

TITLE 32
DOMESTIC RELATIONS

CHAPTER 8
DIVORCES FOR INSANITY

32-801. INSANITY A GROUND FOR DIVORCE. A divorce may be granted for the cause of permanent insanity of the spouse: provided, that no divorce shall be granted under the provisions of this chapter unless such insane person shall have been duly and regularly confined in an insane asylum of this state, or of a sister state or territory, or foreign country for at least three (3) years next preceding the commencement of the action for divorce, nor unless it shall appear to the court that such insanity is permanent and incurable.

[(32-801) 1895, p. 11, sec. 1; reen. 1899, p. 232, sec. 1; am. 1903, p. 232, sec. 1; am. R.C. & C.L., sec. 4624; C.S., sec. 7037; I.C.A., sec. 31-801; am. 1945, ch. 106, sec. 1, p. 158; am. 1949, ch. 68, sec. 1, p. 114; am. 1953, ch. 48, sec. 1, p. 65.]

32-802. APPOINTMENT OF GUARDIAN -- SERVICE OF PROCESS. The district courts of the several judicial districts of this state shall have jurisdiction of actions for divorce under the provisions of this chapter; and such action shall be brought in the county of this state in which the plaintiff resides. And the court in which such action is about to be commenced shall, upon the filing by the plaintiff of a petition, duly verified, showing that a cause of action exists under this chapter, appoint some person to act as guardian of such insane person in such action, and the summons and complaint in such action shall be served upon the defendant by delivering a copy of such summons and complaint to such guardian, and by delivering a copy thereof to the county attorney of the county in which such action is brought.

[(32-802) 1895, p. 11, sec. 2; reen. 1899, p. 232, sec. 2; reen. R.C. & C.L., sec. 4625; C.S., sec. 7038; I.C.A., sec. 31-802.]

32-803. PROSECUTING ATTORNEY TO DEFEND ACTION. It shall be the duty of the county attorney upon whom the summons and complaint in such action shall be served to appear for such defendant in such action and defend the same, and no divorce shall be granted under the provisions of this chapter except in the presence of the county attorney.

[(32-803) 1895, p. 11, sec. 3; reen. 1899, p. 232, sec. 3; reen. R.C. & C.L., sec. 4626; C.S., sec. 7039; I.C.A., sec. 31-803.]

32-804. MAINTENANCE -- DISTRIBUTION OF PROPERTY -- CUSTODY OF CHILDREN. In any action brought under the provisions of this chapter the said courts and the judges thereof shall possess all the powers relative to the payment of maintenance and support, the distribution of property and the care and custody of children of the parties, that such courts now have, or may hereafter have, in other actions for divorce.

[(32-804) 1895, p. 11, sec. 4; reen. 1899, p. 232, sec. 4; reen. R.C. & C.L., sec. 4627; C.S., sec. 7040; I.C.A., sec. 31-804; am. 1980, ch. 378, sec. 11, p. 965.]

32-805. COSTS AND EXPENSES TO BE PAID BY PLAINTIFF. All the costs of the court in such action, as well as the actual expenses of the county attorney therein, together with the expenses and fees of the guardian therein, shall be paid by the plaintiff; such expenses of the county attorney and expenses and fees of the guardian shall be fixed and allowed by the court, and the court or the judge thereof may make such order as to the payment of such fees and expenses as to said court or judge may seem proper.

[(32-805) 1895, p. 11, sec. 5; reen. 1899, p. 232, sec. 5; reen. R.C. & C.L., sec. 4628; C.S., sec. 7041; I.C.A., sec. 31-805.]