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DIVISION 4. RIGHTS AND OBLIGATIONS DURING MARRIAGE [700 - 1620] (*Division 4 enacted by Stats. 1992, Ch. 162, Sec. 10.*)

PART 5. MARITAL AGREEMENTS [1500 - 1620] (*Part 5 enacted by Stats. 1992, Ch. 162, Sec. 10.*)

CHAPTER 2. Uniform Premarital Agreement Act [1600 - 1617] (*Chapter 2 enacted by Stats. 1992, Ch. 162, Sec. 10.*)

ARTICLE 2. Premarital Agreements [1610 - 1617] (*Article 2 enacted by Stats. 1992, Ch. 162, Sec. 10.*)

1610. As used in this chapter:

(a) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(b) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

(*Enacted by Stats. 1992, Ch. 162, Sec. 10. Operative January 1, 1994.*)

1611. A premarital agreement shall be in writing and signed by both parties. It is enforceable without consideration.

(*Enacted by Stats. 1992, Ch. 162, Sec. 10. Operative January 1, 1994.*)

1612. (a) Parties to a premarital agreement may contract with respect to all of the following:

(1) The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located.

(2) The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property.

(3) The disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event.

(4) The making of a will, trust, or other arrangement to carry out the provisions of the agreement.

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

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

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

(b) The right of a child to support may not be adversely affected by a premarital agreement.

(c) Any provision in a premarital agreement regarding spousal support, including, but not limited to, a waiver of it, is not enforceable if the party against whom enforcement of the spousal support provision is sought was not represented by independent counsel at the time the agreement containing the provision was signed, or if the provision regarding spousal support is unconscionable at the time of enforcement. An otherwise unenforceable provision in a premarital agreement regarding spousal support may not become enforceable solely because the party against whom enforcement is sought was represented by independent counsel.

(*Amended by Stats. 2001, Ch. 286, Sec. 1. Effective January 1, 2002.*)

1613. A premarital agreement becomes effective upon marriage.

(*Enacted by Stats. 1992, Ch. 162, Sec. 10. Operative January 1, 1994.*)

1614. 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.

(Enacted by Stats. 1992, Ch. 162, Sec. 10. Operative January 1, 1994.)

1615. (a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves either of the following:

(1) That party did not execute the agreement voluntarily.

(2) The agreement was unconscionable when it was executed and, before execution of the agreement, all of the following applied to that party:

(A) That party was not provided a fair, reasonable, and full disclosure of the property or financial obligations of the other party.

(B) That party did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided.

(C) That party did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(b) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

(c) For the purposes of subdivision (a), it shall be deemed that a premarital agreement was not executed voluntarily unless the court finds in writing or on the record all of the following:

(1) The party against whom enforcement is sought was represented by independent legal counsel at the time of signing the agreement or, after being advised to seek independent legal counsel, expressly waived, in a separate writing, representation by independent legal counsel.

(2) The party against whom enforcement is sought had not less than seven calendar days between the time that party was first presented with the agreement and advised to seek independent legal counsel and the time the agreement was signed.

(3) The party against whom enforcement is sought, if unrepresented by legal counsel, was fully informed of the terms and basic effect of the agreement as well as the rights and obligations he or she was giving up by signing the agreement, and was proficient in the language in which the explanation of the party's rights was conducted and in which the agreement was written. The explanation of the rights and obligations relinquished shall be memorialized in writing and delivered to the party prior to signing the agreement. The unrepresented party shall, on or before the signing of the premarital agreement, execute a document declaring that he or she received the information required by this paragraph and indicating who provided that information.

(4) The agreement and the writings executed pursuant to paragraphs (1) and (3) were not executed under duress, fraud, or undue influence, and the parties did not lack capacity to enter into the agreement.

(5) Any other factors the court deems relevant.

(Amended by Stats. 2001, Ch. 286, Sec. 2. Effective January 1, 2002.)

1616. 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.

(Enacted by Stats. 1992, Ch. 162, Sec. 10. Operative January 1, 1994.)

1617. 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.

(Enacted by Stats. 1992, Ch. 162, Sec. 10. Operative January 1, 1994.)