

TITLE 32  
DOMESTIC RELATIONS

CHAPTER 6  
DIVORCE -- GROUNDS AND DEFENSES

32-601. DISSOLUTION OF MARRIAGE. Marriage is dissolved only:

1. By the death of one of the parties; or,
2. By the judgment of a court of competent jurisdiction decreeing a divorce of the parties.

[(32-601) R.S., sec. 2455; reen. R.C. & C.L., sec. 2645; C.S., sec. 4625; I.C.A., sec. 31-601.]

32-602. EFFECT OF DECREE. The effect of a judgment decreeing a divorce is to restore the parties to the state of unmarried persons.

[(32-602) R.S., sec. 2456; reen. R.C. & C.L., sec. 2646; C.S., sec. 4626; I.C.A., sec. 31-602.]

32-603. CAUSES FOR DIVORCE. Divorces may be granted for any of the following causes:

1. Adultery.
2. Extreme cruelty.
3. Wilful desertion.
4. Wilful neglect.
5. Habitual intemperance.
6. Conviction of felony.
7. When either the husband or wife has become permanently insane, as provided in sections 32-801 to 32-805, inclusive.
8. Irreconcilable differences.

[(32-603) 1863, p. 616, sec. 22; R.S., sec. 2457; am. 1899, p. 232, sec. 1; 1903, p. 332, sec. 1; compiled and reen. R.C. & C.L., sec. 2647; C.S., sec. 4627; I.C.A., sec. 31-603; am. 1971, ch. 20, sec. 1, p. 33.]

32-604. ADULTERY. Adultery is the voluntary sexual intercourse of a married person with a person other than the offender's husband or wife.

[(32-604) R.S., sec. 2458; reen. R.C. & C.L., sec. 2648; C.S., sec. 4628; I.C.A., sec. 31-604.]

32-605. EXTREME CRUELTY. Extreme cruelty is the infliction of grievous bodily injury or grievous mental suffering upon the other by one party to the marriage.

[(32-605) R.S., sec. 2459; reen. R.C. & C.L., sec. 2649; C.S., sec. 4629; I.C.A., sec. 31-605.]

32-606. WILFUL DESERTION. Wilful desertion is the voluntary separation of one of the married parties from the other with intent to desert.

[(32-606) R.S., sec. 2460; reen. R.C. & C.L., sec. 2650; C.S., sec. 4630; I.C.A., sec. 31-606.]

32-607. WILFUL NEGLECT. Wilful neglect is the neglect of the husband to provide for his wife the common necessities of life, he having the ability to do so, or it is the failure to do so by reason of idleness, profligacy or dissipation.

[(32-607) R.S., sec. 2461; reen. R.C. & C.L., sec. 2651; C.S., sec. 4631; I.C.A., sec. 31-607.]

32-608. HABITUAL INTEMPERANCE. Habitual intemperance is that degree of intemperance from the use of intoxicating drinks which disqualifies the person a great portion of the time from properly attending to business, or which would reasonably inflict a course of great mental anguish upon the innocent party.

[(32-608) R.S., sec. 2462; reen. R.C. & C.L., sec. 2652; C.S., sec. 4632; I.C.A., sec. 31-608.]

32-609. CONTINUATION OF CAUSE. Wilful desertion, wilful neglect or habitual intemperance must continue for one (1) year before either is a ground for divorce.

[(32-609) R.S., sec. 2463; reen. R.C. & C.L., sec. 2653; C.S., sec. 4633; I.C.A., sec. 31-609.]

32-610. SEPARATION WITHOUT COHABITATION. When married persons have heretofore lived or shall hereafter live separate and apart for a period of five (5) years or more without cohabitation, either party to the marriage contract may sue for a divorce which shall be granted on proof of the continuous living separate and apart without cohabitation of the spouses during said period of five (5) years or more.

[(32-610) I.C.A., sec. 31-609-A, as added by 1945, ch. 125, sec. 1, p. 191.]

32-611. DENIAL OF DIVORCE. Divorces must be denied upon showing:

1. Collusion;
2. Condonation;
3. Recrimination; or,
4. Limitation and lapse of time.

[(32-611) R.S., sec. 2464; reen. R.C. & C.L., sec. 2654; C.S., sec. 4634; I.C.A., sec. 31-610.]

32-612. COLLUSION. Collusion is an agreement between husband and wife that one of them shall commit, or appear to have committed, or to be represented in court as having committed, acts constituting a cause of divorce for the purpose of enabling the other to obtain a divorce, and is a bar to an action for such acts.

[(32-612) R.S., sec. 2465; reen. R.C. & C.L., sec. 2655; C.S., sec. 4635; I.C.A., sec. 31-611.]

32-613. RECRIMINATION. Recrimination is a showing by the defendant of any cause of divorce against the plaintiff, in bar of the plaintiff's cause of divorce.

[(32-613) R.S., sec. 2466; reen. R.C. & C.L., sec. 2656; C.S., sec. 4636; I.C.A., sec. 31-612.]

32-614. CONDONATION. Condonation of a cause of divorce shown in the answer as a recriminatory defense, is a bar to such defense when the condonee has fully performed the marital duties, and is without reproach since the condonation, or if two (2) years or more have elapsed after the condonation.

[(32-614) R.S., sec. 2467; reen. R.C. & C.L., sec. 2657; C.S., sec. 4637; I.C.A., sec. 31-613.]

32-615. LIMITATIONS. A divorce must be denied:

1. When the cause is adultery and the action is not commenced within two (2) years after the commission of the act of adultery, or after its discovery by the injured party.

2. When the cause is conviction of felony, and the action is not commenced before the expiration of one (1) year after a pardon or the termination of the period of sentence.

3. In all other cases when there is an unreasonable lapse of time before the commencement of the action.

[(32-615) R.S., sec. 2468; reen. R.C. & C.L., sec. 2658; C.S., sec. 4638; I.C.A., sec. 31-614.]

32-616. IRRECONCILABLE DIFFERENCES. Irreconcilable differences are those grounds which are determined by the court to be substantial reasons for not continuing the marriage and which make it appear that the marriage should be dissolved.

[I.C., sec. 32-616, as added by 1971, ch. 20, sec. 2, p. 33.]