



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

## BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986

House Bill 4751 (Substitute S-1 as reported)  
Sponsor: Representative Klint Kesto  
House Committee: Law and Justice  
Senate Committee: Families, Seniors and Human Services

**CONTENT**

The bill would amend Public Act 216 of 1981, which provides for the rights and liabilities of married women, to regulate the enforceability of contracts relating to property made between individuals in contemplation of marriage, commonly called prenuptial agreements.

The Act specifies that a contract relating to property made between individuals in contemplation of marriage remains in full force after the marriage takes place.

Under the bill, a prenuptial agreement would be unenforceable if a party against whom enforcement was sought proved either of the following:

- The party's consent to the contract was the result of fraud, duress, or mistake.
- Before signing the contract, the party did not receive adequate financial disclosure, including disclosure of assets in a domestic asset protection trust.

The court could refuse to enforce a term of the contract or the entire contract if, in the context of the contract taken as a whole, either of the following applied:

- The term was unconscionable at the time the contract was signed.
- Enforcement of the term could be unconscionable for a party at the time of the enforcement because of a material change in circumstances arising after the contract was signed that was not reasonably foreseeable at the time it was signed.

The court would be required to decide the question of unconscionability as a matter of law.

The bill would apply to prenuptial agreements made both before and after its effective date.

MCL 557.28 & 551.204

Legislative Analyst: Nathan Leaman

**FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Date Completed: 12-5-17

Fiscal Analyst: Ryan Bergan