

HOUSE BILL No. 5745

May 10, 1990, Introduced by Reps. Randall and Fitzgerald 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) "Premarital agreement" means an agreement between pro-
5 spective spouses made in contemplation of marriage and to be
6 effective upon marriage.

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

10 Sec. 5. A premarital agreement shall be in writing and
11 signed by both parties. It shall be enforceable without
12 consideration.

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

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

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

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

13 (d) The modification or elimination of present or future
14 spousal support.

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

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

20 (g) The choice of law governing the construction of the
21 agreement.

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

25 (2) The right of a child to support shall not be adversely
26 affected by a premarital agreement.

1 Sec. 9. A premarital agreement shall become effective upon
2 marriage of the parties.

3 Sec. 11. After marriage of the parties, a premarital agree-
4 ment may be amended or revoked only by a written agreement signed
5 by both of the parties. An amendment to or revocation of a pre-
6 marital agreement to which this act applies shall be enforceable
7 without consideration.

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

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

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

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

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

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

26 (2) If a provision of a premarital agreement modifies or
27 eliminates spousal support and that modification or elimination

1 causes 1 party to the agreement to be eligible for support under
2 a program of public assistance at the time of separation or mari-
3 tal dissolution, a court, notwithstanding the terms of the agree-
4 ment, may require the other party to provide support as otherwise
5 provided by law to the extent necessary to avoid that
6 eligibility.

7 (3) A determination of alleged unconscionability of a pre-
8 marital agreement shall be decided by the court as a matter of
9 law.

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

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

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

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