

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 102
SENATE BILL 42

AN ACT TO AMEND G.S. CHAPTER 35 RELATING TO MENTAL DISEASES AND INCOMPETENTS TO REMOVE SEX DISCRIMINATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 35-7 is hereby repealed.

Sec. 2. G.S. 35-13 is rewritten to read as follows:

"§ 35-13. Spouse of incompetent husband or wife entitled to special proceeding for sale of property. — Every married person whose husband or wife is adjudged incompetent and is confined in a mental hospital or other institution in this State, and who was living with the incompetent spouse at the time of commitment shall, if he or she be in needy circumstances, have the right to bring a special proceeding before the clerk of the superior court to sell the property of the incompetent spouse, or so much thereof as is deemed expedient, and have the proceeds applied for support: Provided, that said proceeding shall be approved by the judge of the superior court holding the courts of the judicial district where the said property is situated. When the deed of the commissioner appointed by the court, conveying the lands belonging to the incompetent spouse is executed, probated, and registered, it conveys a good and indefeasible title to the purchaser."

Sec. 3. G.S. 35-19 is rewritten to read as follows:

"§ 35-19. Income of incompetent surviving spouse used for children's support. — When a parent dies leaving surviving minor children and a surviving spouse who is the other parent of such children, but leaving no sufficient estate for the support, maintenance and education of such minor children, and the surviving spouse is or becomes incompetent and is so declared according to law, and such incompetency continues for 12 months thereafter, and the incompetent person has an estate which is placed in the hands of a guardian or other person, as provided by law, the estate of such incompetent person shall be made liable for the support, maintenance and education of the minor children.

The clerk of the superior court for the county in which the incompetent person has residence shall order that fit and proper advancements be made on behalf of the minor children."

Sec. 4. This act shall not affect pending litigation.

Sec. 5. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of March, 1977.