

## CHAPTER 109.

[S. H. B. 18.]

## DIVORCE AND ALIMONY.

AN ACT relating to divorce and alimony, prescribing the grounds and procedure required therefor, and the duties of judges and prosecuting attorneys in relation thereto; providing for the modification of final orders, judgments or decrees in divorce actions or proceedings by superior courts in counties other than where originally heard and determined; amending sections 982, 988 and 995 and inserting new sections to be numbered 982-1, 988-1, 995-1, 995-2, 995-3, 995-4 and 995-5 of Remington & Ballinger's Annotated Codes and Statutes of Washington (the same being sections 7501, 7507 and 7511 and 7501-1, 7507-1, 7511-1, 7511-2, 7511-3, 7511-4 and 7511-5 of Pierce's Code) and repealing sections 991, 992 and 993 of Remington & Ballinger's Annotated Codes and Statutes of Washington (the same being sections 7514, 7515 and 7516 of Pierce's Washington Code).

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

SECTION 1. That Section 982 of Remington & Ballinger's Annotated Codes & Statutes of Washington (being Sec. 7501 of Pierce's Washington Code), be amended to read as follows:

Section 982. Divorces may be granted by the superior court on application of the party injured, for the following causes:

Grounds for divorce.

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 co-habitation.

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.

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 a state penal institution if complaint is filed during the term of such imprisonment.

8. A divorce may be granted to either or both of the 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. In all such cases, the divorce may be granted on the application of either husband or wife, and either husband or wife shall be considered the injured party and the period of five years or more shall be computed from the time the separation took place.

9. In case of incurable, chronic mania or dementia of either spouse having existed for five years or more, while under confinement by order of a court of record, the court may, in its discretion, grant a divorce.

Section 982-1. When, in the opinion of the court, 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 interlocutory order until the suspected party is prosecuted and finally found guilty or innocent.

SEC. 2. That Section 988 of Remington & Balingier's Annotated Codes and Statutes of Washington (being Section 7507 of Pierce's Washington Code) be amended to read as follows:

Section 988. Pending the action for the 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

Stay of proceedings pending prosecution for non-support.

Interlocutory orders.

to the wife an efficient preparation of her case, and a fair and impartial trial thereof; at the conclusion of the trial the court must make and file findings of fact and conclusions of law. If it determines that no divorce shall be granted final judgment must thereupon be entered accordingly. If, however, the court determines that either party, or both, is entitled to a divorce an interlocutory order must be entered accordingly, declaring that the party in whose favor the court decides is entitled to a decree of divorce as hereinafter provided; which order shall also make all necessary provisions as to alimony, costs, care, custody, support and education of children and custody, management and division of property, which order as to the custody, management and division of property shall be final and conclusive upon the parties subject only to the right of appeal; but in no case shall such interlocutory order be considered or construed to have the effect of dissolving the marriage of the parties to the action, or of granting a divorce, until final judgment is entered: *Provided*, That the court shall, at all times, have the power to grant any and all restraining orders that may be necessary to protect the parties and secure justice. Appeals may be taken from such interlocutory order within 90 days after its entry.

Section 988-1. At any time after six months have expired, after the entry of such interlocutory order, and upon the conclusion of an appeal, if taken therefrom, the court, on motion of either party, shall confirm such order and enter a final judgment granting an absolute divorce, from which no appeal shall lie.

Final decree  
of divorce.

SEC. 3. That Section 995 of Remington & Ballinger's Annotated Codes and Statutes of Washington (being Sec. 7511 of Pierce's Washington Code) be amended to read as follows:

Section 995. Each party to any divorce action shall serve the prosecuting attorney of the county

Service of all  
papers on  
prosecuting  
attorney.

in which the action is commenced with copies of all pleadings, notice of trial, motions or orders therein, at the time of or immediately after their service upon the opposite party or his or her counsel, and in case the summons is served by publication a copy of the summons and complaint shall be served upon the prosecuting attorney immediately after the filing of the complaint 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 case, and in such other divorce cases as the presiding judge may direct, in his county and advise the court, and to that end he shall have power upon order of the court to cause witnesses to be subpoenaed to testify at the trial, respecting any charges made in the complaint or answer or upon any vital matter touching the status of the parties or the performance or neglect of any duty by either, and the witness fees of such witnesses called by the prosecuting attorney shall be charged to the county. 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.

Prosecuting attorney to appear.

Section 995-1. Actions for divorce filed prior to the taking effect of this act shall be governed by the law applicable thereto at the time of the commencement of the action.

Act not retroactive.

SEC. 4. Insert four new sections to be known as sections 995-2, 995-3, 995-4, 995-5 as follows:

Section 995-2. Hereafter every action or proceeding to change or modify any final order, judgment or decree heretofore or hereafter made and entered in any divorce action or proceeding in relation to the care, custody or control, or the support and maintenance, of the minor child or children of the marriage shall be brought in the county where said minor child or children affected are then residing,

Change of order, judgment or decree relative to children.

or in the county where the parent or other person who has the care, custody or control of the said minor child or children affected is then residing.

Section 995-3. Upon the filing of a properly verified petition, to be entitled as in the original divorce action or proceedings, together with a certified copy of the order, judgment or decree sought to be changed or 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.

Hearing on petition.

Section 995-4. The court shall have power to cause either party to said action or proceeding to file 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 make and enter all necessary or proper orders for a full hearing and determination of said petition.

Filing of records and files in original action.

Section 995-5. Upon a full hearing and determination of said petition the court shall make and enter such order, judgment or decree in said cause as the evidence and the law requires; a certified copy of such order, judgment or decree to be filed and entered in the county wherein said original divorce action or proceeding was had within thirty days thereof.

Filing of order, etc., in county of the original action.

SEC. 5. Sections 991, 992 and 993 of Remington & Ballinger's Annotated Codes and Statutes of Washington (being Sections 7514, 7515 and 7516 of Pierce's Washington Code) are hereby repealed.

Repealing clause.

Passed the House, March 1, 1921.

Passed the Senate, March 9, 1921.

Approved by the Governor March 17, 1921.