

COLORADO MARITAL AGREEMENT ACT

14-2-301. Short title. This part 3 shall be known and may be cited as the "Colorado Marital Agreement Act".

Editor's note: This section is effective until July 1, 2014.

14-2-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Marital agreement" means an agreement either between prospective spouses made in contemplation of marriage or between present spouses, but only if signed by both parties prior to the filing of an action for dissolution of marriage or for legal separation.

(2) "Party" means any person who has entered into a marital agreement.

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

Editor's note: This section is effective until July 1, 2014.

14-2-303. Formalities. A marital agreement shall be in writing and signed by both parties and is enforceable without consideration.

Editor's note: This section is effective until July 1, 2014.

14-2-304. Content. (1) Parties may contract with respect to:

(a) 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;

(b) The acquisition, disposition, management, and control of any property;

(c) The disposition of property upon separation of the parties, dissolution of the marriage, death of either party, or the occurrence or nonoccurrence of any other event;

(d) The determination, modification, or elimination of spousal maintenance;

(e) The making of a will, trust, or other arrangement to carry out the provisions of the marital agreement;

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

(g) The rights and obligations in benefits available or to be available under an employee benefit or retirement plan, except to the extent federal law prevents a binding agreement with respect to such rights and obligations;

(h) The choice of law governing the construction of the agreement; and

(i) Any other matter, including the personal rights or obligations of either party, not in violation of public policy or any statute imposing a criminal penalty.

(2) Unless the marital agreement provides to the contrary, a waiver of "all rights upon death" (or equivalent language) in the property or estate of a present or prospective spouse is:

(a) A waiver of all rights to the elective share, exempt property, family allowance, and homestead exemption of the waiving party in the property of the other;

(b) A waiver of the statutory priority of the waiving party to serve as personal representative, executor, or administrator of the estate of the other; and

(c) A renunciation and disclaimer by the waiving party of all benefits that would otherwise pass to him or her from the other by intestate succession or by virtue of the provisions of any will executed before the marital agreement. Provisions of a will executed before the marital agreement are given effect as if the waiving party:

(I) Disclaimed all interests passing to him or her under the will; and

(II) Became disqualified to serve as personal representative, executor, administrator, or trustee.

(2.3) Unless the marital agreement provides to the contrary, a revocation of "all benefits passing upon death to the relatives of my spouse" (or equivalent language) is a revocation of all benefits that would otherwise pass upon death to the relatives of the spouse from the revoking party by virtue of the provisions of any will executed before the writing. Provisions of a will executed before the writing are given effect as if the relatives:

(a) Disclaimed all interests passing to them under the will; and

(b) Became disqualified to serve as personal representative, executor, administrator, or trustee.

(2.5) For purposes of this section, "relative" of an individual's spouse means a person who is related to the spouse by blood, adoption, or affinity and who, if the individual and the individual's spouse were divorced, would not be related to the individual by blood, adoption, or affinity.

(3) A marital agreement may not adversely affect the right of a child to child support.

Editor's note: This section is effective until July 1, 2014.

14-2-305. Effective date of agreement. A marital agreement becomes effective upon marriage, if signed by both parties prior to marriage, or upon the signatures of both parties, if signed after marriage.

Editor's note: This section is effective until July 1, 2014.

14-2-306. Amendment - revocation. After a marital agreement becomes effective, it may be amended or revoked only by a written agreement signed by both parties. The amended agreement or revocation is enforceable without consideration.

Editor's note: This section is effective until July 1, 2014.

14-2-307. Enforcement. (1) A marital agreement or amendment thereto or revocation thereof is not enforceable if the party against whom enforcement is sought proves that:

(a) Such party did not execute the agreement, amendment, or revocation voluntarily; or

(b) Before execution of the agreement, amendment, or revocation, such party was not provided a fair and reasonable disclosure of the property or financial obligations of the other party.

(2) A marital agreement or amendment thereto or revocation thereof that is otherwise enforceable after applying the provisions of subsection (1) of this section is nevertheless unenforceable insofar, but only insofar, as the provisions of such agreement, amendment, or revocation relate to the determination, modification, or elimination of

spousal maintenance and such provisions are unconscionable at the time of enforcement of such provisions. The issue of unconscionability shall be decided by the court as a matter of law.

(3) A marital agreement or amendment thereto or revocation thereof that is otherwise enforceable shall not be unenforceable because by the terms of such agreement, amendment, or revocation the rights or obligations, or both, of one or both parties change or expire because of the passage of time or the occurrence or nonoccurrence of any other event.

Editor's note: This section is effective until July 1, 2014.

14-2-307.5. Applicability of article and case law to agreements relating to civil unions. Prospective parties to a civil union and present parties to a civil union may contract to make an agreement relating to the civil union that includes any of the rights and obligations that may be included in a marital agreement pursuant to section 14-2-304, but only if the agreement is signed by both parties prior to the filing of an action for legal separation of the civil union, dissolution of the civil union, or for declaration of invalidity of the civil union. The provisions of this article and any case law construing this article apply to any agreement made by prospective parties to a civil union or between present parties to a civil union.

Editor's note: This version of this section is effective until July 1, 2014.

14-2-307.5. Applicability of article and case law to agreements relating to civil unions. (Repealed)

Editor's note: This version of this section is effective July 1, 2014.

14-2-308. Invalid marriage. If the marriage of the parties is declared to be invalid, the marital agreement is enforceable only to the extent necessary to avoid an inequitable result.

Editor's note: This section is effective until July 1, 2014.

14-2-309. Limitations of actions. Any statute of limitations applicable to an action asserting a claim for relief under a marital agreement is tolled during the marriage of the parties. However, equitable defenses limiting the time for enforcement, including laches or estoppel, are available to either party.

Editor's note: This section is effective until July 1, 2014.

14-2-310. Effective date - applicability. (1) Except as provided in subsection (2) of this section, this part 3 shall take effect July 1, 1986, and shall apply only to marital agreements that become effective on or after said date. All such marital agreements entered into prior to July 1, 1986, shall be governed by the laws then in effect.

(2) The provisions of the amendments to section 14-2-304 (2), as contained in House Bill 96-1342, shall take effect July 1, 1996, and shall apply only to marital agreements which become effective on or after July 1, 1996.

Editor's note: This section is effective until July 1, 2014.