

THE SOVIET LAW ON MARRIAGE

FULL TEXT OF THE CODE OF LAWS ON
MARRIAGE AND DIVORCE, THE FAMILY, AND
GUARDIANSHIP

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Union Labor Throughout

INTRODUCTION

Marx defined the family based on private property as the original form of slavery which makes possible the exploitation of another person's labor.

“The original form... of private property can be observed in the institution of the family where the wife and children are the slaves of the man. This slavery, naturally still very crude and hidden in the family, represents the first form of private ownership... making it possible to take advantage of another person's labor.” (Marx and Engels, *German Ideology*.)

The oppressed and subjugated condition of women was definitely formulated under the tsarist laws of Russia.

According to these laws, the wife had to “love, honor and obey” her husband. This applies to this very day to all bourgeois countries. In 1919 Lenin wrote:

“Education, culture, civilization, freedom – these high-sounding words in all capitalist, bourgeois republics of the world, go hand in hand with unusually debasing and brutal laws which emphasize the inequality of women in marriage rights and divorce, the inequality between the ‘legitimate’ child and the child born out of wedlock, the privileges of men, the humiliation and degradation of women... The Soviet Republic, the republic of the workers and peasants, has swept away these laws, has smashed all this bourgeois falsehood and bourgeois hypocrisy.”

Soviet legislation on the family and marriage was worked out with the active participation of the broad, toiling masses. The new laws completely swept away the old order. Affecting as they did the vital interests of the broad masses, millions of men and women workers and toiling peasants discussed the marriage and family code and added their suggestions and amendments.

The fundamental principle on which the marriage and family code is drawn up is *absolute equality in the marriage and family of the working man and woman* which forever safeguards the *interests of women and children*. “Not a trace is left in the Soviet Republic of the laws which placed woman in a subordinate position,” said Lenin.

The family and marriage code abolished the terms “out of wedlock,” and “*illegitimate* child.” All children of the toiling masses in the Land of the Soviets enjoy the same rights and are entitled to the same care from the government.

The Soviet law safeguards the rights of the people who live or have lived together in registered as well as in unregistered marriage. Marriages are registered only *to make easier or to simplify*, in case of necessity, the safeguarding of the interests of either of the parents or the children.

The parents must equally support the children born of registered as well as unregistered marriages, or children born of casual intercourse. The husband or wife who is incapacitated for work has the right to be supported by the other in case of divorce, irrespective of whether their marriage was registered or not.

In the same way the wife shares the rights to the property which husband and wife accumulated together, irrespective of whether the marriage was registered or not. Registration merely serves as *legal* evidence that marriage actually took place, that the man concerned is actually the father of the child, etc.

Divorce in tsarist Russia, as it is now in all bourgeois countries, was made unusually difficult and practically unobtainable except for the rich. “The sanctity of the family hearth,” the “indissolubility of marriage,” are

high-sounding phrases with which the bourgeoisie hypocritically covers the rottenness and falsehood of the bourgeois system.

According to Soviet Law, the desire of only one of the parents is sufficient to dissolve a marriage. The interests of the weaker side – that of the unemployed, the incapacitated, and the children – are safeguarded by the law in case of divorce.

The family and marriage code of the Soviet government has emancipated the woman in the family and made her the equal of man. Soviet laws give the opportunity to every working woman to participate equally with man in the construction and government of the only country in the world which is victoriously building Socialism.

Together with this legislation, the Land of the Soviets is also carrying on tremendous work to emancipate working-women from the burdens of household drudgery – the organization of public catering, public education of children, gigantic work in liquidating the survivals of tsarist backwardness, illiteracy and lack of skill in the labor of women.

The Land of the Soviets is fulfilling the slogan of Lenin that every woman must learn to administer the state.

Under the leadership of the Leninist Communist Party, hundreds of thousands, even millions of working women and peasant women are working on a par with

men at the bench, on machines, in the collective farms, in the trade unions, in the co-operatives, in the Soviets and government offices.

The Soviet laws have really given woman equal rights with man, and have in every way possible safeguarded the health and interests of mother and child.

F. Nurina.

CODE OF LAWS ON MARRIAGE AND DIVORCE, THE FAMILY AND GUARDIANSHIP

*Decree of the All-Russian Central Executive Committee passed at the Third Session of its XII Convocation on November 19, 1926 (Compiled Statutes of the R.S.F.S.R., * 1926, No. 82, Section 612).*

* Russian Socialist Federated Soviet Republics, formerly known as Greater Russia and now one of the six federated Republics of the Union of Socialist Soviet Republics. The R.S.F.S.R. is composed of a number of autonomous republics and regions based on national majorities. – Ed.

In order to regulate the legal relations arising out of marriage, family relationships and guardianship on the basis of our new revolutionary conditions of life so as to safeguard the interests of the mother and especially those of the children, and so as to place the husband and wife on an equal footing with respect to questions of

property and the raising of the children, the All-Russian Central Executive Committee decrees:

1. To confirm and carry into effect the Code of Laws on Marriage, the Family and Guardianship as from January 1, 1927.

2. Amendments to the Code of Laws on Marriage, the Family and Guardianship, with a view to adapting it to the special living and national conditions obtaining in the autonomous republics and autonomous regions, shall be adopted by the Presidium of the All-Russian Central Executive Committee in accordance with suggestions to be submitted by the Central Executive Committees of the autonomous republics and the Executive Committees of the autonomous regions (Oblasts).

3. To charge the People's Commissariat of Justice jointly with the People's Commissariat of the Interior to submit within 8 month for the confirmation of the All-Russian Central Executive Committee and the Council of People's Commissars of the R.S.F.S.R. a list of the legal enactments which have become inoperative or which are being repealed as from the date when the Code of Laws on Marriage, the Family and Guardianship goes into effect.

PART I

MARRIAGE AND DIVORCE

Chapter 1

General Principles

1. The registration of marriages is introduced in the interests of the state and society as well as for the purpose of facilitating the protection of the personal and property rights and the interests of husband and wife and of children. A marriage is contracted by registration at a civil registry office in the manner prescribed by Part IV of the present code.

2. The registration of a marriage at a civil registry office is conclusive evidence of the existence of the state of matrimony. Documents attesting the celebration of marriage according to religious rites have no legal effect.

Note. – Marriages celebrated according to religious rites prior to December 20, 1917; or which were celebrated in localities occupied by the enemy prior to the establishment of the civil registry offices, are of the same effect as registered marriages.

3. Where *de facto* conjugal relations exist between persons, which relations have not been registered in the manner prescribed, such persons are entitled at any time to regularize their relations by means of registration, stating in so doing the period of their actual cohabitation.

Chapter 2

Conditions Governing the Registration of Marriages

4. The following conditions are required for the registration of a marriage: (a) mutual consent to register the marriage; (b) both parties must be of marriageable age, and (c) the documents set forth in Sec. 132 of the present code must be produced.

5. The marriageable age is fixed at eighteen years.

Note. – The Presidiums of the Central Executive Committees of the autonomous republics, the Presidiums of the Executive Committees of the autonomous Oblasts, Okrug Executive Committees and also of town and ward soviets in towns may, in exceptional cases, and acting upon individual petitions lower the marriageable age fixed for women in the present section, but not by more than one year (April 6, 1928, Compiled Statutes of the R.S.F.S.R., 1928, No. 47, Sec. 355 and February 28, 1930, Compiled Statutes of the R.S.F.S.R., 1930, No. 12, Sec. 146).

6. It is unlawful to register the following marriages: (a) between persons; one or both of whom is or are already married either with or without registration; (b) between persons one or both of whom has or have been adjudged weak-minded or insane, in the manner prescribed by law; (c) between relatives in the direct line of descent;

also between brothers and sisters, whether of the full blood or the half blood.

Chapter 3

Rights and Duties of Husband and Wife

7. On registering a marriage the contracting parties may declare it to be their wish to have a common surname, either that of the husband or of the wife, or to retain their ante-nuptial surnames.

8. Upon the registration of a marriage between a person who is a citizen of the R.S.F.S.R. and a person who is a foreign citizen, each party retains his or her respective citizenship. The change in citizenship of these persons may be effected in the simplified manner provided for by the Union laws (Sec. 16 of the regulations governing U.S.S.R. citizenship, edition of November 23, 1930, Statutes of the U.S.S.R., 1930, No. 58, Sec. 614).

9. Both husband and wife enjoy full liberty in the choice of their respective trades and occupations. The manner in which their joint household is conducted is determined by the mutual agreement of the two contracting parties. A change of residence by either husband or wife does not oblige the other marriage partner to follow the former.

10. Property which belonged to either husband or wife prior to their marriage remains the separate property of

each of them. Property acquired by husband and wife during continuance of their marriage is regarded as their joint property. The share belonging to either husband or wife shall, in case of dispute, be determined by the court.

Note. – The rights of either husband or wife in regard to the use of land and in regard to property used in common and forming part of a peasant household are defined by Sections 66 and 67 of the Land Code and by the enactments published to supplement the same.

11. Sec.-10 of the present code extends also to the property of persons married in fact though not registered, provided these persons recognize their mutual status of husband and wife, or their marital relationship is established as a fact by a court on the basis of the actual conditions under which they live.

12. Proof of joint cohabitation is sufficient for the court to establish marital cohabitation in cases where the marriage has not been registered, provided that in addition to proof of joint cohabitation proof of a common household be adduced and that statements have been made to third persons either in personal correspondence or in other documents tending to prove the existence of marital relations, taking also into consideration such circumstances as the presence or absence of mutual material support, joint raising of children, and the like.

13. The husband and wife may enter into any contractual relations with each other regarding property provided they are lawful. Agreements between husband and wife intended to restrict the property rights of the wife or of the husband are invalid and are not binding on third parties nor on the husband or wife, who may at any time refuse to carry them out.

14. When either husband or wife is incapacitated and in need he or she is entitled to receive alimony from the other conjugal partner, if the court finds that the latter is able to support the former. A husband or wife in need of support but able to work is likewise entitled to alimony during the period of his or her unemployment.

15. The right of a needy incapacitated husband or wife to receive alimony from the other conjugal partner continues even after the dissolution of the marriage until there has been a change in the conditions which according to Sec. 14 of the present code serve as a basis for the receipt of alimony, but not for a period exceeding one year from the time of the dissolution of the marriage. The amount of alimony to be paid to a needy unemployed husband or wife in case of dissolution of the marriage is fixed by the court for a period not exceeding six months and shall not exceed the corresponding amount of the Social Insurance relief.

16. The right to receive alimony both during marriage and after its dissolution extends also to persons who are married in fact, though not registered, provided they fall

within the purview of Sections 11 and 12 of the present code.

Chapter 4

Dissolution of Marriage

17. A marriage is dissolved by the death of one of the parties to it or by a declaration of the presumptive death of either the husband or the wife through a notary public or court (May 27, 1929, Compiled Statutes of the R.S.F.S.R., 1929, No. 40, Sec. 422).

18. During the life-time of both parties to a marriage, the marriage may be dissolved either by the mutual consent of both parties to it or upon the *ex parte* application of either of them.

19. During the, life-time of both parties, the dissolution of a marriage (divorce) may be registered at the civil registry office, whether the marriage was registered or unregistered, provided that in the latter case it had been established as a fact by the court in accordance with Sec. 12 of the present code.

20. The fact that a marriage has been dissolved may also be established by a court, if the divorce was not registered.

21. When registering the dissolution of their marriage the husband and wife indicate what surname each of

them wishes to use. In the absence of an agreement between the parties on this point, each resumes his or her ante-nuptial surname.

22. When registering the dissolution of a marriage it is the duty of the civil registry office to consider the question of which child or children, if any, shall be entrusted to the custody of each parent, to what extent each parent is to bear the expenses of raising the children, and the amount of alimony to be paid to an incapacitated husband or wife. In case the husband and wife arrive at an understanding on these points, such agreement is recorded in the registration book of divorces and a corresponding extract from the book is handed to both husband and wife; this agreement does not deprive either the husband or wife, nor the children, of the right subsequently to present, by way of an ordinary law suit, a claim for alimony in a sum exceeding that stipulated in the agreement.

23. If the obligations set forth in the agreement have not been carried out, the persons interested may apply at the office of a notary public for a writ of execution in accordance with Clause B, Sec. 47 of the regulations governing the state notaries public (January 23, 1928, Compiled Statutes of the R.S.F.S.R., 1928, No. 15, Sec. 116).

24. In the absence of an agreement the question of the amount of alimony to be awarded to children is settled by an ordinary law suit; the court at the time statement

of claim is filed renders a decision, after careful consideration of the circumstances of the case and the interests of the children, specifying which of the parents, and to what extent, he or she must, pending the decision of the law suit, provisionally bear the expense of the maintenance of the children, and who is to have provisional custody of the children.

The amount of alimony awarded to a needy incapacitated husband or wife must in the absence of an agreement likewise be decided by the court upon the institution of an ordinary law suit (See Clause B, Sec. 1 for a list of documents which serve as a basis for the issuance of writs of execution and the making of levies through the office of a notary public. Decree of the Council of Peoples' Commissars May 21, 1930, Compiled Statutes of the R.S.F.S.R., 1930, No. 38, Sec. 477).

PART II

THE MUTUAL RELATIONS BETWEEN PARENT AND CHILD AND BETWEEN OTHER RELATIVES

Chapter 1

General Principles

25. The mutual rights of children and parents are based on consanguinity. Children whose parents are not

married possess the same rights as children born in wedlock.

26. The father and mother of a child are recorded in the register of births.

27. If no record is made of the parents, or if the record made is incorrect or incomplete, the parties interested are entitled to prove or disprove paternity or maternity by recourse to the court.

28. In order to protect the interests of the child, the mother is granted the right during the period of her pregnancy or after the birth of the child, to file a declaration of paternity with the local civil registry office according to her place of residence, stating the name, patronymic, surname and residence of the father of the child.

29. The civil registry office informs the person alleged in the declaration to be the father, of the filing of such declaration. If the putative father, within a month after receiving this notification, does not raise any objection, he is recorded as the father of the child. The person alleged to be the father may within one year after the date of the receipt of the notification institute a law suit against the mother of the child contesting the truthfulness of her statement.

30. The mother of the child has also the right to institute a paternity suit in court after the birth of the child.

31. If the court is satisfied that the person stated in the declaration (Sections 28 and 30 of the present code) is the father of the child, it enters a finding to that effect and imposes on the father the duty to contribute to the expenses connected with the pregnancy, Tying-in, childbirth and maintenance of the child, also to the expenses of the mother during the period of her pregnancy and for six months after childbirth.

32. In case the court during the trial of the paternity case finds as a fact that the mother of the child at or about the time of conception had sexual intercourse not only with the person referred to in Sec. 28 of the present code, but also with other persons, the court enters a decree which recognizes one of these persons as the father of the child and imposes on him the duties set forth in Sec. 31 of the code.

Chapter 2

Rights and Duties of Relatives

33. Parental rights are to be exercised exclusively in the interests of the children and in case they are improperly exercised the court is authorized and empowered to deprive the parents of their rights.

34. If the parents have a common surname, that surname is also given to the children. If the parents do not have a common surname, the surname of the children is determined by agreement between the parents. In the

absence of an agreement between the parents on the question of the surname of their children, the surname of the children is decided upon by the Office of Guardians and Trustees. If the father is unknown, the child takes the name of the mother. In the case of a dissolution of the marriage, the children retain the surname given them at birth.

35. If the citizenship of the parents is not the same, but at least one of them at the time of the birth of the child was a citizen of the R.S.F.S.R., and at least one of the parents at the time of the birth of the child was living on U.S.S.R. territory, the child will be deemed a citizen of the R.S.F.S.R. If one of the parents was a citizen of the R.S.F.S.R. at the time of the child's birth but at that time both parents lived outside the territory of the U.S.S.R., the citizenship of the child is determined by agreement of the parents.*

* See Sec. 7 of the regulations governing U.S.S.R. citizenship (U.S.S.R. Statutes, 1930, No. 34, Sec. 867).

36. The change in the citizenship of either husband or wife, where both are citizens of the R.S.F.S.R. and living on U.S.S.R. territory, does not affect the citizenship of their children. The citizenship of children in cases where one of the parents, a citizen of the R.S.F.S.R. but who lives outside the territory of the U.S.S.R. loses his R.S.F.S.R. citizenship, is determined by agreement of the parents.

* See Sections 9 and 10 of the regulations governing U.S.S.R. citizenship (U.S.S.R. Statutes, 1930, No. 34, Sec. 867).

37. Agreement between the parents that their children adhere to any particular religion is of no legal effect.

38. All steps in regard to children are taken by both parents jointly.

39. In cases where a difference of opinion arises between the parents, the point in dispute is decided by the Office of Guardians and Trustees, with the participation of the parents.

40. If the parents live separately, they may agree on the question of the residence of their minor children; in the absence of such an agreement between the parents, this question is settled in the ordinary way by a law suit in a people's court.

41. On the parents rests the duty of taking care of their minor children, in particular of bringing them up and preparing them for socially useful activity.

42. Parents are obliged to provide maintenance for their minor children, as well as for needy and incapacitated children.

42a. The duty of providing for minor children and for those who are needy and incapacitated also extends to the stepfather and stepmother (a) in case the parents of

these children are dead; (b) in case the parents do not possess sufficient means to provide for the children.

These duties are imposed on the stepfather or stepmother provided the child was dependent upon or was raised by either one of them prior to the death of the father or of the mother, or prior to the happening of the contingency set forth in Clause (b) of the present section.

Stepsons and stepdaughters are obliged to provide for a needy incapacitated stepfather or stepmother in cases where they had been dependent upon the latter for not less than ten years (Nov. 29, 1928, Compiled Statutes of the R.S.F.S.R., 1928, No. 22, Sec. 233).

42b. Whoever has come into any inheritance from a person who had been supporting children; or from a person who was legally obliged to support them, must support the minor children, or those who are needy and incapacitated, to the extent of the value of the property inherited.

In case the inheritance was shared by several persons, the duty imposed by the present section becomes their joint obligation and is pro-rated among them in proportion to the value of the respective shares inherited by each of them (November 29, 1928, Compiled Statutes of the R.S.F.S.R., 1929, No. 22, Sec. 233).

Note. – The obligation to support children mentioned in the present section arises: (a) when the parents of these children are dead; (b) when the parents do not have sufficient means to support the children (Nov. 29, 1928, Compiled Statutes of the R.S.F.S.R., 1929, No. 22, Sec. 233).

42c. Persons who have taken on children to be permanently brought up and kept are, in case of their refusal to do so, obliged to pay alimony to minor children or to those needy and incapacitated: provided (a) the parents of these children are dead; or (b) the parents do not possess sufficient means to support the children.

The duty set forth in the present section does not extend to guardians or trustees nor to persons who have undertaken to raise a child by virtue of an agreement with the Department of Public Education, the Department of Public Health or some other constituted authority of the State (Nov. 29, 1928, Compiled Statutes of the R.S.F.S.R., 1929, No. 22, Sec. 233).

43. The protection of the interests of minors, whether they pertain to their persons or their property is incumbent upon the parents, who act as guardians *ad litem* of the children in court and other institutions.

44. The parents are entitled to sue in court for the return of their children from any person detaining the children on his premises without warrant of law and not in

pursuance of any court decree; in such case the court is not bound by the formal rights of the parents but decides according to the merits of each case with due regard only for the welfare of the children.

45. Parents are granted the right to entrust their children to other persons to have them raised and educated. They also enjoy the right, with the consent of the children, to make contracts of apprenticeship and work for wages in the cases and in the manner permitted by the labor legislation in effect at the time.

Children may not be entrusted for purposes of being raised and educated to persons who under Sec. 77 of the present code may not act as guardians and trustees (April 10, 1930, Compiled Statutes of the R.S.F.S.R., 1930, No. 19, Sec. 241).

46. In case of the non-fulfillment of their duties on the part of the parents or in case they do not properly exercise their rights with respect to their children, or if they treat their children cruelly, the court issues a decree to the effect that the children be taken away from the parents and turned over to the care of the office of Guardians and Trustees, and the court is authorized to decree at the same time that both parents contribute to the support of their children.

Note. – The Office of Guardians has the right pending the decisions of the court to issue orders to take the children away from their parents or from other persons

in whose custody they are, if the continuance of their stay with these persons constitutes a menace to the children.

47. In case the court issues a decree depriving parents of their parental rights, the Office of Guardians and Trustees must allow parents to see their children except in cases where such meetings may prove injurious to the children.

48. The duty to support children rests upon both parents; the extent of their contributions towards their support depends upon their respective means.

49. Children must support their needy incapacitated parents.

50. When parents are unwilling to support their children, or children their parents, in the cases provided in Sections 42 and 49 of the present code, the persons entitled to support may sue for the same in court.

Note. – In case of any change in the material position of the parents or children, the court decree may be modified by instituting a law suit in the usual way.

51. The deprivation of parental rights does not relieve parents of the duty to support their children.

52. Persons who are jointly liable to contribute support are liable in equal shares, except where the court in

view of the unequal means of the persons liable to contribute or in view of the absence of one of them, or for some other cogent reason finds it necessary to fix other ratios in the discharge of this duty.

53. The rights of parents and children with regard to the property of a peasant household are determined by the pertinent sections of the Land Code.

54. Needy brothers and sisters, if minors, are entitled to obtain support from their brothers and sisters who possess sufficient means if the former brothers and sisters are unable to obtain alimony from their parents because the parents are not a party to the action or because they are impecunious.

55. A needy incapacitated grandfather or grandmother is entitled to alimony from his or her grandchildren if the latter possess sufficient means, provided such alimony cannot be obtained from the conjugal partner or the children. Similarly needy grandchildren who are either under age or incapacitated are entitled to alimony from their grandfather or grandmother who possess sufficient means, provided they are unable to obtain such alimony from their parents.

56. Children born of members of a peasant household are recognized as members of the household to which their father or mother belongs, irrespective of whether their parents are married with or without registration.

Where parents belong to different peasant households, their children may be registered as members of one of these households at the option of the parent with whom the children are living.

Disputes concerning the place where a child is to be recorded as a member of a peasant household are decided by the court, which is guided by the interests of the child (Jan. 25, 1930, Compiled Statutes of the R.S.F.S.R., 1930, No.5, Sec. 53).

56a. Where the fatherhood of a member of a peasant household has been established, the court fixes at the same time the quantity of food products which the peasant household of the father must contribute to the support of the child.

Children born of a member of a peasant household (Sec. 56) retain the right to alimony out of the personal means of the father and out of the personal means of the mother over and above the rights which they possess as members of the peasant household, on the general principles laid down in Sections 48 and 50 of the present code (Jan. 25, 1930, Compiled Statutes of the R.S.F.S.R., 1930, No.5, Sec. 53).

Chapter 3

Adoption

57. Adoption is allowed only of young children and persons under age, and exists exclusively in the interests of the children.

58. Persons deprived of the right to act as guardians in accordance with Sec. 77 of the present code have no right to adopt.

59. Adoption is effected by order of the Office of Guardians and Trustees and must be registered in the usual manner in the civil registry office.

Note. – The adoption of children of Soviet citizens by foreign citizens (subjects) residing on U.S.S.R. territory is allowed provided the rules laid down in the present chapter are observed and provided further that special permission be obtained in each individual case from the Presidium of the Executive Committee of the respective Gubernia, Okrug, or other respective administrative area (Sept. 3, 1928, Statutes of the R.S.F.S.R., No. 117, Sec. 735*).

* See Sec. 11 of the regulations governing U.S.S.R. citizenship (U.S.S.R. Statute., 1930, No. 34. Sec. 367).

60. At the time of adoption, the adopted child may be given the surname of the adoptor, and with the consent of the adopted child, also the adoptor's patronymic.

61. If the parents of the adopted child are living, or if it is under the care of a guardian or trustee, adoption can take place only with the consent of the parents, if they have not been deprived of their parental rights; or of the respective guardians or trustees.

62. Where the adoptor is married, adoption can only take place with the consent of the other conjugal partner.

63. No children above the age of ten may be adopted without their own consent.

64. Adopted children and their offspring have the same personal and property rights and duties with regard to their parents by adoption, and the latter with regard to their children by adoption and their offspring, as have the corresponding relatives by consanguinity.

65. Adoption effected in the absence of, or without the consent of, the parents of the adopted child, may be annulled by the Office of Guardians and Trustees at the request of the parents, if the child's return to them is in the interests of the child. In order to annul the adoption of a minor over ten years of age his personal consent is required.

66. Any person or institution may institute a suit in court for the annulment of an adoption if such annulment is necessary in the interests of the child.

67. Where an adoption is annulled the court enters a decree taking the child away from the adoptor and entrusting it to the care of the Office of Guardians and Trustees; the court is empowered at the same time to require the adoptor to pay alimony to the child.

PART III

GUARDIANSHIP AND TRUSTEESHIP

Chapter 1

General Principles Governing Guardianship and Trusteeship

68. Guardianships and trusteeships are established to protect persons legally incapable of independent action, to protect their lawful rights and interests, and also to conserve property in cases provided by law.

69. Guardians may be appointed over minors up to the age of fourteen and over persons duly declared feeble-minded or mentally deranged. In addition to the foregoing, guardians may be appointed over the property of persons who are dead or missing in cases provided by law. Guardians when acting in the name of and in the interests of their wards enjoy the rights and discharge the duties of the latter.

70. A trusteeship may be set up over minors who are from fourteen to eighteen years of age; also over persons who are of age, if the latter, owing to their

physical condition, are incapable of protecting their rights themselves. The trustees, whenever proper occasion arises, lend these persons assistance in exercising their rights and discharging their duties and protect them against any abuses on the part of third persons.

71. Parents or adoptors are recognized as guardians or trustees without special appointment.

72. The functions of guardianship and trusteeship are vested in the Presidiums of the District Executive Committees and the Oblast Executive Committee (where the regional system has been introduced); in the Presidium of the Oblast Executive Committee (in autonomous regions) and in the Gubernia, Okrug, Uyezd, and District Executive Committees and town soviets as well as in the Presidiums of the Town Executive Committees in town which are not within any Uyezd; in the District and Volost Executive Committees; in the village soviets.

The above-mentioned Office of Guardians and Trustees exercise their authority by virtue of special regulations concerning Offices of Guardians and Trustees* (Sept. 26, 1927, Compiled Statutes of the R.S.F.S.R., 1927, No. 105, Sec. 705. Sept. 24, 1928, Compiled Statutes of the R.S.F.S.R., 1928, No. 124, Sec. 789).

* The regulations concerning offices of Guardians and Trustees were confirmed by the All-Union Central Executive

Committee and the Council of People's Commissars on June 18, 1928 (Compiled Statutes of the R.S.F.S.R., 1928, No. 75, Sec. 524).

Note. – The Presidiums of the Executive Committees delegate the performance of the functions referred to in the present section to the proper departments of the respective Executive Committees, namely: those of age are assigned to the Department of Public Education; those feeble-minded and mentally deranged to the Department of Public Health, while all other categories of wards are assigned to the Departments of Social Welfare.

Within city limits the exercise of the said functions of the presidiums of the city soviets is delegated to the city sections of the respective departments of the Executive Committees (Sept. 24, 1928, Compiled Statutes of the R.S.F.S.R., 1928, No. 124, Sec. 789).

73. Supervision over the activities of the Office of Guardians and Trustees, and the direction of same is exercised by the Presidium of the respective Kray, Oblast, or Gubernia Executive Committee, whose decisions on matters pertaining to guardianship and trusteeship are final.

74. For the purpose of directly exercising the functions of guardianship and trusteeship, the Office of Guardians and Trustees appoint a guardian or trustee from among those close to the person under disability, or from

among persons selected for the purpose by a public body (trade union, committee of a Peasants' Mutual Aid Society, etc.): if there are no such persons, then from among other persons.

Note. – In rural areas guardianships and trusteeships are set up by the village soviet, which is obliged to draw up an inventory of the property of persons under guardianship or trusteeship, to appoint guardians and trustees, to make public the appointment of guardians and trustees and to issue certificates to the guardians. They also supervise the actions taken by guardians and trustees and demand a periodic accounting of the property of persons under guardianship or trusteeship (September 26, 1927, Compiled Statutes of the R.S.F.S.R., 1927, No. 105, Sec. 705).

75. The locus of a guardianship or trusteeship is determined by the place of residence of the persons under guardianship or trusteeship or by the place where the property entrusted to the care of a guardian is situated.

76. In selecting a guardian or trustee the following factors must be taken into consideration; personal qualities, ability to discharge the corresponding duties, relations existing between the party in question and the person under disability and, whenever possible, the wishes of the ward.

77. The following persons may not be appointed guardians or trustees:

- (a) Persons deprived of electoral rights by virtue of Sec. 69 of the Constitution of the R.S.F.S.R.;
- (b) Persons deprived of their parental rights by decree of court;
- (c) Persons whose interests are opposed to those under guardianship or trusteeship; those who are inimically disposed toward them;
- (d) Minors.

(April 10, 1930, Compiled Statutes of the R.S.F.S.R., 1930, No. 19, Sec. 241.)

Note. – The limitation set forth in Clauses (a) and (d) of the present section do not apply to parents, unless they are mentally deranged.

78. A refusal to accept an appointment as guardian or trustee will not be accepted except in cases indicated in the present section. The following have the right to decline to act as guardian or trustee:

- (a) Those who have reached the age of sixty years;
- (b) Those who by reason of illness, physical defect, insufficiency of means, the nature of “their occupation or the office which they hold, are unable to discharge these duties;
- (c) Persons bringing up two or more children living with them;

- (d) Mothers nursing a child at the breast or having a child under eight years of age living with them;
- (e) Those who are already acting as guardians or trustees.

79. The guardian of a person not of age must attend to his bringing-up, education and training for socially useful activity. The guardian of a feeble-minded person or one mentally deranged must take measures to secure for his ward medical treatment and conditions suitable to his state of health.

80. Where a guardian or trustee has been selected, under Sec. 74 of the present code, by a public body, that public body supervises his activity and the proper discharge of his duties as guardian or trustee, lending him assistance in that direction and submitting its conclusions when required to do so by the Office of Guardians and Trustees.

81. The duties entailed by guardianship or trusteeship are performed gratuitously. If there is any property returning an income, which property is being managed by the Office of Guardians and Trustees, that office is empowered to allow the guardian or trustee a compensation not to exceed ten per cent of the income derived from the said property.

82. The expenses incurred for the maintenance of the ward which are recognized by the Office of Guardians and Trustees as necessary and useful are paid out of the

income derived from his property; if such income is insufficient or is altogether lacking, out of the ward's property itself, which may be alienated with the permission of the Office of Guardians and Trustees.

Note. – Where the ward has no property, the Office of Guardians and Trustees petitions the Board of Social Maintenance to grant funds to the guardian for the maintenance of the ward.

83. The guardian has the right to demand the return of the ward from any person detaining the ward without warrant of law.

84. Whenever a guardianship is instituted over a person mentally deranged the Office of Guardians and Trustees communicates with the Board of Public Health having jurisdiction so that the person may be under constant medical observation to be carried out in accordance with the instructions of the People's Commissariat of Public Health.

85. The respective foreign plenipotentiaries of the U.S.S.R. are in charge of all questions pertaining to guardianship and trusteeship of citizens of the R.S.F.S.R. who reside abroad or who have property outside the boundaries of the U.S.S.R.

The procedure in establishing a guardianship over property left abroad after the death of citizens of the

R.S.F.S.R. is laid down by special laws (June 20, 1930, Compiled Statutes of the R.S.F. S.R., 1930, Sec. 391)*

* See the decree of the All-Russian Central Executive Committee and of the Council of People's Commissars of June 20, 1930 (Compiled Statutes of the R.S.F.S.R., 1930, No. 30, Sec. 391).

Chapter 2

Rights and Duties of Guardians and Trustees

86. A guardian may perform any transaction which the ward himself might perform if he had the legal capacity; or which could be performed by the owner of the property over which a guardianship had been instituted, except: (a) alienation of the property; (b) mortgaging the same; (c) signing promissory notes or other binding obligations; (d) waiving an inheritance left either testate or intestate; (e) letting of property on a long term lease (for a period exceeding one year); (f) closing down an enterprise belonging to the ward; (g) partnership agreements. In order to consummate any of these transactions, the assent of the Office of Guardians and Trustees is required. No gift whatsoever may be made of property belonging to the ward and no contracts of guarantee whatsoever binding the ward may be entered into.

Note. – Property liable to rapid deterioration or intended for sale by the nature thereof; or such as has become

unfit for consumption, provided its value does not exceed fifty rubles, may be sold without permission of the Office of Guardians and Trustees.

87. In authorizing the alienation of property or placing a mortgage upon it, the Office of Guardians and Trustees may indicate the purpose to which the guardian must apply the sums realized.

88. The guardian may not enter into any business transactions with his ward, nor represent him in any transaction or law suits between the ward and the guardian's conjugal partner or his near relatives, nor may he acquire instruments of indebtedness on which the ward is liable; the debts of the ward to the guardian or to the guardian's conjugal partner or relative, incurred prior to the appointment of the person in question as guardian, are paid with the permission of the Board of Guardians and Trustees.

89. A guardian should obtain the permission of the Office of Guardian and Trustees when sending a minor ward away to be brought up or educated; or entrusting a person mentally deranged to be maintained by others.

90. Persons who are placed under a trusteeship in accordance with Sec. 70 of the present code may transact business only with the consent of the trustees. The limitations enumerated in Sec. 86 of the present code extend also to trustees. No consent by the Office of Guardians and Trustees is required in transactions

relating to objects or sums acquired as the result of the personal labor of the person placed under a trusteeship.

91. Guardians and trustees act in defense of the rights and interests of their wards and those under trusteeship in all institutions, including law courts, also when making agreements involving property.

92. A guardian or a trustee neglecting or abusing his powers may be removed by the Office of Guardians and Trustees from office on the petition of the ward himself or of the person under trusteeship or of state institutions, public bodies or individual citizens or by the Office of Guardians and Trustees of its own motion.

93. The actions of guardians and trustees are subject to appeal to the respective Office of Guardians and Trustees by wards, and persons under trusteeship, by state or public institutions or by third persons.

94. Complaints against the decisions and orders of the Office of Guardians and Trustees are filed with the Presidium of the respective Executive Committee, and the decision of the Presidiums of the Kray, Oblast and Gubernia Executive Committees is final on this question.

Chapter 3

Procedure in Matters Relating to Guardianship and Trusteeship.

95. In considering questions relating to guardianship and trusteeship, the Office of Guardians and Trustees summons petitioners, complainants, guardians and trustees, persons interested in the case, witnesses, experts and in case of necessity the ward or person under trusteeship or liable to become a ward or be placed under trusteeship. The non-appearance of petitioners, complainants or other persons does not prevent the examination of the case, if the body that issued the summons does not deem their appearance necessary.

96. The office of Guardians and Trustees enter decisions concerning the institution of a guardianship or trusteeship, their termination, the appointment of guardians and trustees, their removal, the permission to alienate property, or to mortgage it, the waiver of rights, and the consideration of complaints, reports and various questions connected with the bringing-up of the child. Such decisions are announced to the parties interested.

97. If a person over whom a guardianship or trusteeship has been instituted owns property within the jurisdiction of another Office of Guardians and Trustees, the latter may be entrusted with the management of the property, its sale and with taking any other action relating to the property rights and interests of wards or persons under trusteeship.

98. The following persons and bodies must within three days give notice of the necessity of instituting a

guardianship over minors (Sec. 9 of the present code) and of the appointment of a guardian: (a) house managements, owners and leaseholders of houses, if there are minors in the house subject to being placed under guardianship; (b) village soviets; (c) civil registry offices when on registering a death it comes to their knowledge that minor orphans are left without tutelage, or when they learn of registered foundlings or orphans; (d) court executors if on drawing up an inventory of property, they discover minors liable to be placed under guardianship; (e) judicial bodies and militia when arresting or sentencing to a term of imprisonment persons acting as guardians or trustees of minors, who thereby remain without proper attention; (f) citizens connected either by consanguinity or by being members of the same household, with persons subject to being placed under guardianship or trusteeship.

Note. – The Office of Guardians and Trustees institutes a guardianship over minors also of its own motion if it is apprised of the necessity of doing so.

99. Sales of the property of wards are made on the strength of a decision to that effect by the Office of Guardians and Trustees, the sale taking place at public auction or at an agreed price based if necessary on the valuation of experts. A sale by auction must subsequently be confirmed by the Office of Guardians and Trustees.

Note. – In rural areas in matters of guardianship and trusteeship, whenever necessary, the village soviets are granted the right on the petition of guardians and trustees to hold auction sales of the property of wards for an amount not exceeding 15 rubles. In this connection the Volost (District) Executive Committee is placed in general charge of directing matters of guardianship or trusteeship and of arranging auctions whenever necessary for the sale of property under guardianship or trusteeship valued in a sum exceeding 15 rubles (September 26, 1927, Compiled Statutes of the R.S.F.S.R., 1927, No. 105, Sec. 705).

100. Moneys, securities and valuables owned by wards, in excess of the money necessary for the support of the wards and for the management of their property, are placed in state institutions, (workers' saving banks, branches of the State Bank, etc.) and may not remain in the personal possession of the guardian.

101. Guardians and trustees submit to their respective Office of Guardians and Trustees, not later than February 1, an annual account in writing covering the past year. The report of a guardian or trustee must contain not only information concerning the management of the property, the incomes of wards and persons under trusteeship and expenses incurred, but must also explain how the personal welfare of the ward or person under trusteeship has been attended to, stating his health, the bringing-up of a minor ward, his education, his training to take a useful part in life, etc.

After the termination of a guardianship or trusteeship, the guardian or trustee submits a general accounting of his management of the property.

102. The accounts are verified to see if they are substantially correct, in which event they are confirmed; otherwise the guardian or trustee is required to furnish explanations, submit vouchers, etc.

Chapter 4

The Examination of Persons Non Compos Mentis or Weak-Minded

103. The Kray, Oblast, Gubernia, Okrug or Uyezd Office of Guardians and Trustees, on presentation of sufficient proof of the necessity of instituting a guardianship over persons mentally deranged or feeble-minded, appoints a special examining commission, under the chairmanship of the chief of the Department of Public Health of the Kray, Oblast, Gubernia, Okrug, or Uyezd Executive Committee or of a person empowered by it. Such a committee must include not fewer than two doctors, one of whom must be a psychiatrist.

104. Persons and institutions which petition for the examination in lunacy are informed of the time and place when the meeting of the commission will take place.

105. The commission provided for in Sec. 103 of the present code has the right to order the removal of the examinee to a special medical establishment for a period not exceeding two months, or keep him under observation at home. The commission if necessary questions the doctor who treated the patient, and persons to whom the patient may refer.

106. A detailed official report is drawn up embodying the results of the examination, which report is signed by all persons who took part in the examination. The report must state whether the examinee is mentally deranged or feeble-minded and whether he requires a guardian.

107. Petitions to declare a person mentally deranged or sane, or to revoke a guardianship, may be filed by the persons and institutions enumerated in Sec. 98 of the present code as well as by the medical institution in which the patient has been placed for treatment; or by the patient himself.

108. The examination of a person mentally deranged for the purpose of declaring him sane or revoking the guardianship over him follows the procedure outlined in Sections 103-106 of the present code.

109. The expenses incurred in connection with the examination are defrayed out of the property of the examinee, and in the absence of any such property, are borne by the State.

Note. – Expenses incurred in connection with the examination of a person found to be of sound mind are borne by the persons who petitioned for the examination.

110. The finding of a medical commission declaring a person mentally deranged or feeble-minded may be appealed within one month by any person or institution interested to the Presidium of the respective Executive Committee.

PART IV REGISTRATION OF DOCUMENTS RELATING TO CIVIL STATUS

Chapter 1

General Principles

111. The registration of documents relating to civil status (births, deaths, marriages, divorces and adoptions) is performed by a responsible public official:

- (a) for the inhabitants of the cities of the Okrug, Gubernia and Oblast, in the respective branches of the Civil Registry Office;
- (b) for the inhabitants of the cities of the Uyezd, in the Uyezd branches of the Civil Registry Office;
- (c) for the inhabitants of towns that are not within any Uyezd and for the inhabitants of workers' settlements, in the town soviets.

The registration of births, deaths, marriages and adoptions for the inhabitants of rural settlements and in these towns where village soviets have been formed takes place in the village soviets.

The registration of dissolutions of marriage (divorces) for inhabitants of rural areas and of those towns which have village soviets takes place in the Volost Executive Committees and the district branches of the Civil Registry Office.

Under decrees of the Central Executive Committees of the autonomous republics, and of the Kray, Oblast and Gubernia Executive Committees, the registration of the dissolution of a marriage (divorce) may also be entered in individual village soviets of the largest villages (September 26, 1927, Compiled Statutes of the R.S.F.S.R., 1927, No. 105, Sec. 705. November 29, 1928, Compiled Statutes of the R.S.F.S.R., 1929, No. 22, Sec. 233).

Note 1. – Repealed (September 26, 1927, Compiled Statutes of the R.S.F.S.R., 1927, No. 105, Sec. 705).

Note 2. – The registrations mentioned in the present section are entered outside the territory of the U.S.S.R. by the plenipotentiary representations and consulates of the U.S.S.R. (September 26, 1927, Compiled Statutes of the R.S.F.S.R., 1927, No. 105, Sec. 705).

112. The registration of births, deaths, adoptions and declarations to establish paternity, as well as the issuance of original certificates of these registrations, are free of charge and exempt from all imposts.

Fees are charged for the registration of marriages, divorces and changes of names and surnames, the amounts being fixed by a special decree of the All-Russian Central Executive Committee and of the Council of People's Commissars (December 30, 1929, Compiled Statutes of the R.S.F.S.R., 1930, No. 5 Sec. 54*).

* For the registration fees see the decree of the All-Russian Central Executive Committee and of the Council of People's Commissars, January 20, 1930 (Compiled Statutes of the R.S.F.S.R., 1930, No.6, Sec. 61).

113. The civil registration books are kept in duplicate.

114. Every record made in the proper book of registration must be read to the declarant, signed by him, if he can read and write; if he cannot read and write, by witnesses who can, and in either event by the registration official.

115. If it becomes necessary to correct a record in the civil registration books, and there is no contest, such corrections are made by leave of the authorities to which the civil registration office in question is subordinated.

116. Record entered in the book may be contested by any party interested by instituting a law suit.

117. Registration books are kept in accordance with instructions issued by the People's Commissariat of the Interior in agreement with the People's Commissariat of Justice.

Chapter 2

(A) Registration of Births

118. Declarations of births should be made within two weeks of the date of birth.

Note 1. — The Gubernia, Oblast and Kray Civil Registry Offices are empowered to extend the period stated in the present article in the case of individual localities, for a period not exceeding six weeks.

Note 2. — A declaration of birth made after the expiration of the period fixed in the present section must immediately be registered. If the period has been exceeded for insufficient reasons, the person whose duty it was to make the respective declaration is liable to summary punishment by administrative order.

(a) in rural districts, by the village soviets, who may impose a fine up to one ruble, or up to two days of compulsory labor in lieu thereof in case of non-payments;

(b) in cities, by the chiefs of the administrative departments or their deputies, or by the chiefs of the militia stations a fine up to three rubles, or in lieu thereof compulsory labor up to five days in case of non-payment (September 26, 1927, Compiled Statutes of R.S.F.S.R., 1927, No. 105, Sec. 705).

119. The declaration of birth is made either orally or in writing to the civil registry office for the place of birth or for the place of residence of one of the parents, by both parents or by one of them, and in case of illness or death of the parents or of their inability to draw up the record for any other reason, the record may be drawn up by relatives or nearest neighbors or by the administration of the maternity hospital where the mother gave birth to the child.

120. The record of the child's birth must indicate the date and place of birth, the sex of the child, the name and surname it has received, as well as the names, patronymics and surnames, permanent residence, occupations and ages of the parents.

121. If the declaration is made by the mother, she must indicate the name and surname of the father or declare that she cannot or does not want to furnish the information required.

122. The declaration of birth must be made also in case of a still-born child. A corresponding notation is made in a special column of the birth records.

123. A foundling must also be registered, in which case the declaration is accompanied by a formal report drawn up by the militia, and if there is no militia by the village soviet, indicating the time, place and circumstance under which the child was found.

(B) *Registration of Deaths*

124. The register of deaths contains the records of all cases of death and of certifications by a notary public or a court declaring a person to be dead (May 27, 1929, Compiled Statutes of the R.S.F.S.R., 1929, No. 40, Sec. 422).

125. A declaration of death must be made within three days of the occurrence and in cases of violent death or the discovery of a corpse not later than on the day following this occurrence.

Note 1. – The Kray, Oblast, Gubernia and Okrug Executive Committees are empowered to grant extensions in the time limits indicated in the present article according to local conditions (May 30, 1927, Compiled Statutes of the R.S.F.S.R., 1927, No. 54, Sec. 362).

Note 2. – In case the time limit set in the present section is exceeded for trivial reasons, the person who is obliged to make the relative declaration may be summarily punished by administrative order:

- (a) in rural districts, by a fine by the village soviet up to one ruble, with the substitution of compulsory labor for a period not exceeding two days in case of non-payment;
- (b) in towns, by a fine by the chief of the administrative departments or by their deputies or by the chiefs of militia stations up to three rubles, with the substitution of compulsory labor for a period not exceeding five days in case of non-payment (September 26, 1927, Compiled Statutes of the R.S.F.S.R., 1927, No. 105, Sec. 705).

126. The declaration of death must be made either orally or in writing by persons who lived together with the deceased, and in the absence of these by the house management, neighbors or the administration of the institution (hospitals, corrective-labor institutions, etc.) where the death occurred, or by the militia which found the corpse.

127. The declaration of death records all information concerning the deceased known to the declarant, specifying the name, patronymic, surname, year of birth and last residence of the deceased, whether married or single, the year, month and day of death, the cause of death, as well as the name, patronymic, surname and residence of the person who made the declaration of death.

128. Death must be attested by a medical certificate, or, where this is impossible, by two witnesses.

129. The declaration of the discovery of a corpse is accompanied by an official report drawn up by the militia.

130. The decree of a court declaring a person dead, in cases where death is to be established by a declaration of the court, is recorded at the place of the last known residence of the person declared dead, with a reference to the court which pronounced the decision and the date when the decision was pronounced.

(C) Registration and Marriages and Divorces

131. Persons desiring to register their marriage make a declaration to that effect at the Civil Registry Office of the place of residence of one of the declarants.

132. Those who register their marriage must produce at the time of the declaration documents attesting their identity, a written statement denying the existence of any bar to the marriage as indicated in Part I, Chapter 2, of the present code; and a statement to the effect that they are mutually informed of each others' state of health, especially with regard to venereal and mental diseases and tuberculosis. They must also state how many marriages, registered or unregistered, each of them has previously contracted, and how many children each of them has.

133. The responsible official registering the marriage must read to the persons appearing before him to be

married Sections 4, 5 and 6 of the present code and warn them of the criminal liability that attaches to false statements. Thereupon the record drawn up is read and signed by the parties and countersigned by the official.

134. If the parties so desire, the registration of the marriage may also take place in the presence of witnesses.

135. If prior to the signing of the record of marriage a declaration is filed by anyone of the existence of lawful bars to the registration, the official must suspend the registration and demand from the declarant that he produce the corresponding documentary proofs within a period of time fixed by the chief of the Civil Registry Office.

136. Marriages between foreigners and Soviet citizens as well as marriages between foreigners contracted on the territory of the U.S.S.R. are registered according to the general laws.

Note. – The registration of marriages between foreigners at the accredited consulates and embassies within the territory of the U.S.S.R. is allowed on terms of reciprocity, provided the conditions set forth in Part I, Chapter 2 of the present code are observed.

137. Marriages between foreigners contracted outside the territory of the U.S.S.R. under the laws of their respective states are recognized in the territory of the

U.S.S.R. as fully valid within the meaning of Chapter I, Part 1 of the present code.

138. A declaration of dissolution of marriages is filed with the Civil Registry Office either in writing or orally at the place of residence of either the husband or the wife.

139. In case the declarant possesses no documents attesting the registration of the marriage that is being dissolved, he signs a statement indicating the time and place where the marriage was registered and assumes the responsibility for the correctness of the information given.

140. In case the declaration of the dissolution of marriage is made by one of the conjugal partners, the other partner receives a copy of the record of the dissolution of marriage, addressed as indicated by the declarant.

141. Documents issued to foreigners attesting a divorce granted according to the laws of their respective countries are regarded as equivalent to extracts from the registers of divorce.

(D) *Other Records*

142. Decrees of adoption, change of surnames, recognition of paternity or maternity, or correction or supplementation of birth records issued by competent

authorities must be presented to the Civil Registry Offices within a fortnight to be incorporated in the respective registration books.

143. Changes of surnames are registered by the Gubernia and the Okrug branches of the Civil Registry Offices.*

* On the right of citizens to change their names and surnames see the decree of the Council of People's Commissars of July 14, 1924 (Compiled Statutes of the R.S.F.S.R., 1924, No. 61, Sec. 601).