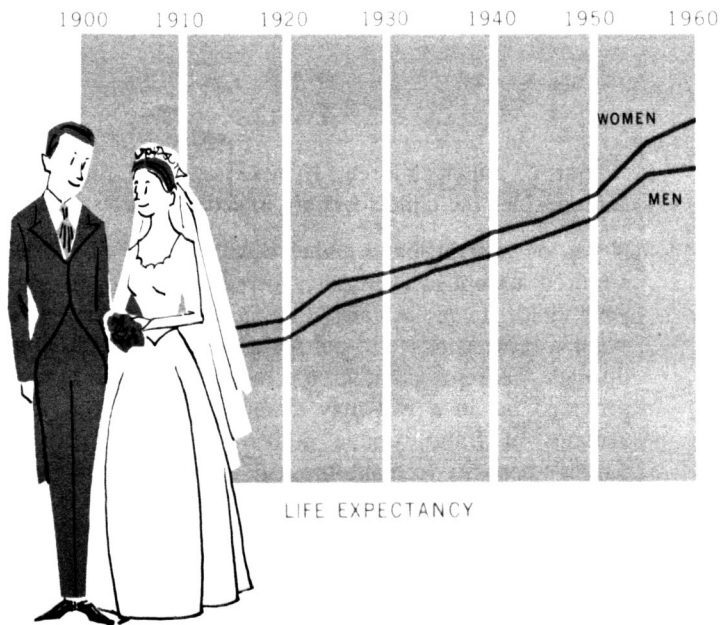
may usually cash your husband's last pay check. You have the right to live in the family home for at least 1 year in almost all States. Thereafter, your right to do so depends on the homestead law and the value of the home.

What rights do you have in the final settlement of your husband's estate?

If there is no will, then in both the community-property and common-law States, the wife has a right to a share in her husband's separate property. The size of the share depends on whether there are also surviving children, grandchildren, or in some States, parents and other relatives.

Statistics show that, on the average, women live 7 years longer than men and are 3 years younger than their husbands at marriage. A wife may, therefore, expect to live 10 years after her husband dies.

Property rights and family support after the death of the husband are, therefore, important questions for women.



Either spouse may make a will. In the community-property States, he or she may usually dispose of his half of the community property. In both the community-property and the common-law States, either spouse may dispose of his separate property by will allowing, however, in most States, for the right of the other spouse to reject the will and claim the minimum share which the law says he or she is entitled to receive.

Does your husband's death affect money or property held in your separate name?

No. That is yours and is not affected by your husband's death.

WHEN MARRIAGE ENDS . . .

How can you and your husband take effective action during your lifetimes to protect each other's interests after death?

The title in which property is held directly affects the right of the surviving spouse to inherit it after the other spouse's death. Depending on your circumstances and what kind of property is involved, there are some arrangements that may be better for you than others. Keep this in mind and get legal advice when you purchase real or other property.

What about the support of the children after your husband's death?

It becomes your responsibility. Some States by statute require allowances to be paid out of the estate for the

support of minor children. If there is no will, the court will consider the child's welfare in settling the estate.

If you or your husband makes a will, neither of you is required, except in Louisiana, to leave any property to your child. In most States, though, the court may appoint a representative to act for a minor child. Acting through this representative, the minor child who is not provided for in a will may challenge the will on the grounds of fraud, undue influence, or lack of the parent's capacity to make the will, if the circumstances warrant. If such a claim is proved, the court may award a share of the estate to the child.

by divorce

Statistics on divorces in the United States are somewhat inflated, since they include the not inconsiderable number of persons whose second and third marriages also end in divorce. Many couples who are permanently separated do not get a formal divorce. Whenever a marriage fails, questions of property rights and support are very important. Here are some guidelines to help you.



If your marriage breaks up, what is the best way to handle the questions about the children, support, and property that will arise?

You and your husband each should have your own lawyer. If you do not have one, consult the Legal Aid Society or the local Bar Association. With the help of your own lawyer, you should try to reach an agreement with your husband about the children, support, and property. In most States such an agreement, if it is fair and just, will be accepted by courts and is binding. If you cannot reach an agreement with your husband, then the following questions and answers apply.

HOW WILL YOUR RIGHTS AND RESPONSIBILITIES BE AFFECTED BY SEPARATION OR DIVORCE?

If you are separated but not divorced from your husband and he does not support you, what can you do?

You may start a legal action for support. Even if your husband leaves your home State, you can sue him there, and other States will enforce the order of your home State's courts. Ask a lawyer or your Legal Aid Society what public or private agency you should consult to enforce this right.

If it becomes necessary to divorce your husband, will he be required to pay you alimony?

It depends on the circumstances. All but 2 States permit the court, in its discretion, to award the wife alimony on final divorce. Eleven States also permit the court to award a husband alimony. In making its decision, the court will review the situation in the particular case.

Who will be required to support the children?

The husband's primary responsibility for support of his children is not ended by divorce. However, the wife may be required to assume certain responsibilities, depending on her means and ability to do so.

If you are legally separated or divorced, do you have as much to say about bringing up the children as your husband?

Unless you have in some way shown yourself to be an unfit mother, most States will give you the right to have the children live with you and be brought up by you. The courts consider the best interests of the child, and this usually—particularly in the case of young children—means that the children live with their mother. Of course, unless there is some valid reason to the contrary, the father generally has the right to be consulted

on all important questions involving the children, and the court usually grants him the right to visit with them and to have them stay with him from time to time.

In divorce, how is your family property divided?

In the common-law States, the court tends to divide the joint property equally and to allow each to keep his or her separate property. In some few States, the person who is legally at fault in a divorce action may lose valuable property rights.

In the community-property States, the property is usually divided in the same way. However, in 2 of the 8 community-property States, each party is entitled, under the law, to an exact half of the community property irrespective of cause of divorce.



REMEMBER

For a report concerning the law of your State, write to the Women's Bureau, U.S. Department of Labor, Washington, D.C., 20210. When you have a personal problem, talk to a private attorney or to your local Legal Aid Society. You will find the number of the Society in your telephone book.

Prepared for the
U.S. Department of Labor
Women's Bureau
by Harriet F. Pilpel
and Minna Post Peyser

