

GENERAL STATUTES
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MINNESOTA
1923

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band was liable for his wife's torts (62-348, 64+912); 129-190, 151+976; 137-115, 162+1060; 137-333, 163+656; 144-44, 174+438.

8621. Contracts between husband and wife—No contract between husband and wife relative to the real estate of either, or any interest therein, nor any power of attorney or other authority from the one to the other to convey real 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. (3609) [7147]

1. Contracts relating to realty—Statute applicable though husband and wife are living apart (63-152, 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; 117-519, 134+289). 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). Where husband contracts as agent to sell, and wife confirms his act, vendee cannot take advantage of this section (107-177, 119+948). See also, 116-280, 133+862. 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 (63-5, 65+91; 83-362, 86+336; 97-301, 107+137; 106-380, 118+1026; 116-458, 133+1009). Assignment of mortgage by husband to wife not void (114-24, 129+1051). Agreement between husband and wife by which each releases to the other interests in real estate void (116-90, 133+164).

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

3. Notice as to creditors—Burden of proof—34-107, 24+366; 34-367, 25+803; 39-490, 40+568; 56-469, 57+1136; 102-256, 113+689; 131-299, 154+1086, 188+276; 138-170, 164+899; 144-44, 174+438.

8622. 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. (3610) [7148]

22-348; 27-330, 7+267.
Deserted wife may maintain action against husband to debar him from interest in her real estate, and for an allowance for support of herself and minor child (102-301, 113+913).

8623. Antenuptial contracts—Nothing in this chapter shall be construed to affect antenuptial contracts or settlements. (3611) [7150]

Conveyances prior to April 1, 1900, by husband or wife whose spouse was insane, legalized, '13 c. 240.

8621
52-M 189
52-M 236
3-NW 258
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3-G.S. 9187
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1-M 285
-NW 911
8621
55-M 230
3-NW 304
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236nw 455
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Sec 8502
Sec 0252

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174m 159
218nw 550
8013
8624
Et seq.
237nw 590
Sec
Art 6 §7
8624-35
199-NW 581
8624-35
160-M 149

CHAPTER 73

ADOPTION AND CHANGE OF NAME

8624. 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. (R. L. '05 § 3612, amended '09 c. 81 § 1; '17 c. 222 § 1) [7151]

8625. Investigation by board of control—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)

8626. 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 con-

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sent 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. (R. L. '05 § 3613; G. S. '13 § 7153, amended '17 c. 222 § 1).

147-224, 179+1006. Mother's written consent and changed custody of child no bar to revocation before legal adoption. (149-437, 183+957).

8627. Hospital may consent to adoption—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. (R. L. '05 § 3619, G. S. '13 § 7159, amended '17 c. 222 § 1).

8628. 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. (R. L. '05 § 3614, G. S. '13 § 7154, amended '17 c. 222 § 1).

See '19 Ex. Sess. 51. Board of Control ch. 25.

8629. 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. (R. L. '05 § 3615, G. S. '13 § 7155, amended '17 c. 222 § 1).

Rights of orphan's grandparents as to prospective adoptive parents (147-472, 180+533). Heir of adoptive parents (148-436, 182+519).

8630. 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 legiti-

mate 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. (R. L. '05 § 3616, G. S. '13 § 7156, '17 c. 222 § 1).

Common-law adoption requisites (124-85, 144+455). Equity governing oral adoption (131-59, 154+742). Adoption by widow after death of husband and workmen's compensation act (133-266, 158+251). Purpose and effect (148-336, 182+519).

8631. Annulment—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).

8632. 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. ('17 c. 222 § 1).

8633. 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. (R. L. '05 § 3620, G. S. '13 § 7160, amended '17 c. 222 § 1).

8634. 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. (R. L. '05 § 3621, G. S. '13 § 7161, amended '17 c. 222 § 1).

8635. Sections 7152, 7157, 7158, General Statutes, 1913, and all acts or parts of acts inconsistent herewith, are hereby repealed. ('17 c. 222 § 2).

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8629 - 30 180
196-NW 581
199-NW 925
201-NW 925

8629-30 426
61-M

8630 36
166-M

8630 301
157-M 35
165-M 17
207-NW