

HOUSE BILL No. 4570

March 18, 1991, Introduced by Reps. Randall, Bender, Dalman, Strand, Willis Bullard, Allen, Gilmer, Bobier, Middleton and DeLange and referred to the Committee on Judiciary.

A bill to regulate premarital agreements.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "uniform premarital agreement act".

3 Sec. 3. As used in this act:

4 (a) "Parties" means prospective spouses.

5 (b) "Premarital agreement" means an agreement between pro-
6 spective spouses made in contemplation of marriage and to be
7 effective upon marriage.

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

11 Sec. 5. Parties in contemplation of marriage may enter a
12 premarital agreement. A premarital agreement shall be in writing

1 and signed by both parties. A premarital agreement is
2 enforceable without consideration.

3 Sec. 7. (1) A premarital agreement may include provisions
4 with respect to 1 or more of the following:

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

8 (b) The right to buy, sell, use, transfer, exchange, aban-
9 don, lease, consume, expend, assign, create a security interest
10 in, mortgage, encumber, dispose of, or otherwise manage and con-
11 trol property.

12 (c) The disposition of property upon separation, annulment,
13 divorce, death, or the occurrence or nonoccurrence of any other
14 event.

15 (d) The modification or elimination of present or future
16 spousal support.

17 (e) The making of a will, trust, or other legal or equitable
18 arrangement to carry out the provisions of the agreement.

19 (f) The ownership rights in and disposition of death bene-
20 fits, conversion provisions, or cash values from any life insur-
21 ance policy, annuity, or similar instrument.

22 (g) The choice of law governing the construction of the
23 agreement.

24 (h) Any other matter, including any personal right or obli-
25 gation of a party that is not in violation of public policy, or a
26 statute imposing a criminal penalty.

1 (2) A premarital agreement is not to adversely affect the
2 right of a child to support.

3 Sec. 9. A premarital agreement is effective upon marriage
4 of the parties.

5 Sec. 11. After marriage of the parties, a premarital agree-
6 ment may be amended or revoked only by a written agreement signed
7 by both of the parties. An amendment to or revocation of a pre-
8 marital agreement to which this act applies is enforceable with-
9 out consideration.

10 Sec. 13. (1) A premarital agreement or an amendment to or
11 revocation of a premarital agreement is not enforceable if the
12 party against whom enforcement is sought proves either of the
13 following:

14 (a) That that party did not execute the agreement, amend-
15 ment, or revocation knowingly and voluntarily.

16 (b) That the agreement, amendment, or revocation was uncon-
17 scionable when it was executed and, before execution of the
18 agreement, amendment, or revocation, that party met all of the
19 following conditions:

20 (i) Was not provided a fair and reasonable disclosure of the
21 property or financial obligations of the other party.

22 (ii) Did not voluntarily and expressly waive, in writing,
23 any right to disclosure of the property or financial obligations
24 of the other party beyond the disclosure provided.

25 (iii) Did not have, or reasonably could not have had, an
26 adequate knowledge of the property or financial obligations of
27 the other party.

1 (2) If a provision of a premarital agreement modifies or
2 eliminates spousal support and that modification or elimination
3 causes 1 party to the agreement to be eligible for support under
4 a program of public assistance at the time of separation, annul-
5 ment, or divorce, a court, notwithstanding the terms of the
6 agreement, may require the other party to provide support as oth-
7 erwise provided by law to the extent necessary to avoid that
8 eligibility.

9 (3) The court shall make determinations regarding the
10 alleged unconscionability of a premarital agreement as a matter
11 of law.

12 Sec. 15. If a marriage is determined to be void, an agree-
13 ment that would otherwise have been a premarital agreement is
14 enforceable only to the extent necessary to avoid an inequitable
15 result.

16 Sec. 17. Any statute of limitations applicable to an action
17 asserting a claim for enforcement of a premarital agreement is
18 tolled during the marriage of the parties to the agreement.
19 However, equitable defenses limiting the time for enforcement,
20 including laches and estoppel, are available to either party.

21 Sec. 19. This act shall be applied and construed to effec-
22 tuate its general purpose to make uniform the law with respect to
23 the subject of this act among states enacting it.

24 Sec. 21. This act applies to a premarital agreement exe-
25 cuted on or after the effective date of this act.