

89022

GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

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7139. As to alimony and wife's property—

Award of custody of children to wife in her suit for divorce in which she fails to establish grounds for divorce or separation (see 161+525). Divorce, [§ 294](#). See, also, note under § 7140.

7140. When separation not granted—

In an action by a wife for a divorce in which she fails to establish facts authorizing a divorce or decree of separation, but in which it appears that the parties are living apart, the court may award the custody of the children to her and require the husband to contribute toward their support (161+525). Divorce, [§ 294](#).

CHAPTER 72

MARRIED WOMEN

7143. Property rights—

Under this section a married woman may carry on business on her own account, and the avails of her contracts are not liable for her husband's debts (135-105, 160+249). Husband and Wife, [§ 149\(1\)](#).

In suit by wife for conversion, it is no defense that the property was delivered to the husband on his rebonding it in *Teplevin* (127-177, 149+2). *Trover and Conversion*, [§ 22](#).

Chattel mortgage executed by husband on his wife's separate property is not binding on her, where she did not authorize its execution, either actually or by way of estoppel (127-177, 149+2). Husband and Wife, [§ 137\(7\)](#).

Where a deed to the wife was adjudged to be a mortgage, money deposited in court to redeem therefrom could not be subjected to the payment of a judgment against the husband (128-126, 150+396). Mortgages, [§ 608½](#).

7146. Liability of husband and wife—

Cited (129-190, 151+976, L. R. A. 1915D, 1111, Ann. Cas. 1916E, 897).

This section does not change the rule that as between husband and wife the duty to provide necessaries rests upon the husband (162+1060). Husband and Wife, [§ 19\(1\)](#).

Where the wife pays for such necessaries out of her own funds as a contribution toward the family expenses and without expecting reimbursement therefor, she is not entitled to recover the amount so paid from the estate of her husband; but where she makes such payments without an understanding that they are a contribution by her toward such expenses for which no reimbursement is expected, she may recover the amount thereof from his estate (162+1060). Husband and Wife, [§ 40](#).

7147. Contracts between husband and wife—

By virtue of this section a husband could not make a valid contract for the sale of his wife's land, either as her agent or otherwise, and such a contract is not binding on her unless she subsequently adopts and confirms it (131-299, 154+1086). Husband and Wife, [§ 138\(3\)](#).

CHAPTER 73

ADOPTION AND CHANGE OF NAME

7151. Adoption—Petition and consent—Any resident of the state may petition the district court of the county in which he resides for leave to adopt any child not his own. If the petitioner be married the spouse shall join in the petition. All petitions for the adoption of a child who is a ward or pupil of the state public school shall be made jointly by the person desiring to adopt such child and the superintendent of the state public school. The state board of control may determine by resolution that the joinder of the superintendent in the petition shall be its consent to the adoption of the ward or pupil, as prayed for in the petition. A person of full age may be adopted. (Amended '17 c. 222 § 1)

1917 c. 222 § 1 amends G. S. 1913 c. 73, so as to read as set forth in sections therein and herein numbered 7151-7161. Section 2 repeals G. S. 1913 §§ 7152, 7157, 7158, and all acts or parts of acts inconsistent herewith. By § 3 the act takes effect January 1, 1918.

7152. Investigation by board of control—Report, etc.—Upon the filing of a petition for the adoption of a minor child the court shall notify the state board of control. It shall then be the duty of the board to verify the allegations of the petition; to investigate the condition and antecedents of the child for the purpose of ascertaining whether he is a proper subject for adoption; and to make appropriate inquiry to determine whether the proposed foster home is a suitable home for the child. The board shall as soon as practicable submit to the court a full report in writing, with a recommendation as to the granting of the petition and any other information regarding the child or the proposed home which the court shall require. No petition shall be granted until the child shall have lived for six months in the proposed home. Provided, however, that such investigation and period of residence may be waived by the court upon good cause shown, when satisfied that the proposed home and the child are suited to each other. ('17 c. 222 § 1; old § 7152 repealed, '17 c. 222 § 2)

7153. Consent, when necessary—Except as herein provided no adoption of a minor shall be permitted without the 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 or the order of a juvenile court, may be dispensed with, and consent may be given by the guardian, if there be one or if there be no guardian, by the state board of control. 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. (Amended '17 c. 222 § 1)

7154. Hospital may be custodian, when—Any hospital incorporated under the laws of this state for the purpose of caring for unmarried women who are about to become mothers, and for illegitimate children born in such hospital or left in its care by the mothers for the purpose of being placed in suitable homes, may be the custodian of the persons of such children. (Amended '17 c. 222 § 1)

7155. Notice of hearing—When the parents of any minor child are dead or have abandoned him, and he has no guardian 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. In every such case the court shall cause such further notice to be given to the known kindred of the child as shall appear to be just and practicable; provided that if there be no duly appointed guardian, a parent who has lost custody of a child through divorce proceedings, and the father of an illegitimate child who has acknowledged his paternity in writing or against whom paternity has been duly adjudged shall be served with notice in such manner as the court shall direct in all cases where the residence is known or can be ascertained. (Amended '17 c. 222 § 1)

7156. 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. (Amended '17 c. 222 § 1)

Requisites, effect, and proof of common-law adoption (see 124-85, 144+455). Adoption, ☞ 6, 17, 21, 23.

Enforcement in equity of oral adoption (see 131-56, 154+741, L. R. A. 1916D, 421). Adoption, ☞ 6.

A child adopted by a widow after her husband's death is not entitled to the benefits of subd. 9 of § 8208 of the Workmen's Compensation Act (133-265, 158+250). Master and Servant, ☞ 388.

7157. 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. ('17 c. 222, § 1; old § 7157 repealed, '17 c. 222 § 2)

7158. Annulment of adoption—If within five years after his adoption, a child develops feeble-mindedness, epilepsy, insanity or venereal infection as a result of conditions existing prior to the adoption, and of which the adopting parents had no knowledge or notice, a petition setting forth such facts may be filed with the court which entered the decree of adoption, and if such facts are proved the court may annul the adoption and commit the child to the guardianship of the state board of control. In every such proceeding it shall be the duty of the county attorney to represent the interests of the child. ('17 c. 222 § 1; old § 7158, repealed '17 c. 222 § 2)

7159. Records of adoption—The files and records of the court in adoption proceedings shall not be open to inspection or copy by other persons than the parties in interest and their attorneys and representatives of the state board of control, except upon an order of the court expressly permitting the same. (Amended '17 c. 222 § 1)

7160. 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. (Amended '17 c. 222 § 1)

7161. 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. Any 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. (Amended '17 c. 222 § 1)

CHAPTER 73A

DEPENDENT, NEGLECTED AND DELINQUENT CHILDREN

7162-7196. [Repealed.]

See § [7196-]35.

7162—Cited (123-382, 143+984, 49 L. R. A., [N. S.] 597).

The juvenile court act does not abrogate the function of the writ of habeas corpus to determine the question of custody of dependent children (123-508, 144+157). Habeas Corpus, 46, 99(1).

7168—Where a child, committed to the care of an association, leaves the home of persons to whom its custody is given by the association for sufficient cause, and finds a home with other persons, the prime consideration, on habeas corpus by the association, is the child's welfare,