

of sections 9 and 16 of this act shall not become effective until the 1st day of July, 1949.

Passed the House March 8, 1949.

Passed the Senate March 7, 1949.

Approved by the Governor March 19, 1949.

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CHAPTER 215.

[ H. B. 249. ]

DIVORCE ACT.

AN ACT relating to the dissolution of marriage by divorce or annulment, separate maintenance, the custody of children, division of property, allowances for support, prescribing procedure and duties of prosecuting attorneys in connection therewith and repealing certain prior inconsistent statutes.

*Be it enacted by the Legislature of the State of Washington:*

Title of act. SECTION 1. This act may be cited as the Divorce Act of 1949.

Grounds for divorce. SEC. 2. Divorce may be granted by the Superior Court on application of the party injured for the following reasons:

Consent. (1) When the consent to the marriage of the party applying for the divorce was obtained by force or fraud, and there has been no voluntary cohabitation after the discovery of the fraud, or when either party shall be incapable of consenting thereto, for want of legal age or a sufficient understanding.

Adultery. (2) For adultery on the part of the wife or of the husband, when unforgiven, and the application is made within one year after it shall have come to the knowledge of the party applying for a divorce.

Impotency. (3) Impotency.

Abandonment. (4) Abandonment for one year.

Cruelty and personal indignities. (5) Cruel treatment of either party by the other, or personal indignities rendering life burdensome.

Habitual drunkenness. (6) Habitual drunkenness of either party.

(7) The neglect or refusal of the husband to make suitable provision for his family. Neglect of husband.

(8) Imprisonment in a state or Federal penal institution if complaint is filed during the term of such imprisonment. Imprisonment.

(9) A divorce may be granted to either or both parties in all cases where they have heretofore lived or shall hereafter live separate and apart for a period of five consecutive years or more, without regard to fault in the separation. Separation for five years.

(10) In all cases where the defendant, at the time of commencement of the action, is suffering from chronic mania or dementia, established by competent medical testimony to have existed for at least two years prior to the filing of the complaint, such insanity shall be the sole and exclusive ground upon which the Court may, in its discretion, grant a divorce. Insanity.

SEC. 3. Any person who has been a resident of the state for one year may file his or her complaint for a divorce under oath, in the Superior Court of the county here he or she may reside. Residence requirement.

SEC. 4. No divorce case shall be tried, nor any decree of divorce entered herein, until the complaint in such action shall have been on file for ninety days, and until ninety days shall have elapsed from the date of service of summons on the defendant: *Provided, however,* That in cases where summons by publication is had, the date of first publication of summons shall be equivalent to the date of service of summons in other cases for the purposes of this section. Ninety days must elapse after filing of complaint and service of summons.

Summons by publication.

SEC. 5. In the case of a void marriage, either party may apply for, and on proof obtain, a decree of nullity of marriage. Such complaint shall be filed in the county in which plaintiff is a *bona fide* resident at the time of commencing such action. Annulment of void marriages.

Children born during existence of marriage later declared void.

SEC. 6. Children conceived or born during the existence of a marriage of record which is later declared void, shall be legitimate children of both parents, entitled to all the rights of legitimate children as to inheritance and in every other respect, notwithstanding the annulment of such marriage, and the Court shall, during the pendency of such action, or at the time judgment is rendered, or at any time thereafter, make such order for the custody, care, maintenance, education and support of such children during their minority as may seem necessary and proper. Such orders as to children shall be subject to modification as in actions for divorce.

Violation of criminal laws relating to non-support by party to divorce action.

SEC. 7. When, in the opinion of the Judge, the previous or present conduct of either of the parties to a divorce action shows a probable violation of any of the criminal laws of the state relative to non-support, he may, in his discretion, refuse to grant an order of divorce until the suspected party is prosecuted and finally found guilty or innocent.

Copy of complaint to be served on Prosecuting Attorney.

SEC. 8. Each party to any divorce or annulment action shall serve the Prosecuting Attorney of the county in which the action is commenced with copies of the summons and complaint and such other papers as may be required by Court rule at the time the same are filed in the County Clerk's office. It shall be the duty of the Prosecuting Attorney to appear upon the trial of every default or non-contested divorce or annulment case, and in such other divorce cases as the presiding Judge may direct, as a party to said action and to advise the Court, and to that end he shall have power to cause witnesses to be subpoenaed to testify at the trial, respecting any charges made in the complaint or answer or the performance or neglect of any duty by either, or upon any vital matter touching the status of the parties, and the witness fees of such witnesses called

Duties of Prosecuting Attorney.

by the Prosecuting Attorney shall be charged to the county. The Prosecuting Attorney shall have the same right to appeal as other parties to the action. Neither the Prosecuting Attorney nor his deputy nor the law partner of either shall accept employment in any divorce case in his county or receive any fee or compensation from either party in any such divorce action.

Prosecuting Attorney may appeal.

Prosecuting Attorney may not handle divorce cases.

SEC. 9. Pending an action for divorce or annulment the Court may make, and by attachment enforce, such orders for the disposition of the persons, property and children of the parties as the Court may deem right and proper, and such orders relative to the expenses of such action, including attorneys' fees, as will insure to the wife an efficient preparation of her case and a fair and impartial trial thereof. Upon the entry of judgment in the Superior Court, reasonable attorneys' fees may be awarded either party, in addition to statutory costs. Upon any appeal, the Supreme Court may in its discretion award reasonable attorneys' fees to either party for services on the appeal, in addition to statutory costs.

Disposition of persons, property and children pending action for divorce or annulment.

Attorneys' fees and costs.

SEC. 10. When the defendant does not answer, or answering, admits the allegations of the complaint, the Court shall require proof before granting a divorce or a decree of nullity.

Failure to answer or admission of allegations by defendant.

SEC. 11. In all cases where the Court shall grant a divorce or annulment, it shall be for cause distinctly stated in the complaint, proved, and found by the Court. Upon the conclusion of a divorce or annulment trial, the Court must make and enter findings of fact and conclusions of law. If the Court determines that either party, or both, is entitled to a divorce or annulment, judgment shall be entered accordingly, granting the party in whose favor the Court decides a decree of full and complete divorce or annulment, and making such disposition of the

Powers and duties of court in divorce and annulments.

Disposition  
of property.

property of the parties, either community or separate, as shall appear just and equitable, having regard to the respective merits of the parties, to the condition in which they will be left by such divorce or annulment, to the party through whom the property was acquired, and to the burdens imposed upon it for the benefit of the children, and shall make provision for costs, and for the custody, support and education of the minor children of such marriage.

Support of  
minors.

Such decree as to alimony and the care, custody, support and education of children may be modified, altered and revised by the Court from time to time as circumstances may require. Such decree, however, as to the dissolution of the marital relation and to the custody, management and division of property shall be final and conclusive upon both parties subject only to the right to appeal as in civil cases, and provided that the Trial Court shall at all times including the pendency of any appeal, have the power to grant any and all restraining orders that may be necessary to protect the parties and secure justice.

Modification,  
alteration  
and revision  
of decrees.Restraining  
orders pend-  
ing appeal.Decree of  
separate  
maintenance.

SEC. 12. If the Court determines after trial that no divorce or annulment shall be granted, it may enter a decree of separate maintenance in favor of the party entitled thereto, and make all necessary orders required for support, attorneys' fees, costs, and for the care, custody, support, and education of minor children; and may set aside property for the benefit of the wife and children, if any, and impose a lien on community property to compel obedience to the decree. Such decree may be modified, altered or revised by the Court from time to time on a showing that the conditions rendering it necessary have changed or no longer exist. Such final order or decree of separate maintenance shall be appealable.

Modification,  
alteration,  
or revision  
of decree.

SEC. 13. In all actions for a divorce or annulment, the Court may, for just and reasonable cause,

change the name of the woman, who shall thereafter be known and called by such name as the Court shall in its order or decree appoint.

Court may change name of woman.

SEC. 14. The practice in civil action shall govern all proceedings in the trial of actions for divorce or annulment, except that trial by jury is dispensed with.

Practice in civil actions to govern proceedings.

SEC. 15. The defendant may, in addition to his or her answer, file a cross-complaint for divorce or annulment and the Court may, in such cases, grant a divorce or annulment, if any, in favor of either party, or as if it were on the application of both.

Cross-complaints.

SEC. 16. Hereafter every action or proceeding to change, modify or enforce any final order, judgment or decree heretofore or hereafter entered in any divorce or annulment action in relation to the care, custody, control, support or maintenance of the minor children of the marriage may be brought in the county where said minor children are then residing, or in the county where the parent or other person who has the care, custody or control of the said children is then residing.

Care, custody, support, etc., of minor children.

SEC. 17. Upon the filing of a properly verified petition to be entitled as in the original divorce or annulment action, together with a certified copy of the order, judgment or decree sought to be modified thereby, the Superior Court of the county in which said petition is filed shall have full and complete jurisdiction of the cause and shall thereupon order such notice of the hearing of said petition to be given as the Court shall determine.

Jurisdiction of Court to modify orders, judgments or decrees.

Notice of hearing of petition.

SEC. 18. The Court shall have power to cause either party to said action or proceeding to file certified copies of so much or all of the records and files in the original divorce action or proceeding as the Court shall deem necessary or proper; and to

Copies of records for hearing of petition.

make and enter all necessary or proper orders for a full hearing and determination of said petition.

Attorneys' fees.

SEC. 19. In any proceeding for the enforcement or modification of any order *pendente lite*, decree of divorce, separate maintenance or annulment, or any order entered subsequent to the entry of such decree, the Court, may, in its discretion, award attorneys' fees and costs to either party.

Effect of domicile on foreign divorce.

SEC. 20. A divorce obtained in another jurisdiction shall be of no force or effect in this state if both parties to the marriage were domiciled in this state at the time the proceeding for divorce was commenced.

Evidence of domicile in this state affecting foreign divorce.

SEC. 21. Proof that a person obtaining a divorce from the bonds of matrimony in another jurisdiction was (a) domiciled in this state within twelve months prior to the commencement of the proceeding therefor, and resumed residence in this state within eighteen months after the date of his departure therefrom, or (b) at all times after his departure from this state and until his return maintained a place of residence within this state, shall be *prima facie* evidence that the person was domiciled in this state when the divorce proceeding was commenced.

Interlocutory decrees entered prior to effective date of act.

SEC. 22. Actions for divorce in which an interlocutory order has been entered prior to the taking effect of this act shall be governed by the law applicable thereto at the time of commencement of such action. All other actions for divorce or annulment shall be governed by this act.

Repealing clause.

SEC. 23. The following laws and parts of laws, together with all laws and parts of laws in conflict herewith are hereby repealed: sections 1 to 10, both inclusive, pp. 405 to 407, Laws of 1854, 1st Sess., relating to divorces; sections 1 to 13, both inclusive, pp. 318 to 320, Laws of 1860, relating to divorce and alimony; sections 2000 to 2013, both inclusive, Code

of 1881; sections 1 and 2, p. 120, Laws of 1885, relating to divorces; sections 10 and 11, p. 62, Laws of 1885, relating to prosecuting attorneys; sections 10 and 11, p. 94, Laws of 1879, relating to prosecuting attorneys; chapter XXVI, Laws of 1891; chapter 109, Laws of 1921; chapter 112, Laws of 1933; chapter 170, Laws of 1943; and chapter 161, Laws of 1947.

Repealing  
clause

Passed the House March 8, 1949.

Passed the Senate March 7, 1949.

Approved by the Governor March 19, 1949.

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## CHAPTER 216.

[ H. B. 305. ]

### FOREST PRODUCTS—LOG BRANDS.

AN ACT relating to forest products; regulating the use of brands thereon; providing for the renewal, abandonment and cancellation of registered brand, and amending chapter 154, Laws Ex. Sess. 1925, by adding a new section thereto to be known as section 17.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Chapter 154, Laws Ex. Sess. 1925, is amended by adding a new section thereto to be known as section 17, to read as follows:

Amendment.

Section 17. The Secretary of State shall on or before September 30, 1949, and each five (5)-year period thereafter, notify by registered letter the owner or owners of all log marks or brands then of record in the State of Washington, to renew the same. A fee of five dollars (\$5) shall be charged for new brands or marks, assignment of brands or marks and renewing marks or brands. Upon receipt of said fee, the Secretary of State shall give a renewal certificate, which shall give the holder and owner thereof the exclusive right to continue the use of said mark or brand within the State of Washington. If any owner or owners of a mark or brand

Renewal of  
log marks  
and brands.

Fee.

Renewal  
certificate.