

CHAPTER 247.

ACTIONS AFFECTING MARRIAGE.

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247.01 Jurisdiction. Notwithstanding other statutes and session laws, the circuit court has jurisdiction of all actions affecting marriage and of all actions under s. 52.10 (or concurrent jurisdiction where other courts are vested with like jurisdiction), and has authority to do all acts and things necessary and proper in such actions and to carry its orders and judgments into execution as hereinafter prescribed. All such actions shall be commenced and conducted and the orders and judgments therein enforced according to these statutes in respect to actions in courts of record, as far as applicable, except as provided in this chapter and in s. 52.10. Whenever any court is presiding in any such action affecting marriage it shall be known as the "Family Court Branch".

247.02 Marriages, how voided; annulment; causes for. No marriage shall be annulled or held void except pursuant to judicial proceedings. A marriage may be annulled for any of the following causes existing at the time of marriage:

(1) Incurable physical impotency or incapacity of copulation, at the suit of either party, provided that the party making the application was ignorant of such impotency or incapacity at the time of marriage.

(2) Consanguinity where the parties are nearer of kin than second cousins as computed by the rule of civil law, whether of the half or of the whole blood, at the suit of either party except as provided in s. 245.03 (1); but when any such marriage has not been annulled during the lifetime of the parties, the validity thereof shall not be inquired into after the death of either party.

(3) When such marriage was contracted while either of the parties thereto had a husband or wife living, at the suit of either party.

(4) Fraud, force or coercion, at the suit of the innocent and injured party, unless the marriage has been confirmed by the acts of the injured party.

(5) Such want of understanding as renders either party incapable of assenting to marriage, whether by reason of insanity, idiocy or other causes, at the suit of the other, or at the suit of a guardian of the insane or incompetent person, or of the insane or in-

competent person on regaining reason, unless such insane or incompetent person, after regaining reason, has confirmed the marriage; provided that where the party compos mentis is the applicant, such party was ignorant of the other's insanity or mental incompetency at the time of the marriage, and has not confirmed it subsequent to such person's having gained or regained reason.

(6) At the suit of the wife or her parent or the guardian of her person when she was under the age of 16 years at the time of the marriage, unless such marriage is validated by compliance with ch. 245.

(7) At the suit of the husband or his parent or the guardian of his person when he was under the age of 18 at the time of the marriage, unless such marriage is validated by compliance with ch. 245.

(8) At the suit of the parent or the guardian of the person of a party marrying without the consent of said parent or guardian where such consent is required by s. 245.02, provided the action is commenced before said party reaches the age of 21 years if a male or 18 if a female and within one year after the marriage.

(9) When such marriage is prohibited or declared void under ch. 245 for any cause not enumerated herein.

247.03 Actions affecting marriage. (1) Actions affecting marriage are:

- (a) To affirm marriage.
- (b) Annulment.
- (c) Divorce.
- (d) Legal separation (formerly divorce from bed and board).
- (e) To compel support by husband.

(2) Such actions other than those to compel support 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.

(3) "Divorce" means divorce from the bonds of matrimony or absolute divorce, when used in this chapter.

247.04 Actions to affirm marriage. When the validity of any marriage shall be denied or doubted by either of the parties the other party may commence an action to affirm the marriage, and the judgment in such action shall declare such marriage valid or annul the same, and be conclusive upon all persons concerned.

247.05 Actions affecting marriage except divorce and support; jurisdiction; publication; personal service. For the purposes of actions affecting marriage other than those for divorce and to compel support, jurisdiction may be acquired by personal service upon the defendant within this state; or by publication under s. 262.08 (4) or 262.12, when either party has been a bona fide resident of this state and of the county where the action is commenced for at least 30 days next preceding the commencement of the action. When both parties are nonresidents, jurisdiction to annul a marriage contracted within the state may be acquired by such personal service or publication provided the action is commenced within a year after such marriage.

Note: Section 2 of ch. 651, Laws 1959, provides:

"SECTION 2. Chapter 595, laws of 1959, Section 76 is amended to read:

(Chapter 595, laws of 1959) Section 76. This act shall take effect January 1, 1960, except that all actions affecting marriage, as specified in section 247.03 (1) of the statutes, as created by this chapter, commenced prior to January 1, 1960, shall be completed under the statutes of 1957, but the provisions relating to the authority and duties of the family court commissioner shall go into effect on the above date."

Note: 247.05 was also amended by Ch. 226, Laws 1959, effective July 1, 1960 as to any cause of action arising after June 30, 1960, to read:

"247.05 For the purposes of annulment of marriage, jurisdiction may be acquired by publication as provided in the statutes, by personal service upon the defendant within this state, or in the manner provided in ch. 262 for the exercise of either personal jurisdiction or jurisdiction quasi in rem, when either party is a bona fide resident of this state at the time of the commencement of the action. When both parties are nonresidents, jurisdiction to annul a marriage contracted within the state may be acquired in the same manner provided the action is commenced within a year after such marriage."

247.06 Divorce; jurisdiction. For purposes of divorce, jurisdiction may be acquired by personal service upon the defendant within this state, or by publication as provided in s. 262.08 (4) or 262.12, whether the cause of action arose in this state or elsewhere, provided that either party has been a bona fide resident of this state for at least

2 years next preceding the commencement of this action, and of the county where the action is commenced for at least 30 days next preceding the commencement of the action.

Note: See first Note to 247.05 as to effective date.

Note: 247.06 was also amended by Ch. 226, Laws 1959, effective July 1, 1960 as to any cause of action arising after June 30, 1960, to read:

"247.06 (intro. par.) For purposes of divorce, either absolute or from bed and board, jurisdiction may be acquired by publication as provided in the statutes, by personal service upon the defendant within this state, or in the manner provided in ch. 262 for the exercise of either personal jurisdiction or jurisdiction quasi in rem, under the following conditions:"

Note: Chapter 369, Laws 1959, created 247.06 (3). See Note under 247.085 where the provisions are shown.

247.065 Actions to compel support; jurisdiction. For purposes of actions to compel support, jurisdiction shall be acquired by personal service upon the defendant within this state.

247.07 Causes for divorce or legal separation. A divorce, or a legal separation for a limited time or forever, may be adjudged for any of the following causes:

(1) For adultery.

(2) When either party, subsequent to the marriage, has been sentenced and committed to imprisonment for 3 years or more; and no pardon granted after a divorce for that cause shall restore the party sentenced to his or her conjugal rights.

(3) For the wilful desertion of one party by the other for the term of one year next preceding the commencement of the action.

(4) When the treatment of one spouse by the other has been cruel and inhuman, whether practiced by using personal violence or by any other means.

(5) When the husband or wife shall have been a habitual drunkard for the space of one year immediately preceding the commencement of the action.

(6) Whenever the husband and wife have voluntarily lived entirely separate for 5 years next preceding the commencement of the action, at the suit of either party.

(7) Whenever the husband and wife, pursuant to a judgment of legal separation, have lived entirely apart for 5 years next preceding the commencement of the action a divorce may be granted at the suit of either party.

(8) On the complaint of the wife, when the husband, being of sufficient ability, refuses or neglects to adequately provide for her.

247.08 Actions to compel support by husband. If any husband fails or refuses, without lawful or reasonable excuse, to provide for the support and maintenance of his wife or minor children, the wife may commence an action in any court having jurisdiction in actions for divorce, to compel such husband to provide for the support and maintenance of herself and such minor children as he may be legally required to support. The court, in such action, may determine and adjudge the amount such husband should reasonably contribute to the support and maintenance of said wife or children and how such sum should be paid. The amount so ordered to be paid may be changed or modified by the court upon notice of motion or order to show cause by either the husband or wife upon sufficient evidence. Such determination may be enforced by contempt proceedings.

247.081 Commencement of divorce and legal separation actions; form of summons; waiting period for service of complaint and answer, and for trial. (1) Notwithstanding other provisions of law relating to the commencement of actions, a divorce or legal separation action shall be commenced by the service of a summons without the complaint. The summons shall be filed in court and a copy thereof shall be served upon the family court commissioner within 10 days after such service upon the defendant. Said summons shall specify whether the action is for a divorce or for a 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 to appear within 20 days after the plaintiff's complaint for divorce (or for legal separation) is subsequently served upon you, exclusive of the day of such service, and defend the above entitled action in the court aforesaid; and in case of your failure so to do judgment will be rendered against you according to the demand of such complaint which will allege a cause of action under section 247.07 of the Wisconsin

statutes. 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.

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

Approved:

A. B., Plaintiff

(2) (a) In every action for divorce or legal separation, there shall be a waiting period of 60 days after commencement of the action before the complaint may be served on 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. Any answer or other pleading by the defendant must be served within 20 days after the service upon him of the copy of the complaint, except as otherwise provided in s. 247.085 (2).

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

(3) (a) In every such action, the family court commissioner shall cause an effort to be made to effect a reconciliation between the parties.

(b) After January 1, 1960, no such action, contested or uncontested, shall be brought to trial until the happening of whichever of the following events occurs first:

1. A report by the family court commissioner to the court showing the result of a reconciliation effort; or

2. The expiration of 60 days after filing of the complaint; or

3. 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.

(c) No report under par. (b) 1 shall be filed with or become part of the records of a case. Facts therein shall not be considered at trial of the action unless separately alleged and established by competent evidence.

(4) Either party, at the time the action is commenced by service of summons under sub. (1), or at any time thereafter, may also serve a notice of motion or an order to show cause for immediate or temporary relief under s. 247.23. 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.

247.085 Contents of complaint. (1) In any action affecting marriage the complaint shall specifically allege:

(a) The name and age of the parties, the date and place of marriage, and the facts relating to the residence of the plaintiff.

(b) The name and date of birth of the minor and dependent children of the 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.

(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 shall be deemed automatically dismissed without court order. 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.

(3) In an action for divorce or legal separation, adultery shall be pleaded as a separate cause of action and not as an instance of cruel and inhuman treatment.

(4) When the demand of the complaint or counterclaim is for a legal separation, such pleading shall allege the specific reason why such remedy is demanded. If such reason is conscientious objection to divorce, it shall be so stated.

Note: Chapter 369, Laws 1959, created 247.06 (3) which reads as follows:

"247.06 (3) In every action for divorce from bed and board and from the bonds of matrimony the complaint must set forth the ages and residences of both parties 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."

247.09 Power of court in divorce and legal separation actions. When the court grants a judgment in any action for divorce or legal separation the kind of judgment granted shall be in accordance with the demand of the complaint or counterclaim of the prevailing party, except that a divorce or legal separation may be adjudged regardless of such demand whenever the court finds that it would not be in the best interests of the parties or the children of the marriage to grant such demand and also states the reason therefor. Conscientious objection to divorce shall be deemed a sufficient reason for granting a judgment of legal separation if such objection is confirmed at the trial by the party making such demand.

247.10 Collusion; procurement; connivance; condonation; stipulation; property rights. No judgment of annulment, divorce or legal separation shall be granted if it appears to the satisfaction of the court that the suit has been brought by collusion, and no judgment of divorce or legal separation shall be granted if it likewise appears that the plaintiff has procured or connived at the offense charged, or has condoned it, or has been guilty of adultery not condoned; but the parties may, subject to the approval of the court, stipulate for a division of estate, for alimony, or for the support of children, in case a divorce or legal separation is granted or a marriage annulled.

247.101 Recrimination, when applicable; comparative rectitude. The equitable doctrine that the court shall not aid a wrongdoer is applicable to any party suing for divorce under s. 247.07 (1) to (5), except that where it appears from the evidence that both parties have been guilty of misconduct sufficiently grave to constitute cause for divorce, the court may in its discretion grant a judgment of legal separation to the party whose equities on the whole are found to be superior.

247.11 Accomplice to be interpleaded. Any one charged as a particeps criminis shall be made a party, upon his or her application to the court, subject to such terms and conditions as the court may prescribe.

247.12 Trial procedure. In actions affecting marriage, all hearings and trials to determine whether judgment shall be granted shall be before the court except as otherwise required by s. 270.07 (1). The testimony shall be taken by the reporter and shall be written out and filed with the record if so ordered by the court.

247.125 Order for appearance of defaulted party. 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 or annulment 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.

247.13 Family court commissioner (formerly divorce counsel); appointment; powers; oaths; assistants. (1) In each county of the state, except in counties having a population of 500,000 or more, the circuit judge or judges in and for such county shall, by order filed in the office of the clerk of the circuit court on or before the first Monday of July of each year, appoint some reputable attorney of recognized ability and standing at the bar, family court commissioner (formerly divorce counsel) for such county. Such commissioner shall, by virtue of his office and to the extent required for the performance of his duties, have the powers of a court commissioner. Such court commissioner shall be in addition to the maximum number of court commissioners permitted by s. 252.14. The office of the family court commissioner, or any assistant commissioner, may be placed under a county civil service system by resolution of the county board. Before entering upon the discharge of his duties such commissioner shall take and file the official oath. The person so appointed shall continue to act until his successor is appointed and qualified, except that in the event of his disability or extended absence said judge or judges may appoint another reputable attorney to act as temporary family court commissioner, and except that the county board may provide that one or more assistant family court commissioners shall be appointed by the circuit judges of the county. Such assistants shall have the same qualifications as the commissioner and shall take and file the official oath.

(2) In counties having a population of 500,000 or more, there is created in the classified civil service the office of family court commissioner and such additional assistant family court commissioners as the county board shall determine and authorize, who shall be appointed from the membership of the bar residing in such county by the judges of the circuit court of such county, pursuant to ss. 63.01 to 63.17. Before entering upon the performance of their duties, such family court commissioner and assistant family court commissioners shall take and file the official oath. Such family court commissioner and

assistant family court commissioners may be appointed court commissioners as provided in s. 252.14 (2). They shall receive such salary as may be fixed by the county board, shall perform their duties under the direction of the circuit judges of such county and shall be furnished with quarters and necessary office furnishing and supplies. The county board shall provide them their necessary stenographic and investigational service. When the family court commissioner is unavailable, any assistant family court commissioner shall perform all the duties and have all the powers of the family court commissioner as directed by the latter or by a judge of the family court branch. In addition to the duties of such family court commissioner as defined in ch. 247, he shall perform such other duties as the circuit court of such county may direct.

(3) Menominee county shall be attached to Shawano county to the extent of office and functions of divorce counsel, and the duly appointed divorce counsel of Shawano county shall serve as divorce counsel for Menominee county with all the duties, rights and powers of divorce counsel therein; and no divorce counsel shall be appointed in Menominee county, the county not being organized for that purpose.

Note: Subsection (3) takes effect upon approval by the Secretary of Interior. See ch. 259, sec. 42, laws of 1959.

247.14 Service on and appearance by family court commissioner. In any action to affirm or annul a marriage, for divorce or legal separation or to compel support, the plaintiff and defendant shall, within 10 days after making service on the opposite party of any pleading, serve a copy of the same upon the family court commissioner of the county in which the action is begun, whether such action is contested or not. No judgment in any such action shall be granted unless this section is complied with, or unless the parties have responded to the family court commissioner's inquiries under s. 247.15 except when otherwise ordered by the court. Such commissioner shall appear in the action when the defendant fails to answer or withdraws his answer before trial; also, when the defendant interposes a counterclaim and the plaintiff thereupon neither supports his complaint nor opposes the counterclaim by proof; and when otherwise requested by the court.

247.15 Default actions; family court commissioner to appear. (1) No judgment in any action in which the family court commissioner is required by s. 247.081 (3) (a) 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 (3) (a) 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.

247.16 Family court commissioner or law partner; when interested; procedure. Neither such family court commissioner nor his partner or partners shall appear in any action affecting marriage in any court held in the county in which he shall be acting, except when authorized to appear by s. 247.14. In case he or his partner shall be in any way interested in such action, the presiding judge shall appoint some reputable attorney to perform the services enjoined upon such family court commissioner and such attorney, so appointed, shall take and file the oath and receive the compensation provided by law.

247.17 Family court commissioner; salary. In counties having a population of less than 500,000, the county board shall by resolution provide an annual salary for the family court commissioner whether he is on a full or part-time basis and may furnish an office with necessary office furnishings, supplies and stenographic services and may also by resolution prescribe such other duties to be performed by him not in conflict with his duties as family court commissioner.

247.18 Corroboration required; defaults. (1) No judgment of annulment, divorce or legal separation shall be granted in any action in which the defendant does not appear and defend the same in good faith unless the cause is shown by affirmative proof aside from any admission to the plaintiff on the part of the defendant.

(2) No judgment of annulment, divorce or legal separation shall be granted on the testimony of the party, unless the grounds therefor and required residence are corroborated, by testimony other than by the parties except cruel and inhuman treatment when no corroborating evidence is available. No stipulation by the parties shall satisfy the requirements of this subsection.

247.19 Record; impounding. No record or evidence in any case shall be impounded, or access thereto refused, except by special written order of the court made in its discretion in the interests of public morals. And when impounded no officer or other person shall permit a copy of any of the testimony or pleadings, or the substance thereof, to be taken by any person other than a party to the action, or his attorney of record, without the special order of the court.

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 unless there are children of the marriage as to whom the parental rights of the wife have not been terminated.

Note: This section is printed as amended by ch. 595, Laws 1959. An earlier amendment by ch. 369, Laws 1959, is not shown.

247.21 Foreign decrees; comity of states; divorce abroad to circumvent laws. 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 ss. 247.05 and 247.06. 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 force or effect in this state.

247.22 Uniform divorce recognition act. (1) 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 the divorce was commenced.

(2) Proof that a person obtaining a divorce in another jurisdiction was (a) domiciled in this state within 12 months prior to the commencement of the proceeding therefor, and resumed residence in this state within 18 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.

(3) This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

(4) This section may be cited as the Uniform Divorce Recognition Act.

247.23 Support of wife and children; suit money. In every action to affirm or annul a marriage or for a divorce or legal separation or to compel support by husband, the court or family court commissioner may, during the pendency thereof, make such orders concerning the care, custody and suitable maintenance of the minor children, requiring the husband to pay such sums for the support of the wife and the minor children in her custody and enabling her to carry on or defend the action, and in relation to the persons or property of the parties as in its discretion shall be deemed just and reasonable and may prohibit either spouse from imposing any restraint on the personal liberty of the other.

247.24 Judgment; care and custody, etc., of minor children. In rendering a judgment of annulment, divorce or legal separation, the court may make such further provisions therein as it deems just and reasonable concerning the care, custody, maintenance and education of the minor children of the parties, and give the care and custody of the children of such marriage to one of the parties to the action, or may, if the interest of any such child shall demand it, and if the court finds that neither of the parents is a fit and proper person to have the care and custody of any such child, may declare such child a

dependent and give the care and custody of such child to a relative (as defined in ch. 48) of the child, a county agency specified in s. 48.56 (1), a licensed child welfare agency, or the state department of public welfare. The charges for such care shall be pursuant to the procedure under s. 48.27. Whenever the welfare of any such child will be promoted thereby, the court granting such judgment shall always have the power to change the care and custody of any such child, either by giving it to or taking it from such parent, relative or agency, provided that no order changing the custody of any child shall be entered until after notice of such application shall have been given the parents of such child, if they can be found, and also to the relative or agency that then has the custody of such child.

247.25 Revision of judgment. The court may from time to time afterwards, on the petition of either of the parties and upon notice to the family court commissioner, revise and alter such judgment concerning the care, custody, maintenance and education of any of the children, and make a new judgment concerning the same as the circumstances of the parents and the benefit of the children shall require.

247.26 Alimony, property division. Upon every judgment of divorce or legal separation for any cause excepting that of adultery committed by the wife, the court may, subject to s. 247.20, further adjudge to the wife such alimony out of the property or income of the husband, for her support and maintenance, and such allowance for the support, maintenance and education of the minor children committed to her care and custody as it deems just and reasonable. The court may also finally divide and distribute the estate, both real and personal, of the husband, and so much of the estate of the wife as has been derived from the husband, between the parties and divest and transfer the title of any thereof accordingly, after having given due regard to the legal and equitable rights of each party, the ability of the husband, the special estate of the wife, the character and situation of the parties and all the circumstances of the case; but no such final division shall impair the power of the court in respect to revision of allowances for minor children under s. 247.25. No such judgment shall divest or transfer title to real estate unless such judgment or a certified copy thereof is recorded in the office of the register of deeds of the county in which such real estate is situated.

247.27 Wife to support children, when. When a divorce or legal separation shall be adjudged for a cause or fault committed by the wife and the care, custody and maintenance of any of their minor children shall be awarded to the husband the court may adjudge to the husband, out of the separate property or income of the wife, such sums for the support and education of any of the minor children as it deems just and reasonable, considering the ability of the parties and all the other circumstances of the case.

247.28 Maintenance, custody and support when divorce or separation denied. In a judgment in an action for divorce or legal separation, although such divorce or legal separation is denied, the court may make such order for the custody of any of the minor children and for the maintenance of the wife and support of such children by the husband and out of his property or income, and may further make such order for the support of any child by the wife or out of her separate property or income, as the nature of the case may render just and reasonable.

247.29 Alimony, clerk of court, family court commissioner, fees and compensation. (1) All orders or judgments providing for temporary or permanent alimony or support of children shall direct the payment of all such sums to the clerk of the court for the use of the person for whom the same has been awarded. A party securing an order for temporary alimony or support money shall forthwith file said order, together with all pleadings in the action, with the clerk of the court. Said clerk shall disburse the money so received pursuant to said judgment or order and take receipts therefor. All moneys received or disbursed under this section shall be entered in a record book kept by said clerk, which shall be open to the inspection of the parties to the action or of their attorneys. If the alimony or support money adjudged or ordered to be paid shall not be paid to the clerk at the time provided in said judgment or order, the clerk and the family court commissioner of said county shall take such proceedings as shall be directed by the court or a judge of the family court branch to secure the payment of such sum. Copies of any order issued to compel such payment shall be mailed to counsel who represented each party when such alimony or support money was awarded. In case any fees of officers in any of said proceedings including the compensation of the family court commissioner at the rate of \$50 per day unless such commissioner is on a salaried basis, be not collected from the person proceeded against, the same shall be paid out of the county treasury upon the order of the presiding judge and the certificate of the clerk of the court.

(2) If any party entitled to alimony or support money, or both, is receiving public

assistance under either s. 45.20 or ch. 49, such party may assign his right thereto to the county department of public welfare or municipal relief agency granting such assistance. Such assignment shall be approved by order of the court granting such alimony or support money, and may be terminated in like manner; except that it shall not be terminated in cases where there is any delinquency in the amount of alimony and support money previously ordered or adjudged to be paid to such assignee without the written consent of the assignee or upon notice to the assignee and hearing. When an assignment of alimony or support money, or both, has been approved by such order, the assignee shall be deemed a real party in interest within s. 260.13 but solely for the purpose of securing payment of unpaid alimony or support money adjudged or ordered to be paid, by participating in proceedings to secure the payment thereof.

247.30 Alimony, payment of and security for. In all cases where alimony or other allowance shall be adjudged to the wife or for the support or education of the children the court may provide that the same shall be paid in such sums and at such times as shall be deemed expedient, and may impose the same as a charge upon any specific real estate of the party liable or may require sufficient security to be given for payment according to the judgment; and upon neglect or refusal to give such security or upon the failure to pay such alimony or allowance the court may enforce the payment thereof by execution or under s. 295.03 or otherwise as in other cases. No such judgment shall become effectual as a charge upon specific real estate until the judgment or a certified copy thereof is recorded in the office of the register of deeds in the county in which the real estate is situated.

247.31 Trustee may be appointed. The court may also appoint a trustee, when deemed expedient, to receive any money adjudged to the wife upon trust, to invest the same and pay over the income thereof for her maintenance or the support and education of any of the minor children, or to pay over the principal sum in such proportions and at such times as the court directs. The trustee shall give such bond, with such sureties as the court requires, for the faithful performance of his trust.

247.32 Revision of judgment. After a judgment providing for alimony or other allowance for the wife and children, or either of them, or for the appointment of trustees as aforesaid the court may, from time to time, on the petition of either of the parties and upon notice to the family court commissioner, revise and alter such judgment respecting the amount of such alimony or allowance and the payment thereof, and also respecting the appropriation and payment of the principal and income of the property so held in trust, and may make any judgment respecting any of the said matters which such court might have made in the original action. But when a final division of the property shall have been made under s. 247.26 no other provisions shall be thereafter made for the wife.

247.33 Judgment for legal separation; revocation. In all cases of legal separation for any of the causes specified in s. 247.07, the court may decree a separation for a limited time or forever, as shall seem just and reasonable, with a provision that in case of a reconciliation at any time thereafter, the parties may apply for a revocation of the judgment; and upon such application the court shall make such order as may be just and reasonable.

247.34 Restoring property upon annulment. Upon rendering a judgment of annulment the court may make provision for restoring to the wife the whole or such part, as it deems just and reasonable, of any property which the husband may have received from her or the value thereof, and may compel him to disclose what property he has received and how the same has been disposed of. The court may in like manner provide for the restoration to the husband of any property which he has transferred to his wife.

247.35 Limit of judgment affecting property. No judgment of annulment, divorce or legal separation shall in any way affect the right of a wife to the possession and control of her separate property, real or personal, except as provided in this chapter; and nothing contained in this chapter shall authorize the court to divest any party of his title in any real estate further than is expressly provided therein.

247.36 Dower and curtesy rights. When a judgment of divorce is granted, and also when the court, upon granting a legal separation, makes a final division of the estate under s. 247.26, neither party shall be entitled to dower or curtesy in any lands of the other.

247.37 Effect of judgment of divorce. (1) (a) When a judgment of divorce is granted it shall not be effective so far as it affects the marital status of the parties until the expiration of one year from the date of the granting of such judgment, except that it shall immediately bar the parties from cohabitation together and except that it may be

reviewed on appeal during said period. But in case either party dies within said period, such judgment, unless vacated or reversed, shall be deemed to have entirely severed the marriage relation immediately before such death. The written judgment shall include the substance of the preceding language; and if the court orders alimony or other allowances for the wife or children or retains jurisdiction in such matters, the written judgment shall include a provision that disobedience of the court order with respect to the same is punishable under s. 295.03 by commitment to the county jail or house of correction until such judgment is complied with and the costs and expenses of the proceedings are paid or until the party committed is otherwise discharged, according to law. The findings of fact and conclusions of law and the written judgment shall be drafted by the attorney for the prevailing party, and shall be submitted to the court and filed with the clerk of the court within 30 days after judgment is granted; but if the action has been uncontested, they shall first be submitted to opposing counsel, if any, and to the family court commissioner for notation of approval thereon before submission of the same to the court.

(b) At the time of filing any judgment for a divorce or legal separation, the attorney for the prevailing party shall present to the clerk of court 2 true copies thereof in addition to the original judgment, and until such copies are presented the clerk may refuse to accept such judgment for filing. After the judgment is filed, the clerk shall mail a copy forthwith to each party to the action at his last known address, and the court record shall show such mailing.

(2) So far as said judgment affects the marital status of the parties the court shall have power to vacate or modify the same for sufficient cause shown, upon its own motion, or upon the application of either party to the action, at any time within one year from the granting of such judgment, provided both parties are then living. But no such judgment shall be vacated or modified without the service of notice of motion, or order to show cause on the family court commissioner, and on the parties to the action, if they be found. The court may direct the family court commissioner or appoint some other attorney, to bring appropriate proceedings for the vacation of said judgment. The compensation of the family court commissioner when not on a salaried basis or other attorney for performing such services shall be at the rate of \$50 per day, which shall be paid out of the county treasury upon order of the presiding judge and the certificate of the clerk of the court. If the judgment shall be vacated it shall restore the parties to the marital relation that existed before the granting of such judgment. If after vacation of the judgment either of the parties shall bring an action in this state for divorce against the other the court may order the plaintiff in such action to reimburse the county the amount paid by it to the family court commissioner or other attorney in connection with such vacation proceedings.

Note: (2) is printed as amended by ch. 595, Laws 1959. An earlier amendment by ch. 345, Laws 1959, is not shown.

(3) It is the duty of every judge, who grants a judgment of divorce, to inform the parties appearing in court that the judgment, so far as it affects the marital status of the parties except to bar cohabitation, will not become effective until one year from the date when such judgment is granted.

(4) Such judgment, or any provision of the same, may be reviewed by an appeal taken within one year from the date when such judgment was granted. At the expiration of such year, such judgment shall become final and conclusive without further proceedings, unless an appeal is pending, or the court, for sufficient cause shown, upon its own motion, or that of the family court commissioner, or upon the application of a party to the action, shall otherwise order before the expiration of said period. If an appeal is pending at the expiration of said year, such judgment shall not become final and conclusive until said appeal has been finally determined.

247.375 Sale of realty before final decree. (1) Between the date of a judgment of divorce and the date on which it becomes final, a party to whom real estate has been awarded pursuant to s. 247.26 may apply to the court by verified petition for an order authorizing him or her to sell, mortgage, lease or otherwise dispose of such real estate free of any claim or interest of the opposite party. The court or presiding judge shall thereupon enter an order fixing a time for hearing such petition, which shall be not more than 60 days nor less than 10 days from the filing thereof. At least 8 days prior to the date fixed for hearing, a copy of the petition and order shall be served on the opposite party and the family court commissioner, in the manner prescribed by law for the service of a summons. The opposite party or the family court commissioner may answer the petition and present evidence at the hearing in opposition thereto.

(2) Upon the hearing if it appears to the court that the petition is made in good faith and that it will be for the best interests of the petitioner and not in violation of any rights of the opposite party to grant the petition, the court may enter an order authorizing the

execution of a deed, mortgage, lease or other instrument affecting the real estate described in the petition and in the order; and such instrument shall be effectual to convey, mortgage, lease or otherwise dispose of the real estate free and clear of any interest of the opposite party to the action. As a condition of granting the petition the court may require that there be secured, in such manner as the court directs, out of the proceeds of the sale, mortgage or other disposition of the real estate, or by bond in such amount and with such surety as the court approves, such sum for the benefit of the parties to the action or either of them, or the children of the parties, as the court deems just under all the circumstances.

(3) A sale, mortgage, lease or other disposition of real estate by the party to whom it is awarded in a divorce judgment shall be effectual, free and clear of any interest of the opposite party to the action, without a proceeding under subs. (1) and (2), if expressly authorized or directed in the divorce judgment or if both parties to the divorce action join in the conveyance.

247.38 Judgment revoked on remarriage. When a judgment of divorce has been granted and the parties shall afterwards intermarry, the court, upon their joint application and upon satisfactory proof of such marriage, may revoke all judgments and orders of divorce, alimony and subsistence which will not affect the right of third persons and order the record impounded without regard to s. 247.19; and thereafter neither the record nor any part thereof shall be offered or admitted into evidence in any action or proceeding except by special order of the court of jurisdiction upon good cause shown in any paternity proceedings under ss. 52.21 to 52.45 or by special order of any court of record upon a showing of necessity to clear title to real estate. After a final judgment of divorce has been rendered, the court, upon the application of the party paying alimony, on notice to, and on proof of the marriage, after such final judgment, of the party receiving such alimony, shall by order modify such final judgment and any orders made with respect thereto, by annulling the provisions of such final judgment or orders, or of both, directing payment of such alimony.

247.39 Alimony or other allowance pending appeal. Alimony or other allowances for the wife or children when an appeal of a divorce or legal separation action is pending before the supreme court may be allowed under s. 251.431.