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HIGHLIGHTS of the 1951 FLORIDA LEGISLATIVE SESSION*

ACTIONS. Paternity Suits. Bastardy proceedings are now to be conducted *ex parte* in chancery. Unless either party requests a jury trial the judge may determine paternity and fix payments for legal fees and those incident to birth. The statute prescribes the monthly support payments to be made, at the same time giving the judge wide discretion in the matter. It is a misdemeanor to publish the names of any of the parties to such an action through any medium.¹

Survival of Causes. No action for personal injuries nor any other action shall die with the person, but may be carried on by the personal representative.²

COURTS. Juvenile courts. A new juvenile court system was established.³ See Waybright, *Florida's New Juvenile Court Act*.⁴

New rules. Those sections of the statutes which have been superseded by the new rules in law and equity, as promulgated by the supreme court, were repealed.⁵

Small claims. A small claims court was provided for each county of the state, with civil jurisdiction up to \$250.00, said jurisdiction to be concurrent with other courts in the county. The act provides for the manner by which this court is to come into being, the rules, procedures, costs, etc.⁶

CRIMINAL LAW. Burning of crosses. Florida dealt a blow to the KKK by forbidding the wearing of masks or the burning of crosses in any public place or in any private place without the written consent of the owner.⁷

Child molesters. Two statutes were passed to deal with the problem of the child molester. One provides that the existing statute be amended to read "any male or female child" instead of merely "child", which as used referred only to the female under the age of *fourteen*.⁸ The other statute provides for any sex crime including rape or attempted rape on a person under *twelve*, giving the court discretion to sentence according to

* This resume contains only selected highlights of the last legislative session and is printed to give the practitioner an awareness of some of the more important legislative changes. Reference directly to the public laws is essential, as this summary is not complete. This material was prepared for publication by Joel Miller.

1. Fla. Laws 1951, c. 26949, repeals FLA. STAT. c. 742 (1949).
2. Fla. Laws 1951, c. 26541, amendatory of FLA. STAT. § 45.11 (1949).
3. Fla. Laws 1951, c. 26880.
4. MIAMI L. Q. 1 (1951).
5. Fla. Laws 1951, c. 26962.
6. Fla. Laws 1951, c. 26920.
7. Fla. Laws 1951, c. 26542.
8. Fla. Laws 1951, c. 26580, amendatory of FLA. STAT. § 800.04 (1949).

the penalty provided elsewhere or to commit to an institution for psychiatric treatment, or to put the defendant on probation provided he takes regular treatment. Persons committed are eligible for parole but persons sentenced are not;⁹ nor are those convicted under the regular rape statutes (involving persons over the age of twelve) entitled to the benefits of modern psychiatric treatment.¹⁰ The law turns on the age of the victim rather than the mental condition of the defendant.

Defrauding farmers or fruit growers. Anyone who stops payment on any order for the payment of money when such order was used with intent to defraud farm or grove producers of their goods is guilty of a felony if the order exceeds fifty dollars or of a misdemeanor if it is a lesser amount.¹¹

Grand jury proceedings. Grand jury proceedings may not be revealed by the participants except by order of the court or in trials for perjury.¹² A court reporter or stenographer may be present during a grand jury hearing.¹³

Larceny. A broadened larceny law includes as the subject of the crime every article of any kind. Receiving stolen goods and related crimes are defined as larceny. It is cumulative, as it does not repeal any prior laws.¹⁴

Misleading hotel advertising. It is a misdemeanor to publish rates for hotels, rooming houses, motor courts, etc. unless certain explanatory data is included, such as the number of accommodations available at each stated price, and the dates when such rates are effective.

DOMICILE. Declaration. Domicile may be manifested and evidenced by filing an affidavit in which the affiant declares his intent that Florida is or is not to be his permanent abode.¹⁶

DOWER. Election by guardian. Election to take dower may be made by the guardian of one suffering a disability. This may be taken subsequent to the widow's death if before expiration of the time allowed.¹⁷

ELECTIONS. Code. Elections of certain public officials will be strictly regulated under the new election code. All financial matters in connection with any campaign must be recorded and reported.¹⁸

EVIDENCE. Admissibility of statements of accidents. Persons taking or having written statements of accidents or injuries must furnish a copy to

9. Fla. Laws 1951, c. 26843.

10. FLA. STAT. §§ 794.01, 794.05, 794.06 (1949).

11. Fla. Laws 1951, c. 26884.

12. Fla. Laws 1951, c. 26940, amendatory of FLA. STAT. § 905.27 (1949).

13. Fla. Laws 1951, c. 26584, amendatory of FLA. STAT. § 905.17 (1949) and repealing FLA. STAT. § 905.14 (1949).

14. Fla. Laws 1951, c. 26912.

15. Fla. Laws 1951, c. 26907.

16. Fla. Laws 1951, c. 26896, amendatory of FLA. STAT. § 222.17 (1949).

17. Fla. Laws 1951, c. 26948, amendatory of FLA. STAT. § 731.35 (1949).

18. Fla. Laws 1951, c. 26870, amendatory of FLA. STAT. chapters 97-104 (1949) and repealing chapters 105, 106, 875 (1949).

the person making such statement or it cannot be admitted in evidence or otherwise used in any civil action.¹⁹

Foreign Records. Official foreign records and documents may be introduced in evidence when certified by the proper foreign officer and authenticated by the United States consular officer in the foreign country.²⁰

Photographs. Two acts liberalize the law of evidence by recognizing the value of photography. One permits banks to reproduce their records as photographs or microphotographs.²¹ Another pertains to business and public records.²²

FAMILY LAW. *Adoption.* The state now prescribes the methods to be followed in the adoption of children, making it illegal to transfer anything of value between the parents of the child to be adopted and the adoptors or any intermediaries, except for reasonable legal and medical fees. The sale of children is specifically banned as is any advertising connected with such a purpose.²³

GAMING. *Suits.* Gambling is made more difficult under a new statute which provides for civil recovery of any loss in a suit at law in which the state also recovers a like amount, so that the defendant must pay twice what he won on the wager. Any proper member of the loser's family may sue and the state is a party to the action until judgment, even if the plaintiff withdraws.²⁴

LATIN-AMERICA. *Inter-American Center Authority.* An Inter-America Center Authority was set up for Dade County to foster trade and cultural relations with the Latin-American countries.²⁵

PARTNERSHIPS. *Dissolution by death.* Death of a partner does not automatically dissolve a partnership where there is an agreement to the contrary, under an amendment to the probate law.²⁶

PROCEDURE. *Service on non-residents.* Service of process may now be obtained on persons, associations, partnerships and corporations who are non-residents and on residents who have left the state or are concealing their whereabouts, if they have availed themselves of the privilege of doing business within the state. Service on the Secretary of State of Florida, who is deemed their agent, is sufficient.²⁷

PROPERTY. *Trust receipts and personal property pledges.* A lengthy act was passed to make uniform the law concerning trust receipts and pledges of personal property, unaccompanied by possession in the pledge. It defines

19. Fla. Laws 1951, c. 26482.

20. Fla. Laws 1951, c. 26842.

21. Fla. Laws 1951, c. 26734.

22. Fla. Laws 1951, c. 26901.

23. Fla. Laws 1951, c. 26840.

24. Fla. Laws 1951, c. 26543.

25. Fla. Laws 1951, c. 26614.

26. Fla. Laws 1951, c. 26583, amendatory of FLA. STAT. § 733.37 (1949).

27. Fla. Laws 1951, c. 26657, amendatory of FLA. STAT. § 47.16 (1949).

certain terms, transactions and relationships between the entruster, trustee and creditors.²⁸

PUBLIC UTILITIES. *Report of gambling.* Public utilities are now regulated by the state under the Florida Railroad and Public Utilities Commission.²⁹ These utilities are required to report to the Commission and the sheriffs of the counties any illegal use of their facilities particularly with respect to gambling. They are to provide the means of ascertaining this information and are to report it, under penalty.³⁰

SCHOOLS AND EDUCATION. *Diploma privilege.* The diploma privilege for graduates of Florida law schools was abolished.³¹

Medical school subsidy. The state provides for a medical school by way of subsidy.³²

SECURITIES. *Speculation on margin.* The prohibition against dealing with futures on margin has been repealed.³³

TAXATION. *Homestead exemption.* Eligibility for the homestead exemption from taxes requires at least one year of legal residence in the state.³⁴

TITLES. *Defective instruments.* A curative statute repairs the defect in instruments conveying title to land when the document is upon the public records for more than seven years and has not been properly acknowledged or witnessed, or where dower has not been relinquished, or where the word "as" is absent from a power of attorney, etc.; provided at least one subsequent party has relied on the instrument. This act does not affect any present litigation.³⁵

Annulment of forfeiture clauses. All reverter and forfeiture clauses in force more than twenty-one years are declared null and void and all those that become twenty-one years old are cancelled. Persons who would have a claim under the law have one year to act upon it.³⁶

TORTS. *Liability of husband.* The common law liability of the husband for the torts of his wife has been abrogated.³⁷

WILLS. *Accounting by trustees.* Testamentary trustees must meet certain qualifications and file an accounting with the court.³⁸

Effect of divorce. Divorce invalidates any provision in a will for the divorced spouse.³⁹

WORKMEN'S COMPENSATION. *Benefits increased.* Workmen's Compensation has been broadened considerably to meet the increased cost of living

28. Fla. Laws 1951, c. 26730.

29. Fla. Laws 1951, c. 26545.

30. Fla. Laws 1951, c. 26720.

31. Fla. Laws 1951, c. 26655.

32. Fla. Laws 1951, c. 26763.

33. Fla. Laws 1951, c. 26674, repealing FLA. STAT. c. 850 (1949).

34. Fla. Laws 1951, c. 26899.

35. Fla. Laws 1951, c. 26957, amendatory of FLA. STAT. § 694.08 (1949).

36. Fla. Laws 1951, c. 26927.

37. Fla. Laws 1951, c. 26929.

38. Fla. Laws 1951, c. 26656.

39. Fla. Laws 1951, c. 26914.

and the increased wages commensurate with it. Weekly benefits are increased from a maximum of \$15 to a maximum of \$20.⁴⁰ Payments for total disability may not exceed 700 weeks as against a previous limitation of 350 weeks.⁴¹

Claims against third party tort-feasor. When one covered by the Workmen's Compensation law is injured or killed in the course of employment by a third party tort-feasor, he, or his dependents in the case of death may collect compensation benefits while pursuing the remedy at law against the third party tort-feasor. The employer or insurer is subrogated to the claimant's rights in the suit at law, with the excess over sums paid under compensation belonging to the claimant. Once suit is initiated, the claimant may not settle without permission from those subrogated.⁴²

40. Fla. Laws 1951, c. 26801, amendatory of FLA. STAT. § 443.04 (1949).

41. Fla. Laws 1951, c. 26877, amendatory of FLA. STAT. § 440.15 and repealing subsection 13 of § 440.20 (1949).

42. Fla. Laws 1951, c. 26546, amendatory of FLA. STAT. § 440.39 (1949).