

## **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.*