

**LAWS OF WISCONSIN**  
**REGULAR SESSION, 1959-60**

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No. 684, S.]

[Published June 22, 1960.

**CHAPTER 690**

AN ACT to repeal 247.065, 261.01 (3) and 262.08 (3) ; to renumber 247.23 ; to amend 245.03 (2), 245.06 (1) (a), (d) and (e), 245.16 (intro. par.), 247.03 (1) and (2), 247.085 (1) (a), (c) and (2), 247.125, 247.13 (3), 247.15 and 247.21 ; to repeal and recreate 247.05, 247.06, 247.081 and 247.20 ; and to create 247.055, 247.061 to 247.063, 247.066 and 247.23 (2) of the statutes, as affected by chapters 226 and 595, laws of 1959, relating to correcting omissions and clarifying certain portions of the family code.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 245.03 (2) of the statutes, as amended by chapter 595, laws of 1959, is amended to read:

245.03 (2) It is unlawful for any person, who is *or has been* a party to an action for divorce in any court in this state, or \* \* \* elsewhere, to marry again until one year after judgment of divorce is granted, and the marriage of any such person solemnized before the expiration of one year from the date of the granting of judgment of divorce shall be void.

SECTION 2. 245.06 (1) (a), (d) and (e) of the statutes, as repealed and recreated by chapter 595, laws of 1959, are amended to read:

245.06 (1) (a) All persons making application for license to marry shall within \* \* \* 20 days prior to such application submit to an examination for the presence of any venereal disease and a Wassermann or other standard blood test for syphilis, either in this state, in the state where such person to be examined resides, or, if the person is serving in the military forces of the United States, as provided in sub. (2).

(d) The certificate shall be in the following form:

VOID AFTER 20 DAYS FROM DATE OF EXAMINATION  
BY PHYSICIAN

I, \_\_\_\_\_ (name of physician), being a physician, legally licensed to practice in the state of \_\_\_\_\_, do certify I have on \_\_\_\_\_, 19\_\_ made a thorough examination of \_\_\_\_\_ (name of person) for, and believe such person to be free from, all venereal disease; and I do certify that such person was given the Wassermann or other standard blood test for syphilis at \_\_\_\_\_ (name and address of laboratory) from blood taken by \_\_\_\_\_ on \_\_\_\_\_, 19\_\_ and that the result of such test was negative.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_  
\_\_\_\_\_  
(Signature of physician)  
\_\_\_\_\_  
(P.O. address)

(e) Such certificate of negative finding as to each of the parties to a proposed marriage shall be filed with the county clerk at the time application for a license to marry is made, and it is unlawful for any county clerk to issue a license to marry if such certificates of negative finding as to both parties to the proposed marriage are not so filed, except as provided in par. (f) and s. \* \* \* 245.07.

SECTION 3. 245.16 (intro. par.) of the statutes, as repealed and recreated by chapter 595, laws of 1959, is amended to read:

245.16 (intro. par.) Marriage may be validly solemnized and contracted in this state only after a license has been issued therefor, and only in the following manner: by the mutual declarations of the 2 parties to be joined in marriage, made before a duly authorized officiating person and in the presence of at least 2 competent adult witnesses other than such officiating person, that they take each other as husband *and* wife. The following are duly authorized to be officiating persons:

SECTION 4. 247.03 (1) and (2) of the statutes, as created by chapter 595, laws of 1959, are amended to read:

247.03 (1) Actions affecting marriage are:

- (a) To affirm marriage.
- (b) Annulment.
- (c) Divorce.
- (d) Legal separation (formerly divorce from bed and board).
- (e) \* \* \* *Custody*.

(f) *For support.*

(g) *For alimony.*

(h) *For property division.*

(2) Such actions other than those \* \* \* specified in sub. (1) (e) to (h) shall be commenced within 10 years after the cause of action arose, except that an action for annulment under s. 247.02 (3) may be commenced at any time while either of the parties has a husband or wife living.

SECTION 5. 247.05 of the statutes, as amended by chapter 595, laws of 1959, is repealed and recreated to read:

**247.05 JURISDICTION IN ACTIONS TO DETERMINE QUESTIONS OF STATUS.** A court of this state having jurisdiction to hear actions affecting marriage may exercise jurisdiction quasi in rem by service of a summons and complaint pursuant to ss. 247.061, 247.062 or 247.063 to determine questions of status under any of the following circumstances:

(1) **ACTIONS BY OR AGAINST RESIDENTS TO AFFIRM OR ANNUL MARRIAGE OR TO OBTAIN LEGAL SEPARATION.** Actions to affirm or annul marriage or to obtain a legal separation shall be commenced in the county of this state in which at least one of the parties has been a bona fide resident for not less than 30 days preceding the commencement of the action; or

(2) **ACTIONS BY NONRESIDENTS TO AFFIRM OR ANNUL MARRIAGE CONTRACTED WITHIN THIS STATE.** Actions to affirm or annul a marriage contracted within this state may be commenced in any county of this state when both parties are nonresidents of the state provided the action is commenced within a year after such marriage; or

(3) **ACTIONS BY OR AGAINST RESIDENTS FOR DIVORCE.** Regardless of where the cause of action arose, an action for divorce by or against a person who has been a bona fide resident of this state for at least 2 years next preceding the commencement of the action shall be commenced in the county of this state in which at least one of the parties has been a bona fide resident for not less than 30 days next preceding the commencement of the action.

(4) **ACTIONS FOR CUSTODY OF CHILDREN.** The question of a child's custody may be determined as an incident of any action properly commenced under sub. (1), (2) or (3); or under s. 247.055; or an independent action for custody may be commenced in any county of this state in which the child is present. The effect of any determination of a child's custody shall not be binding personally against a defendant parent or guardian unless the defendant has been made personally subject to the jurisdiction of the court in the action as provided in s. 247.06.

SECTION 6. 247.055 of the statutes is created to read:

**247.055 JURISDICTION OVER CLAIMS FOR SUPPORT, ALIMONY OR PROPERTY DIVISION.** A court of this state having jurisdiction to hear actions affecting marriage may, by service of a summons and complaint pursuant to ss. 247.061, 247.062 or 247.063, hear actions or determine claims against the defendant for support, alimony or property division under any of the following circumstances:

(1) **PERSONAL JURISDICTION.** If personal jurisdiction over the defendant is acquired under s. 247.06, the court may determine claims and enter a judgment in personam against the defendant either in an action to determine a question of status under s. 247.05 or in an independent action for support, alimony or property division. Such independent actions shall

be commenced in the county in which either party resides at the commencement of the action or, if neither party resides in the state, in any county which the plaintiff designates in the complaint.

(2) JURISDICTION OVER PROPERTY OF DEFENDANT. If, with reasonable diligence, personal jurisdiction over the defendant cannot be acquired under s. 247.06, but property belonging to the defendant is found within the state when the action is commenced, the court may enter a judgment quasi in rem determining the claims and ordering them satisfied out of such property either in an action to determine a question of status under s. 247.05 or in an independent action for support, alimony or property division. Such independent actions shall be commenced in the county in which either party resides at the commencement of the action or, if neither party resides in the state, in any county which the plaintiff designates in the complaint.

SECTION 7. 247.06 of the statutes, as repealed and recreated by chapter 595, laws of 1959, is repealed and recreated to read:

247.06 ACTIONS IN WHICH PERSONAL CLAIMS ARE ASSERTED AGAINST DEFENDANT. If a personal claim is asserted against the defendant in any action under s. 247.05 or 247.055 (1), the court has jurisdiction to grant such relief only if the defendant:

- (1) Pursuant to s. 247.061 or 247.063:
  - (a) Is personally served with a summons within the state; or
  - (b) Being domiciled within the state, cannot with reasonable diligence be personally served under par. (a), is served by having a copy of the summons left at his usual place of abode within the state in the presence of some competent member of the family of at least 14 years of age, who shall be informed of the contents thereof; or
- (2) Being domiciled within the state, cannot with reasonable diligence be served under sub. (1), is personally served with a summons without the state pursuant to s. 247.062 or 247.063; or
- (3) Makes a general appearance in the action.

SECTION 8. 247.061 to 247.063 of the statutes are created to read:

247.061 SERVING AND FILING SUMMONS AND COMPLAINT WHERE DEFENDANT SERVED WITHIN THE STATE. When the defendant can with reasonable diligence be served personally within the state or at his usual place of abode therein pursuant to s. 247.06 (1) (b), actions under ss. 247.05 and 247.055 shall be commenced by such service and within 10 days thereafter the summons shall be filed in court and a copy thereof served upon the family court commissioner. Service and filing of the complaint shall be as follows:

(1) ACTIONS FOR DIVORCE OR LEGAL SEPARATION. (a) In every action for divorce or legal separation there shall be a waiting period of 60 days after service of the summons upon the defendant before the complaint may be served upon the defendant unless the court, upon good cause shown that such waiting period will be injurious to the health or safety of either of the parties or any child of the marriage or that some other emergency exists, and upon the recommendation of the family court commissioner, issues an order waiving such waiting period.

(b) If after 60 days have passed following service of the summons a copy of the complaint is not served upon the defendant, the defendant, in person or by attorney may within the next 20 days, serve a demand in writing on the plaintiff's attorney for a copy of the complaint, specifying a place embracing a post-office address within this state, where the complaint may be served and a copy of the complaint shall be served within 20 days thereafter accordingly.

(c) Within 10 days following the service of a copy of the complaint upon the defendant, the complaint shall be filed in court and a copy served upon the family court commissioner.

(d) If the complaint is not served within 120 days after service of the summons upon the defendant, the action may be dismissed upon motion of either party or the family court commissioner.

(2) OTHER ACTIONS AFFECTING MARRIAGE, OR FOR SUPPORT, ALIMONY, PROPERTY DIVISION OR CUSTODY OF CHILDREN. In all other actions affecting marriage the general provisions in ch. 262 for the service and filing of the complaint in regular civil actions shall apply.

**247.062 SERVING AND FILING SUMMONS AND COMPLAINT WHERE DEFENDANT NOT PERSONALLY SERVED WITHIN THE STATE.** When the defendant cannot with reasonable diligence be served personally within the state under s. 247.061, service may be made as follows:

(1) **PERSONAL SERVICE WITHOUT THE STATE.** By personally serving the summons and a copy of the verified complaint upon the defendant within the state and within 10 days thereafter filing the summons and verified complaint in court and serving copies of the summons and verified complaint on the family court commissioner; or

(2) **MAILING AND PUBLICATION.** If with reasonable diligence the defendant cannot be served under sub. (1), service may be made by mailing a copy of the summons and verified complaint and publication of the summons. Prior to mailing and publication the summons, verified complaint, and plaintiff's affidavit describing efforts to make personal service upon the defendant within or without the state shall be filed in court. If the defendant's post-office address is known or can with reasonable diligence be ascertained, copies of the summons and the verified complaint shall be mailed to the defendant, at or immediately prior to the first publication. Publication shall consist of publishing the summons, without the complaint, in a newspaper, published in this state, likely to give notice to the defendant, once a week for 3 successive weeks. The mailing to the defendant may be omitted if his post-office address cannot be ascertained with reasonable diligence. Within 10 days following the first publication, copies of the summons and verified complaint shall be served upon the family court commissioner.

**247.063 SERVING AND FILING SUMMONS AND COMPLAINT WHERE DEFENDANT IS A PERSON UNDER DISABILITY.** In actions commenced under ss. 247.05 and 247.055 service on a person under disability shall be by serving the summons and complaint as provided by ss. 247.061 and 247.062 and, in addition, where prescribed by s. 262.06 (2) (a) or (b) upon a person designated therein.

SECTION 9. 247.065 of the statutes, as created by chapter 595, laws of 1959, is repealed.

SECTION 10. 247.066 of the statutes is created to read:

**247.066 SUMMONS, CONTENT AND FORM. (1) ACTIONS FOR DIVORCE OR LEGAL SEPARATION, SUMMONS SERVED WITHIN STATE.** When in an action for divorce or legal separation the summons is served within the state either personally upon the defendant or at his usual place of abode therein, the summons shall specify whether the action is for divorce or legal separation, shall be approved in writing by the plaintiff and shall be substantially in the following form:

----- Court, ----- County.

A. B., Plaintiff,  
P. O. Address -----

v.

C. D., Defendant,  
P. O. Address -----

The State of Wisconsin, to said defendant:

You are hereby summoned and required to serve upon -----, plaintiff's attorney, whose address is -----, an answer or other pleading to the complaint for [divorce] [legal separation] within 20 days after such complaint is served upon you. In the absence of a court order to the contrary, service of such complaint upon you shall be delayed for 60 days after service of this summons. If no copy of the complaint is served upon you after such 60 days have passed, you may in the next 20 days thereafter demand in writing of the plaintiff's attorney a copy of the complaint. If you fail to answer or defend the above entitled action in the court aforesaid, judgment will be rendered against you according to the demand of the complaint.

E. F.  
Plaintiff's Attorney  
P. O. Address -----  
----- County, Wisconsin

Approved:

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A. B., Plaintiff

(2) OTHER ACTIONS AFFECTING MARRIAGE. In all other actions affecting marriage the general provisions in ch. 262, respecting the content and form of summons in regular civil actions, shall apply.

SECTION 11. 247.081 of the statutes, as created by chapter 595, laws of 1959, is repealed and recreated to read:

247.081 RECONCILIATION EFFORT; WAITING PERIOD FOR TRIAL OF ACTIONS FOR DIVORCE OR LEGAL SEPARATION. (1) RECONCILIATION EFFORT, ACTIONS FOR DIVORCE OR LEGAL SEPARATION. In every action for divorce or legal separation the family court commissioner shall cause an effort to be made to effect a reconciliation between the parties.

(2) WAITING PERIOD FOR TRIAL OF ACTIONS FOR DIVORCE OR LEGAL SEPARATION. No action for divorce or legal separation, contested or uncontested, shall be brought to trial until the happening of whichever of the following events occurs first:

(a) A report by the family court commissioner to the court showing the result of a reconciliation effort. This report shall not be filed with or become part of the record of the case. Facts therein shall not be considered at trial unless separately alleged and established by competent evidence; or

(b) The expiration of 60 days after the filing of the complaint when the summons is served within the state under s. 247.061; or

(c) The expiration of 120 days after the filing of the complaint when the summons is served personally without the state under s. 247.062 (1); or

(d) The expiration of 120 days after the first day of publication when the summons is served by mailing and publication under s. 247.062 (2); or

(e) An order by the court, after consideration of the recommendation of the family court commissioner, directing immediate trial of such action for the protection of the health or safety of either of the parties or any child of the marriage or for other emergency reasons.

SECTION 12. 247.085 (1) (a), (c) and (2) of the statutes, as created by chapter 595, laws of 1959, are amended to read:

247.085 (1) (a) The name and age of the parties, the date and place of marriage \* \* \* and the facts relating to the residence of \* \* \* *both parties.*

(c) Whether or not an action for obtaining a divorce or legal separation by either of the parties was or has been at any time commenced, or is pending in any other court or before any judge thereof, in this state or elsewhere, *and if either party was previously divorced, the name of the court in which the divorce was granted and the time and place the divorce was granted.*

(2) In an action for divorce or legal separation, the complaint or counterclaim shall state the statutory ground for the action without detailing allegations which constitute the basis for such ground. The facts relied upon as the statutory ground for the action shall be furnished in a verified bill of particulars within 10 days after a written demand therefor. Such demand shall be deemed waived unless made within 20 days after the service of the complaint or counterclaim. If the bill of particulars is not furnished within such time the complaint \* \* \* *or counterclaim may be dismissed upon motion of any party or of the family court commissioner.* Where a bill of particulars has been demanded, the time to answer or reply shall begin to run from the time such bill of particulars is furnished. The court, upon motion therefor, may order either party to furnish such verified bill of particulars, or if the bill of particulars furnished is insufficient, may require additional facts to be supplied so as to advise the other party of the facts relied upon as the statutory ground for the action.

SECTION 13. 247.125 of the statutes, as created by chapter 595, laws of 1959, is amended to read:

247.125 Unless nonresidence in the state is shown by competent evidence, or unless the court shall for other good cause otherwise order, the party in default in actions for divorce \* \* \*, annulment *or legal separation* shall be required to appear upon the trial. A court order requiring him or her to do so shall accordingly be procured by the party seeking the judgment, and shall be served upon such defaulted party personally before the trial.

SECTION 14. 247.13 (3) of the statutes, as created by chapter 259, laws of 1959, is amended to read:

247.13 (3) Menominee county shall be attached to Shawano county to the extent of office and functions of \* \* \* *the family court commissioner*, and the duly appointed \* \* \* *family court commissioner* of Shawano county shall serve as \* \* \* *family court commissioner* for Menominee county with all the duties, rights and power of \* \* \* *the family court commissioner* therein; and no \* \* \* *family court commissioner* shall be appointed in Menominee county, the county not being organized for that purpose.

SECTION 15. 247.15 of the statutes, as amended by chapter 595, laws of 1959, is amended to read:

247.15 (1) No judgment in any action in which the family court commissioner is required by s. 247.081 \* \* \* (1) or 247.14 to appear or otherwise discharge his duties under this chapter shall be granted until such commissioner in behalf of the public has made a fair and impartial investigation of the case and fully advised the court as to the merits of the case and the rights and interests of the parties and the public and the efforts made toward reconciliation of the parties or the reason such reconciliation attempt has not been made. Such family court commissioner

is empowered to cause witnesses to be subpoenaed on behalf of the state when in his judgment their testimony is necessary to fully advise the court as to the merits of the case and as to the rights and interests of the parties and of the public. The fees of such witnesses shall be paid out of the county treasury as fees of witnesses in criminal cases are paid. The court may order that such fees be repaid to the county by one of the parties to the action, in which case it shall be the duty of the family court commissioner to enforce such order.

(2) Except as otherwise provided under ss. 247.081 \* \* \* (1) and 247.14, in any county having a population of 500,000 or more in any action for divorce or for the annulment of a marriage in which the defendant has appeared and has interposed an answer or an answer and counterclaim and in which one of the parties thereto informs the court that he or she will not oppose the prayer of the other party and if the court is satisfied from the facts submitted that the withdrawal of such opposition is done in good faith and without collusion, the court may then order such action to be tried as a default without the presence or appearance of the family court commissioner.

SECTION 16. 247.20 of the statutes, as amended by chapters 369 and 595, laws of 1959, is repealed and recreated to read:

247.20 FORMER NAME OF WIFE. The court, upon granting a divorce in which alimony jurisdiction is terminated, may allow the wife to resume her maiden name or the name of a former deceased husband, or the name of a husband of a former marriage of which there are children in her custody, unless there are children of the current marriage as to whom the parental rights of the wife have not been terminated.

SECTION 17. 247.21 of the statutes, as amended by chapter 595, laws of 1959, is amended to read:

247.21 Full faith and credit shall be given in all the courts of this state to a judgment of annulment of marriage, divorce or legal separation by a court of competent jurisdiction in another state, territory or possession of the United States, when the jurisdiction of such court was obtained in the manner and in substantial conformity with the conditions prescribed in \* \* \* s. 247.05 \* \* \*. Nothing herein contained shall be construed to limit the power of any court to give such effect to a judgment of annulment, divorce or legal separation, by a court of a foreign country as may be justified by the rules of international comity. No person domiciled in this state shall go into another state, territory or country for the purpose of obtaining a judgment of annulment, divorce or legal separation for a cause which occurred while the parties resided in this state, or for a cause which is not ground for annulment, divorce or legal separation under the laws of this state and a judgment so obtained shall be of no \* \* \* effect in this state.

SECTION 18. 247.23 of the statutes, as amended by chapter 595, laws of 1959, is renumbered 247.23 (1).

SECTION 19. 247.23 (2) of the statutes is created to read:

247.23 (2) Notice of motion for an order under sub. (1) may be served at the time the action is commenced or at any time thereafter. If the action is commenced by service of a summons without the complaint under s. 247.061, the relief sought shall be based upon an affidavit of the party seeking the relief, but the affidavit shall not set forth any of the grounds for divorce unless necessary to support the same.

SECTION 20. The amendments made to section 247.37 (2) of the statutes by chapter 345, laws of 1959, are not repealed by the amendments made by chapter 595, laws of 1959. Both amendments stand.

SECTION 21. 261.01 (3) of the statutes is repealed.

SECTION 22. 262.08 (3) of the statutes, as repealed and recreated by chapter 226, laws of 1959, is repealed.

Approved June 16, 1960.

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