

SENATE, No. 31

STATE OF NEW JERSEY

INTRODUCED JANUARY 13, 1953

By Mr. CLAPP

Referred to Committee on Revision and Amendment of Laws

AN ACT concerning marriages and married persons, and revising parts of the
statutory law.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 37:1-4 of the Revised Statutes is amended to read as
2 follows:

3 37:1-4. Except as provided in sections 37:1-5 and 37:1-6 of this Title, the
4 license shall not be issued by a licensing officer sooner than seventy-two hours
5 after the application therefor has been made; *provided, however,* that the
6 County Court of the county may, by order, waive all or any part of said
7 seventy-two hour period in cases of emergency, upon satisfactory proof being
8 shown to it. Said order shall be filed with the licensing officer and attached
9 to the application for the license.

10 A license, when properly issued as provided in this article, shall be good
11 and valid only for thirty days after the date of the issuance thereof.

1 2. Section 37:1-6 of the Revised Statutes is amended to read as
2 follows:

3 37:1-6. A marriage license shall not be issued to a minor under the age
4 of twenty-one years, if a male, or under the age of eighteen years, if a female,
5 unless the parents or guardian of the minor, if there be any, first certify
6 under their hands and seals, in the presence of two reputable witnesses, their

7 consent thereto, which consent shall be delivered to the licensing officer issuing
8 the license. If the parents, or either of them, or guardian of any such minor
9 shall be of unsound mind, the consent of such parent or guardian to the pro-
10 posed marriage shall not be required.

11 When a minor, if a male, is under the age of eighteen years, or if a
12 female, is under the age of sixteen years, the consent required by this section
13 must be approved in writing by any judge of the County Court of the county
14 or any judge of the juvenile and domestic relations court of the county. Said
15 approval shall be filed with the licensing officer.

16 The licensing officer shall transmit to the State Bureau of Vital Statistics
17 all such consents, orders, and approvals so received by him in the same man-
18 ner and subject to the same penalty as in the case of certificates of marriage
19 and marriage licenses.

20 If any such male applicant for a license to marry shall be a minor under
21 the age of twenty-one years, and shall have been arrested on the charge of
22 sexual intercourse with a single, widowed or divorced female of good repute
23 for chastity who has thereby become pregnant, a license to marry the female
24 may be immediately issued by any licensing officer to the minor upon his ap-
25 plication therefor, without the consent or approval required by this section.

1 3. Section 37:1-13 of the Revised Statutes is amended to read as
2 follows:

3 37:1-13. Each judge of a County Court, judge of a county district court,
4 or magistrate of a municipal court, and mayor of this State, and every min-
5 ister of every religion, and judges of the criminal judicial district courts in
6 counties wherein such courts are or may be established, and judges of the
7 juvenile and domestic relations courts in counties in which such courts are or
8 may be established, are hereby authorized to solemnize marriage between
9 such persons as may lawfully enter into the matrimonial relation; and every
10 religious society, institution or organization in this State may join together in
11 marriage such persons as are members of such society, institution or organ-
12 ization, or when one of such persons is a member of such society, institution

13 or organization, according to the rules and customs of the society, institution
14 or organization to which they or either of them belong.

1 4. Section 37:2-9 of the Revised Statutes is amended to read as
2 follows:

3 37:2-9. Any married woman may maintain an action in her own name,
4 without joining her husband therein, for all torts committed against her, or
5 her separate property, in the same manner as she lawfully might if a feme
6 sole, and the nonjoinder of the husband shall not be pleaded in any such
7 action. In any such action the husband may join his claim for any damages
8 he may have sustained in connection with or growing out of the injury for
9 which his wife brings her action; but his failure to join shall not prevent him
10 from maintaining a separate action for such damages.

11 This section shall not be so construed as to interfere with or take away
12 any right of action provided by law for the torts mentioned herein.

1 5. Section 37:2-11 of the Revised Statutes is amended to read as
2 follows:

3 37:2-11. Any judgment obtained against a married woman by virtue of
4 this chapter shall be valid and effectual, and all property, real or personal,
5 sold under an execution issued thereon, executed according to law, shall
6 become vested in the purchaser as fully and effectually as if the judgment and
7 execution were against an unmarried person; but no judgment against a
8 married woman shall affect any estate, interest or right of her husband in her
9 real property.

1 6. Section 37:2-16 of the Revised Statutes is amended to read as
2 follows:

3 37:2-16. Any married woman shall have the right to bind herself by con-
4 tract in the same manner and to the same extent as though she were
5 unmarried, which contract shall be legal and obligatory, and may be enforced
6 by and against such married woman in her own name and apart from her hus-
7 band. Any contract relating to or affecting her estate, interest or right in
8 her real property or that of her husband shall be valid without the joinder

9 therein or consent thereto of her husband, but shall not affect any estate,
10 interest or right of her husband in such real estate.

1 7. Section one of chapter one hundred thirty of the laws of one thousand
2 nine hundred and forty-five is amended to read as follows:

3 1. Any married woman may contract with her husband alone or with her
4 husband and any other person or persons for the formation of a partner-
5 ship, a limited partnership or a partnership association, between or among
6 them and may engage in, and carry on, business, as a general, or as a limited
7 or special, partner, of any general or limited partnership or as a member of
8 any partnership association, so formed, in the same manner and to the same
9 extent as though she were unmarried, and may enter into contracts as such
10 partner and shall be bound by contracts entered into by the other members
11 of such partnership, limited partnership or partnership association, in the
12 same manner and to the same extent as though she were unmarried. Any
13 such contracts shall be legal and obligatory and may be enforced by and
14 against such married woman, as though she were unmarried.

1 8. Section two of chapter one hundred thirty of the laws of one thou-
2 sand nine hundred and forty-five is amended to read as follows:

3 2. Any contract heretofore made by, or on behalf of, any married woman
4 as a partner with her husband alone or with her husband and any other
5 person or persons shall be legal and obligatory and may be enforced by or
6 against such married woman as though she were unmarried.

1 9. Section 37:2-18 of the Revised Statutes is amended to read as
2 follows:

3 37:2-18. A married man may convey real estate or any interest therein
4 directly to his wife, and a married woman may convey real estate or any
5 interest therein directly to her husband. Every such conveyance of real
6 estate or any interest therein, located in this State, heretofore or hereafter
7 made, shall be valid and effective to convey the grantor's title and interest
8 therein and thereto, whether both the grantor and grantee or either, respec-
9 tively, shall have resided at the time of such conveyance within or without

10 this State, and notwithstanding the wife or the husband, respectively, did
11 not or does not join therein and acknowledge the same as prescribed by law.
12 Any such conveyance heretofore or hereafter made shall convey the entire
13 estate and interest of a married man or married woman in lands held by
14 such husband and wife as tenants by the entirety, including the right of
15 survivorship; and any conveyance heretofore or hereafter made by a married
16 man or married woman to himself or herself and spouse of any real estate
17 held in fee in severalty by such married man or married woman shall be
18 construed to vest an estate by the entirety in such husband and wife, in fee.
19 Any such conveyance shall also release the inchoate or possible future estate
20 by the curtesy or in dower of the husband or wife, as the case may be, in
21 the lands conveyed to the grantee, if so provided in such conveyance.

1 10. Section 37:2-21 of the Revised Statutes is amended to read as
2 follows:

3 37:2-21. Any married woman, whose interest in real estate acquired by
4 descent, gift or devise, has been or may be sold by order or judgment of
5 the Superior Court in any partition or other proceedings, and the proceeds
6 of such sale have been or shall be placed in the custody of any court of this
7 State, or of any officer thereof, and who shall be living in a state of separa-
8 tion from her husband, continued for three or more years, may apply to the
9 Superior Court for an order directing the clerk of the court, or the person
10 having the custody of such proceeds, to pay the same to her free and dis-
11 charged of any right of curtesy or of any right, title or interest of her
12 husband therein. The court, upon receiving satisfactory proof that such real
13 estate was acquired as aforesaid, and that the applicant has been living
14 separate and apart from her husband for three or more years next preced-
15 ing such application, and notice of such application first having been given
16 to the husband, as in the case of absent defendants or such other notice as
17 the court may, by order, direct, may direct the clerk of the court or the
18 person having the custody of such proceeds to pay the same, together with
19 any accumulated interest thereon, directly to the applicant, free and dis-
20 charged of any right, title or interest of her husband.

1 11. Section 37:2-22 of the Revised Statutes is amended to read as
2 follows:

3 37:2-22. Notwithstanding that a married woman is restrained from
4 anticipation, the Superior Court may, if it thinks fit and it appears to the
5 court to be for her benefit, by order or judgment and with her consent,
6 bind her interest in any property or authorize her or her trustees to assign
7 or convey the same.

1 12. Section 37:2-23 of the Revised Statutes is amended to read as
2 follows:

3 37:2-23. Any married woman who is living in a state of separation from
4 her husband, under and by virtue of the final judgment of any court, when
5 such judgment is founded upon her application for such separation, may, at
6 any time during the continuance of such separation, convey, mortgage and
7 lease or devise any interest, estate or right that she may have in any real
8 property, except such as came to her by gift, through or from her said hus-
9 band, in the same manner and with the like effect as if she were sole and
10 unmarried.

1 13. Section 37:2-24 of the Revised Statutes is amended to read as
2 follows:

3 37:2-24. Any married man who is living in a state of separation from
4 his wife under and by virtue of the final judgment of any court, when such
5 judgment is founded upon his application for such separation, may, at any
6 time during the continuance of such separation, convey, mortgage, and lease,
7 or devise any interest, estate or right that he may have in any real property,
8 except such as came to him by gift through or from his said wife, in the
9 same manner, and with like effect as if he were sole and unmarried.

1 14. Section 37:2-25 of the Revised Statutes is amended to read as
2 follows:

3 37:2-25. In case any married woman owning lands situate within this
4 State, shall desire to convey the same, but shall not be able to do so by reason
5 of the lunacy or other mental incapacity of her husband to join with her in

6 the execution of proper deeds of conveyance therefor, it shall be lawful for
7 the Superior Court, in an action brought for that purpose, to direct that
8 such married woman may convey the said lands by deed or deeds ex-
9 ceuted by herself, without the concurrence of her husband, which deed
10 or deeds of conveyance shall convey the said lands free from any
11 claim, estate or right of the husband of such married woman, and
12 shall be an absolute bar to any right of curtesy therein, in case he shall
13 survive her. The court may proceed in the action in a summary manner or
14 otherwise.

1 15. Section 37:2-26 of the Revised Statutes is amended to read as
2 follows:

3 37:2-26. If in such an action, the court shall direct that such married
4 woman may convey her lands as aforesaid, it shall ascertain the actual
5 money value of the estate or interest of the husband in such lands, if any, by
6 a calculation based upon the actual cash value of said lands, and upon the
7 expectancy of life of the said husband and wife, in the manner and according
8 to the rules now or hereafter in use in said court. The court shall direct
9 that the value thereof shall be paid out of the purchase-money of the said
10 lands by the purchaser to the committee or guardian of said lunatic or in-
11 capacitated husband, duly appointed by any competent court of this State or
12 elsewhere, to be held by him as part of the estate of such husband, or if
13 there be no such guardian or committee, then such payment shall be made to
14 the clerk of the court. The court shall specifically direct how much money
15 shall be so paid and to whom such payment shall be made by said purchaser.

1 16. Section 37:2-27 of the Revised Statutes is amended to read as
2 follows:

3 37:2-27. The word "convey" in sections 37:2-25 and 37:2-26 of this
4 Title shall be so construed as to include the right to mortgage, and any de-
5 cree, judgment or order of the Court of Chancery or of the Superior Court
6 made after April eighth, one thousand nine hundred and three, pursuant to
7 the provisions of said sections 37:2-25 and 37:2-26, and directing that a mar-

ried woman may convey her land without the concurrence of her husband because of his lunacy or other mental incapacity, shall be so construed as to include the right to mortgage said premises.

17. Section 37:2-28 of the Revised Statutes is amended to read as follows:

37:2-28. In case any married woman owning lands situate within this State has sold or shall be desirous of selling the same, or any part thereof, for the purpose of investing the proceeds thereof in other lands in this State, or has exchanged or shall be desirous of exchanging the same, or any part thereof, for other lands of equal value in this State, but shall not be able to convey her said lands so sold or exchanged, or intended so to be, by reason of the inability of her husband, through lunacy or other mental incapacity, to join with her in the execution of proper deeds of conveyance therefor, it shall and may be lawful for the Superior Court in an action brought for that purpose to confirm or authorize such sale or exchange, and direct that such married woman may convey her lands so sold or exchanged by deed or deeds executed by herself, without the concurrence of her husband, which deed or deeds of conveyance shall convey her said lands free from any claim, estate or right of the husband of such married woman, and shall be an absolute bar to any right of curtesy therein in case he shall survive her. The court may proceed in the action in a summary manner or otherwise.

18. Section 37:2-29 of the Revised Statutes is amended to read as follows:

37:2-29. Upon making an order or judgment in the action mentioned in section 37:2-28 of this Title it shall not be necessary for said court to ascertain the actual money value of the estate or interest of the husband in such lands, if any, or to direct any sum to be paid out of the purchase-money of the said lands by the purchaser to the committee or guardian of said lunatic or incapacitated husband, or to the clerk of the court, as required by section 37:2-26 of this Title; but in making such order or judgment the court may impose such terms or conditions as it shall deem advisable.

19. This act shall take effect immediately.

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5 after the application therefor has been made; *provided, however,* that the
6 County Court of the county may, by order, waive all or any part of said
7 seventy-two hour period in cases of emergency, upon satisfactory proof being
8 shown to it. Said order shall be filed with the licensing officer and attached
9 to the application for the license.

10 A license, when properly issued as provided in this article, shall be good
11 and valid only for thirty days after the date of the issuance thereof.

1 2. Section 37:1-6 of the Revised Statutes is amended to read as
2 follows:

3 37:1-6. A marriage license shall not be issued to a minor under the age
4 of twenty-one years, if a male, or under the age of eighteen years, if a female,
5 unless the parents or guardian of the minor, if there be any, first certify
6 under their hands and seals, in the presence of two reputable witnesses, their

7 consent thereto, which consent shall be delivered to the licensing officer issuing
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9 shall be of unsound mind, the consent of such parent or guardian to the pro-
10 posed marriage shall not be required.

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12 female, is under the age of sixteen years, the consent required by this section
13 must be approved in writing by any judge of the County Court of the county
14 or any judge of the juvenile and domestic relations court of the county. Said
15 approval shall be filed with the licensing officer.

16 The licensing officer shall transmit to the State Bureau of Vital Statistics
17 all such consents, orders, and approvals so received by him in the same man-
18 ner and subject to the same penalty as in the case of certificates of marriage
19 and marriage licenses.

20 If any such male applicant for a license to marry shall be a minor under
21 the age of twenty-one years, and shall have been arrested on the charge of
22 sexual intercourse with a single, widowed or divorced female of good repute
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6 counties wherein such courts are or may be established, and judges of the
7 juvenile and domestic relations courts in counties in which such courts are or
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9 such persons as may lawfully enter into the matrimonial relation; and every
10 religious society, institution or organization in this State may join together in
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13 or organization, according to the rules and customs of the society, institution
14 or organization to which they or either of them belong.

1 4. Section 37:2-9 of the Revised Statutes is amended to read as
2 follows:

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4 without joining her husband therein, for all torts committed against her, or
5 her separate property, in the same manner as she lawfully might if a feme
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5 unmarried, which contract shall be legal and obligatory, and may be enforced
6 by and against such married woman in her own name and apart from her hus-
7 band. Any contract relating to or affecting her estate, interest or right in
8 her real property or that of her husband shall be valid without the joinder

9 therein or consent thereto of her husband, but shall not affect any estate,
10 interest or right of her husband in such real estate.

1 7. Section one of chapter one hundred thirty of the laws of one thousand
2 nine hundred and forty-five is amended to read as follows:

3 1. Any married woman may contract with her husband alone or with her
4 husband and any other person or persons for the formation of a partner-
5 ship, a limited partnership or a partnership association, between or among
6 them and may engage in, and carry on, business, as a general, or as a limited
7 or special, partner, of any general or limited partnership or as a member of
8 any partnership association, so formed, in the same manner and to the same
9 extent as though she were unmarried, and may enter into contracts as such
10 partner and shall be bound by contracts entered into by the other members
11 of such partnership, limited partnership or partnership association, in the
12 same manner and to the same extent as though she were unmarried. Any
13 such contracts shall be legal and obligatory and may be enforced by and
14 against such married woman, as though she were unmarried.

1 8. Section two of chapter one hundred thirty of the laws of one thou-
2 sand nine hundred and forty-five is amended to read as follows:

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7 made, shall be valid and effective to convey the grantor's title and interest
8 therein and thereto, whether both the grantor and grantee or either, respec-
9 tively, shall have resided at the time of such conveyance within or without

10 this State, and notwithstanding the wife or the husband, respectively, did
11 not or does not join therein and acknowledge the same as prescribed by law.
12 Any such conveyance heretofore or hereafter made shall convey the entire
13 estate and interest of a married man or married woman in lands held by
14 such husband and wife as tenants by the entirety, including the right of
15 survivorship; and any conveyance heretofore or hereafter made by a married
16 man or married woman to himself or herself and spouse of any real estate
17 held in fee in severalty by such married man or married woman shall be
18 construed to vest an estate by the entirety in such husband and wife, in fee.
19 Any such conveyance shall also release the inchoate or possible future estate
20 by the curtesy or in dower of the husband or wife, as the case may be, in
21 the lands conveyed to the grantee, if so provided in such conveyance.

1 10. Section 37:2-21 of the Revised Statutes is amended to read as
2 follows:

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4 descent, gift or devise, has been or may be sold by order or judgment of
5 the Superior Court in any partition or other proceedings, and the proceeds
6 of such sale have been or shall be placed in the custody of any court of this
7 State, or of any officer thereof, and who shall be living in a state of separa-
8 tion from her husband, continued for three or more years, may apply to the
9 Superior Court for an order directing the clerk of the court, or the person
10 having the custody of such proceeds, to pay the same to her free and dis-
11 charged of any right of curtesy or of any right, title or interest of her
12 husband therein. The court, upon receiving satisfactory proof that such real
13 estate was acquired as aforesaid, and that the applicant has been living
14 separate and apart from her husband for three or more years next preced-
15 ing such application, and notice of such application first having been given
16 to the husband, as in the case of absent defendants or such other notice as
17 the court may, by order, direct, may direct the clerk of the court or the
18 person having the custody of such proceeds to pay the same, together with
19 any accumulated interest thereon, directly to the applicant, free and dis-
20 charged of any right, title or interest of her husband.

1 11. Section 37:2-22 of the Revised Statutes is amended to read as
2 follows:

3 37:2-22. Notwithstanding that a married woman is restrained from
4 anticipation, the Superior Court may, if it thinks fit and it appears to the
5 court to be for her benefit, by order or judgment and with her consent,
6 bind her interest in any property or authorize her or her trustees to assign
7 or convey the same.

1 12. Section 37:2-23 of the Revised Statutes is amended to read as
2 follows:

3 37:2-23. Any married woman who is living in a state of separation from
4 her husband, under and by virtue of the final judgment of any court, when
5 such judgment is founded upon her application for such separation, may, at
6 any time during the continuance of such separation, convey, mortgage and
7 lease or devise any interest, estate or right that she may have in any real
8 property, except such as came to her by gift, through or from her said hus-
9 band, in the same manner and with the like effect as if she were sole and
10 unmarried.

1 13. Section 37:2-24 of the Revised Statutes is amended to read as
2 follows:

3 37:2-24. Any married man who is living in a state of separation from
4 his wife under and by virtue of the final judgment of any court, when such
5 judgment is founded upon his application for such separation, may, at any
6 time during the continuance of such separation, convey, mortgage, and lease,
7 or devise any interest, estate or right that he may have in any real property,
8 except such as came to him by gift through or from his said wife, in the
9 same manner, and with like effect as if he were sole and unmarried.

1 14. Section 37:2-25 of the Revised Statutes is amended to read as
2 follows:

3 37:2-25. In case any married woman owning lands situate within this
4 State, shall desire to convey the same, but shall not be able to do so by reason
5 of the lunacy or other mental incapacity of her husband to join with her in

6 the execution of proper deeds of conveyance therefor, it shall be lawful for
7 the Superior Court, in an action brought for that purpose, to direct that
8 such married woman may convey the said lands by deed or deeds ex-
9 ecuted by herself, without the concurrence of her husband, which deed
10 or deeds of conveyance shall convey the said lands free from any
11 claim, estate or right of the husband of such married woman, and
12 shall be an absolute bar to any right of curtesy therein, in case he shall
13 survive her. The court may proceed in the action in a summary manner or
14 otherwise.

1 15. Section 37:2-26 of the Revised Statutes is amended to read as
2 follows:

3 37:2-26. If in such an action, the court shall direct that such married
4 woman may convey her lands as aforesaid, it shall ascertain the actual
5 money value of the estate or interest of the husband in such lands, if any, by
6 a calculation based upon the actual cash value of said lands, and upon the
7 expectancy of life of the said husband and wife, in the manner and according
8 to the rules now or hereafter in use in said court. The court shall direct
9 that the value thereof shall be paid out of the purchase-money of the said
10 lands by the purchaser to the committee or guardian of said lunatic or in-
11 capacitated husband, duly appointed by any competent court of this State or
12 elsewhere, to be held by him as part of the estate of such husband, or if
13 there be no such guardian or committee, then such payment shall be made to
14 the clerk of the court. The court shall specifically direct how much money
15 shall be so paid and to whom such payment shall be made by said purchaser.

1 16. Section 37:2-27 of the Revised Statutes is amended to read as
2 follows:

3 37:2-27. The word "convey" in sections 37:2-25 and 37:2-26 of this
4 Title shall be so construed as to include the right to mortgage, and any de-
5 cree, judgment or order of the Court of Chancery or of the Superior Court
6 made after April eighth, one thousand nine hundred and three, pursuant to
7 the provisions of said sections 37:2-25 and 37:2-26, and directing that a mar-

8 ried woman may convey her land without the concurrence of her husband
 9 because of his lunacy or other mental incapacity, shall be so construed as to
 10 include the right to mortgage said premises.

1 17. Section 37:2-28 of the Revised Statutes is amended to read as
 2 follows:

3 37:2-28. In case any married woman owning lands situate within this
 4 State has sold or shall be desirous of selling the same, or any part thereof,
 5 for the purpose of investing the proceeds thereof in other lands in this State,
 6 or has exchanged or shall be desirous of exchanging the same, or any part
 7 thereof, for other lands of equal value in this State, but shall not be able to
 8 convey her said lands so sold or exchanged, or intended so to be, by reason
 9 of the inability of her husband, through lunacy or other mental incapacity,
 10 to join with her in the execution of proper deeds of conveyance therefor, it
 11 shall and may be lawful for the Superior Court in an action brought for that
 12 purpose to confirm or authorize such sale or exchange, and direct that such
 13 married woman may convey her lands so sold or exchanged by deed or deeds
 14 executed by herself, without the concurrence of her husband, which deed or
 15 deeds of conveyance shall convey her said lands free from any claim, estate
 16 or right of the husband of such married woman, and shall be an absolute bar
 17 to any right of curtesy therein in case he shall survive her. The court may
 18 proceed in the action in a summary manner or otherwise.

1 18. Section 37:2-29 of the Revised Statutes is amended to read as
 2 follows:

3 37:2-29. Upon making an order or judgment in the action mentioned in
 4 section 37:2-28 of this Title it shall not be necessary for said court to ascer-
 5 tain the actual money value of the estate or interest of the husband in such
 6 lands, if any, or to direct any sum to be paid out of the purchase-money of the
 7 said lands by the purchaser to the committee or guardian of said lunatic or
 8 incapacitated husband, or to the clerk of the court, as required by section
 9 37:2-26 of this Title; but in making such order or judgment the court may im-
 10 pose such terms or conditions as it shall deem advisable.

1 19. This act shall take effect immediately.