

CHAPTER XXVI.

[S. B. No. 79.]

DIVORCE.

AN ACT in relation to applications for divorce, amendatory of sections 2000, 2001, 2005, 2006, 2007, 2008, 2009, 2010 and 1012 of the Code of Washington of 1881.

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

SECTION 1. Section 2000 of the code of Washington of 1881 is amended to read as follows: Divorces may be granted by the superior court on application of the party injured, for the following causes: 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 subsequent voluntary cohabitation. 2. For adultery on the part of the wife or of the husband, when unforgiven, and application is made within one year after it shall come to the knowledge of the party applying for the divorce. 3. Impotency. 4. Abandonment for one year. 5. Cruel treatment of either party by the other, or personal indignities rendering life burdensome. 6. Habitual drunkenness of either party, or the neglect or refusal of the husband to make suitable provisions for his family. 7. The imprisonment of either party in the penitentiary, if complaint is filed during the term of such imprisonment; and a divorce may be granted upon application of either party for any other cause deemed by the court sufficient, and the court shall be satisfied that the parties can no longer live together. 8. In case of incurable chronic mania or dementia of either party, having existed for ten years or more, the court may, in its discretion, grant a divorce.

SEC. 2. Section 2001 of said code of 1881 is amended to read as follows: When there is any doubt as to the facts rendering a marriage void, either party may apply for and on proof obtain a decree of nullity of marriage.

SEC. 3. Section 2005 of said code of 1881 is amended to read as follows: Both parties shall be considered as applying for a divorce when the complaints of both are filed in the same action, and when the defendant, by his or her cross-complaint, also applies for a divorce.

SEC. 4. Section two thousand and six of said code of 1881 is amended to read as follows: Pending the action for divorce the court or judge thereof may make, and by attachment enforce, such orders for the disposition of the persons, property and children of the parties as may be deemed right and proper, and such orders relative to the expenses of such action as will insure to the wife an efficient preparation of her case, and a fair and impartial trial thereof; and on decreeing or refusing to decree a divorce, the court may, in its discretion, require the husband to pay all reasonable expenses of the wife in the prosecution or defense of the action when such divorce has been granted or refused, and give judgment therefor.

Disposition of
property and
children.

SEC. 5. Section two thousand and seven of said code of 1881 is amended to read as follows: In granting a divorce the court shall also make such disposition of the property of the parties as shall appear just and equitable, having regard to the respective merits of the parties, and to the condition in which they will be left by such divorce, and 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 the guardianship, custody, and support and education of the minor children of such marriage.

SEC. 6. Section two thousand and eight of said code of 1881 is amended to read as follows: Whenever judgment of divorce from the bonds of matrimony is granted by the courts in this state, the court shall order a full and complete dissolution of the marriage as to both parties: *Provided*, That neither party shall be capable of contracting marriage with a third person until the period in which an appeal may be taken has expired; and in case an appeal is taken, then neither party shall inter marry with a third person until the cause has been fully determined.

Absolute
divorce.

Effect of ap-
peal.

SEC. 7. Section two thousand and nine of said code of 1881 is amended to read as follows: In all actions for divorce, if a divorce be granted, the court may, for just and reasonable cause, change the name of the female, who shall thereafter be known and called by such name as the court shall in its order or decree appoint.

Change of
name.

SEC. 8. Section 2010 of the code of Washington of 1881

Duty of prosecuting attorney.

is amended to read as follows: Whenever a complaint for divorce remains undefended it shall be the duty of the prosecuting attorney to resist such complaint, but no prosecuting attorney shall be employed in or allowed to conduct any action for a divorce on the part of the plaintiff or applicant in the courts of this state; nor shall any prosecuting attorney be allowed to resist a complaint for divorce in those cases where the defendant does not appear or appearing admits the allegations of the complaint, if the attorney for the applicant is a partner of such prosecuting attorney in the practice of law, or keeps his office with such prosecuting attorney; but in all such cases the court or judge before whom the case is to be heard shall appoint an attorney to resist the complaint, who shall be entitled to the compensation allowed by law to prosecuting attorneys in such cases.

Practice governing.

SEC. 9. Section 2012 of said code of 1881 is amended to read as follows: The practice in civil actions shall govern all proceedings in the trial of actions for divorce, except that trial by jury is dispensed with.

SEC. 10. The various sections of this act shall constitute a part of the code of procedure of this state, and be arranged therein under appropriate numbers.

Approved February 24, 1891.

CHAPTER XXVII.

[S. B. No. 72.]

RELATING TO JUDGMENTS.

AN ACT relating to proceedings to vacate or modify judgments in the courts in which they were rendered.

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

SECTION 1. Section 438 of the code of Washington of 1881 is amended to read as follows: The proceedings to vacate or modify a judgment or order for mistakes or omis-