

REVISED LAWS

MINNESOTA

1905

ENACTED APRIL 18, 1905 TO TAKE EFFECT MARCH 1, 1906

EDITED AND ANNOTATED BY
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PUBLISHED UNDER CHAPTER 185, LAWS 1905

ST. PAUL
PUBLISHED BY THE STATE
1906

estate, or any interest therein, shall be valid; but, in relation to all other subjects, either may be constituted the agent of the other, or contract with the other. But in all cases where the rights of creditors or purchasers in good faith come in question, each spouse shall be held to have notice of the contracts and debts of the other as fully as if a party thereto. (5534)

1. **Contracts relating to realty**—Statute applicable though husband and wife are living apart (68-152, 70+1082). Not applicable to conveyance from one spouse to another through third party (10-50, 32; 30-519, 16+404; 64-489, 67+364). A direct conveyance from a husband to a wife is void (32-228, 20-94; 63-5, 65+91; 72-57, 74+1109. See prior to statute, 10-50, 32). One spouse cannot make a valid lease of the other's realty acting as agent or attorney (24-172; 45-515, 58+404; 69-149, 154, 72+56; 88-116, 92+521). Wife cannot release to husband her statutory interest in his realty (35-291, 28+920). Earnest money paid on contract void under this section held not recoverable where husband and wife were ready to perform (55-537, 57+156). Doctrine of estoppel applicable to contracts void under this section (41-165, 42+870; 47-491, 50+533; 48-307, 51+375). Doctrine of trust ex maleficio also applicable (93-45, 100+656. See 63-5, 65+91). Part performance does not take contract out of statute (93-45, 100+656). Statute applied (83-362, 86+336; 63-5, 65+91).

2. **Other contracts**—36-3, 29+588; 51-353, 53+716; 34-367, 25+803.

3. **Notice as to creditors—Burden of proof**—56-469, 57+1136; 34-367, 25+803; 34-107, 24-366; 39-490, 40+568.

3610. Barring interest of spouse—Whenever a married man shall be deserted by his wife, or a married woman shall be deserted by her husband, for the space of one year, or whenever he or she would, for any cause, be entitled to a divorce from such husband or wife under the laws of this state, or whenever he or she has a husband or wife that has been insane for ten years immediately prior to the time of bringing the action hereinafter named, and upon the hearing thereof shall be found to be incurably insane, he or she may bring an action in the district court of the proper county, asking for a decree which shall debar him or her so deserting or furnishing grounds for a divorce, or so found to be incurably insane as aforesaid, from any right or estate by the curtesy or in dower, or otherwise, as the case may be, in or to his or her lands, and which will give such husband or wife full authority to alien, sell and convey, and dispose of his or her lands, without the interference of or signature of the husband or wife so deserting, or being guilty of acts which would entitle the person bringing such action to a divorce, or so found to be incurably insane as aforesaid; and the court may grant such decree whenever it shall appear just or expedient; and thereupon the husband or wife shall have full control of his or her real estate, with power to convey the same without the husband or wife joining in the conveyance, and as fully as if he or she were unmarried; or the court may, by such decree, make such limitations on the power to convey such real estate as may seem meet and proper in the premises. A certified copy of such decree may be recorded in the deed records in the office of the register of deeds in any county wherever such lands or any part thereof may be situated. (5535)

22-348; 27-330, 7+267.

3611. Antenuptial contracts—Nothing in this chapter shall be construed to affect antenuptial contracts or settlements. (5536; '97 c. 10)

CHAPTER 73

ADOPTION AND CHANGE OF NAME

3612. Adoption—Petition and consent—Any inhabitant of the state may petition the district court of his county for leave to adopt any child not his own. If the petitioner be married, the spouse shall join in the petition. A person of full age may be adopted. (8016; '97 c. 214 s. 1)

3613. Consent, when necessary—No adoption of a minor shall be permitted without consent of his parents, but the consent of a parent who has abandoned

the child, or who cannot be found, or who is insane, or otherwise incapacitated from giving such consent, or who has lost custody of the child through divorce proceedings, may be dispensed with, and consent may be given by the guardian; and, if there be no guardian, it may be given by any of the next of kin residing in the state, or, if he have no known next of kin in the state, the consent may be given by the chairman of the county board. In case of illegitimacy, the consent of the mother alone shall suffice. In all cases where the child is over fourteen years old, his own consent must be had also. (8017, 8018; '97 c. 214 s. 2)

3614. Notice of hearing—When the parents of any minor child are dead or have abandoned him, and he has no guardian or known next of kin in the state, the court shall order three weeks' published notice of the hearing on such petition to be given; the last publication to be at least ten days before the time set therefor. (8019; '97 c. 214 s. 3)

3615. Decree—Change of name—If, upon the hearing, the court shall be satisfied as to the identity and relationship of the persons concerned, and that the petitioners are able to properly rear and educate the child, and that the petition should be granted, a decree shall be made and recorded in the office of the clerk, setting forth the facts, and ordering that from the date thereof the child shall be the child of the petitioners. If desired, the court, in and by said decree, may change the name of the child. (8020; '95 c. 44)

3616. Status of adopted child—Upon adoption such child shall become the legal child of the persons adopting him, and they shall become his legal parents, with all the rights and duties between them of natural parents and legitimate child. By virtue of such adoption, he shall inherit from his adopting parents or their relatives the same as though he were the legitimate child of such parents, and shall not owe his natural parents or their relatives any legal duty; and, in case of his death intestate, the adopting parents and their relatives shall inherit his estate, as if they had been his parents and relatives in fact. (8021-8024; '95 c. 221)

3617. Importation of dependent children—Every person who shall bring or send into the state any child for the purpose of placing him out or procuring his adoption, or who shall place him out or procure his adoption, shall first obtain the consent of the state board of control, whose duty it shall be to carry out the provisions of this section, and such person shall conform to the rules of the board. He shall file with the board a bond to the state, approved by said board, in the penal sum of one thousand dollars, conditioned that he will send or bring here no child that is incorrigible or unsound of mind or body; that he will remove any such child who becomes a public charge during the period of adoption or placing out; that he will place the child under a written contract that the person with whom he is placed shall be responsible for his proper care and training; and that he will at all times supervise such care, and visit such child at least once a year. Any person who shall violate any provision of this section shall be guilty of a misdemeanor, but nothing herein shall prohibit a resident of the state from receiving into his family or adopting a child from another state. ('99 c. 138)

3618. Commitment to orphan asylums, etc.—When it shall appear upon examination before any court that a child under the age of sixteen is engaged in a mendicant occupation, or as a gymnast, contortionist, rider, or acrobat, or in any indecent or immoral exhibition or vocation, or one dangerous to health, or that the person having custody has been convicted of criminal assault upon the child, the court, if it shall deem it for the welfare of the child, may commit such child to an orphan asylum, or make other lawful provision for his care. (8013)

3619. Hospital guardian of child, when—Any hospital incorporated under the laws of this state for the purpose of caring for destitute women who are about to become mothers, and for destitute and illegitimate children born in such hospital or left in its care by the mothers for the purpose of being placed in suitable homes, shall be the guardian of the persons of such children, and

may consent, in lieu of their parents, to their adoption by suitable persons, and may also contract with such persons for homes for them without adoption. ('97 c. 143)

3620. Change of name—Procedure—Penalty—A person who shall have resided in any county for one year may apply to the district court thereof to have his name changed in the manner herein specified. He shall describe in his application all lands in the state in or upon which he claims any interest or lien, and shall appear personally before the court and prove his identity by at least two witnesses. If he be a minor, his guardian or next of kin shall also appear. Every person who, with intent to defraud, shall make a false statement in any such application, shall be guilty of a misdemeanor. (8025-8029)

3621. Order—Filing copies—If it shall appear to the court to be proper, it shall grant the application, and set forth in the order a description of the lands, if any, in which the applicant claims to have an interest. The clerk shall file such order, and record the same in the judgment book. If lands be described therein, a certified copy of the order shall be filed for record, by the clerk, with the register of deeds of each county wherein any of the same are situated. And such order shall not be filed, nor any certified copy thereof be issued, until the applicant shall have paid to the clerk the cost of such record. The fee of the clerk shall be two dollars, and for each certified copy of the order, fifty cents. (8028, 8030)