

IC 31-11-3

Chapter 3. Uniform Premarital Agreement Act

IC 31-11-3-1

Applicability of chapter

Sec. 1. This chapter applies to a premarital agreement executed on or after July 1, 1995.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-2

"Premarital agreement" defined

Sec. 2. As used in this chapter, "premarital agreement" means an agreement between prospective spouses that:

- (1) is executed in contemplation of marriage; and
- (2) becomes effective upon marriage.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-3

"Property" defined

Sec. 3. As used in this chapter, "property" means an interest, present or future, legal or equitable, vested or contingent, in real and personal property, including income and earnings.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-4

Agreement must be in writing; consideration not required

Sec. 4. A premarital agreement must be in writing and signed by both parties. The agreement is enforceable without consideration.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-5

Content; child support unaffected

Sec. 5. (a) Parties to a premarital agreement may contract with each other regarding the following matters:

- (1) The rights and obligations of each of the parties in any property of either or both of them whenever and wherever acquired or located.
- (2) The right to:
 - (A) buy;
 - (B) sell;
 - (C) use;
 - (D) exchange;
 - (E) abandon;
 - (F) lease;
 - (G) consume;
 - (H) expend;
 - (I) assign;
 - (J) create a security interest in;
 - (K) mortgage;
 - (L) encumber;

(M) dispose of; or
(N) otherwise manage and control;
property.

(3) The disposition of property upon:

- (A) legal separation;
- (B) dissolution of marriage;
- (C) death; or
- (D) the occurrence or nonoccurrence of any other event.

(4) The modification or elimination of spousal maintenance.

(5) The making of:

- (A) a will;
- (B) a trust; or
- (C) other arrangement;

to carry out the provisions of the agreement.

(6) The ownership rights in and disposition of a death benefit from a life insurance policy.

(7) The choice of law governing the construction of the agreement.

(8) Any other matter not in violation of public policy or a statute imposing a criminal penalty, including the personal rights and obligations of the parties.

(b) A premarital agreement may not adversely affect the right of a child to support.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-6

Effective date

Sec. 6. A premarital agreement becomes effective upon marriage.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-7

Amendment or revocation must be in writing; consideration not required

Sec. 7. After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-8

Enforceability of agreement

Sec. 8. (a) A premarital agreement is not enforceable if a party against whom enforcement is sought proves that:

- (1) the party did not execute the agreement voluntarily; or
- (2) the agreement was unconscionable when the agreement was executed.

(b) If:

- (1) a provision of a premarital agreement modifies or eliminates spousal maintenance; and
- (2) the modification or elimination causes one (1) party to the

agreement extreme hardship under circumstances not reasonably foreseeable at the time of the execution of the agreement;

a court, notwithstanding the terms of the agreement, may require the other party to provide spousal maintenance to the extent necessary to avoid extreme hardship.

(c) A court shall decide an issue of unconscionability of a premarital agreement as a matter of law.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-9

Effect of void marriage

Sec. 9. If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

As added by P.L.1-1997, SEC.3.

IC 31-11-3-10

Tolling of statute of limitations during marriage; equitable defenses

Sec. 10. Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

As added by P.L.1-1997, SEC.3.