HOUSE BILL NO. 346

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 5/19/91
Referred: Health, Education & Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act adopting the Uniform Premarital Agreement Act and making related amendments**
2 **to laws relating to divorce and dissolution of marriage."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** AS 25.24 is amended by adding a new section to read:
5 Sec. 25.24.015. EFFECT OF PREMARITAL AGREEMENT IN DIVORCE
6 PROCEEDINGS. If a husband and wife entered into a premarital agreement and the court finds
7 that the premarital agreement meets the requirements of AS 25.40.010 - 25.40.900, the premarital
8 agreement controls the rights specified in it and constitutes a waiver or modification of rights
9 under this chapter in divorce proceedings.
10 *** Sec. 2.** AS 25.24.140 is amended by adding a new subsection to read:
11 (d) In any proceeding for an order during the pendency of the action, the court shall
12 examine whether the spouses have entered into a premarital agreement and, if so, shall determine
13 whether the agreement meets the requirements of AS 25.40.010 - 25.40.900 and waives or
14 modifies specified rights to relief under this section.

1 * Sec. 3. AS 25.24.160 is amended by adding a new subsection to read:
2 (c) Before entry of judgment, the court shall examine whether the spouses have entered
3 into a premarital agreement and, if so, shall determine whether the agreement meets the
4 requirements of AS 25.40.010 -25.40.900 and waives or modifies specified rights to relief under
5 this chapter.
6 * Sec. 4. AS 25.24.170 is amended by adding a new subsection to read:
7 (c) For the purposes of a motion to modify or terminate alimony or maintenance for a
8 spouse, the court shall examine whether the spouses have entered into a premarital agreement
9 and, if so, shall determine whether the agreement meets the requirements of AS 25.40.010 -
10 25.40.900 and waives or modifies rights to alimony or maintenance for that spouse.
11 * Sec. 5. AS 25.24.210 is amended by adding a new subsection to read:
12 (f) The petition shall state whether the spouses have executed a premarital agreement,
13 and a copy of any premarital agreement shall be attached to the petition.
14 * Sec. 6. AS 25.24 is amended by adding a new section to read:
15 Sec. 25.24.215. EFFECT OF PREMARITAL AGREEMENT IN DISSOLUTION
16 PROCEEDINGS. If a husband and wife entered into a premarital agreement and the court finds
17 that the premarital agreement meets the requirements of AS 25.40.010 - 25.40.900, the premarital
18 agreement controls the rights specified in it and constitutes a waiver or modification of rights
19 under this chapter in dissolution proceedings.
20 * Sec. 7. AS 25.24.220 is amended by adding a new subsection to read:
21 (j) If the spouses have entered into a premarital agreement, the court shall examine the
22 premarital agreement to determine whether it meets the requirements of AS 25.40.010 - 25.40.900
23 and make findings concerning its enforceability under AS 25.24.215.
24 * Sec. 8. AS 25.24.230 is amended by adding a new subsection to read:
25 (i) The court shall make findings concerning the existence of a valid premarital
26 agreement and whether the agreement meets the requirements of AS 25.40.010 - 25.40.900 and
27 waives specified rights under this chapter in a dissolution proceeding.
28 * Sec. 9. AS 25 is amended by adding a new chapter to read:
29 CHAPTER 40. UNIFORM PREMARITAL AGREEMENT ACT.
30 Sec. 25.40.010. FORMALITIES. A premarital agreement must be in writing and signed
31 by both parties. It is enforceable without consideration.

1 Sec. 25.40.020. CONTENT. (a) Parties to a premarital agreement may contract with
2 respect to
3 (1) the rights and obligations of each of the parties in any of the property of either
4 or both of them whenever and wherever acquired or located;
5 (2) the right to buy, sell, use, transfer, exchange, abandon, lease, consume,
6 expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage
7 and control property;
8 (3) the disposition of property upon separation, marital divorce or dissolution,
9 death, or the occurrence or nonoccurrence of any other event;
10 (4) the modification or elimination of alimony, maintenance, or spousal support;
11 (5) the making of a will, trust, or other arrangement to carry out the provisions
12 of the agreement;
13 (6) the ownership rights in and disposition of the death benefit from a life
14 insurance policy;
15 (7) the choice of law governing the construction of the agreement; and
16 (8) any other matter, including their personal rights and obligations, not in
17 violation of public policy or a statute imposing a criminal penalty.
18 (b) The right of a child to support may not be adversely affected by a premarital
19 agreement.
20 Sec. 25.40.030. EFFECT OF MARRIAGE. A premarital agreement becomes effective
21 upon marriage.
22 Sec. 25.40.040. AMENDMENT, REVOCATION. After marriage, a premarital agreement
23 may be amended or revoked only by a written agreement signed by the parties. The amended
24 agreement or the revocation is enforceable without consideration.
25 Sec. 25.40.050. ENFORCEMENT. (a) A premarital agreement is not enforceable if the
26 party against whom enforcement is sought proves that
27 (1) that party did not execute the agreement voluntarily; or
28 (2) the agreement was unconscionable when it was executed and, before execution
29 of the agreement, that party
30 (A) was not provided a fair and reasonable disclosure of the property or
31 financial obligations of the other party;

1 (B) did not voluntarily and expressly waive, in writing, any right to
2 disclosure of the property or financial obligations of the other party beyond the disclosure
3 provided; and
4 (C) did not have, or reasonably could have had, an adequate knowledge
5 of the property or financial obligations of the other party.
6 (b) If a provision of a premarital agreement modifies or eliminates alimony, maintenance,
7 or spousal support and that modification or elimination causes one party to the agreement to be
8 eligible for support under a program of public assistance at the time of separation or marital
9 divorce or dissolution, a court, notwithstanding the terms of the agreement, may require the other
10 party to provide support to the extent necessary to avoid that eligibility.
11 (c) An issue of unconscionability of a premarital agreement shall be decided by the court
12 as a matter of law.
13 Sec. 25.40.060. ENFORCEMENT: VOID MARRIAGE. If a marriage is determined to
14 be void, an agreement that would otherwise have been a premarital agreement is enforceable only
15 to the extent necessary to avoid an inequitable result.
16 Sec. 25.40.070. LIMITATION OF ACTIONS. Any statute of limitations applicable to
17 an action asserting a claim for relief under a premarital agreement is tolled during the marriage
18 of the parties to the agreement. However, equitable defenses limiting the time for enforcement,
19 including laches and estoppel, are available to either party.
20 Sec. 25.40.080. APPLICATION AND CONSTRUCTION. This chapter shall be applied
21 and construed to effectuate its general purpose to make uniform the law with respect to the
22 subject of this chapter among states enacting it.
23 Sec. 25.40.090. SEVERABILITY. If any provision of this chapter or its application to
24 any person or circumstance is held invalid, the invalidity does not affect other provisions or
25 applications of this chapter which can be given effect without the invalid provision or application,
26 and to this end the provisions of this chapter are severable.
27 Sec. 25.40.100. SHORT TITLE. This chapter may be cited as the Uniform Premarital
28 Agreement Act.
29 Sec. 25.40.900. DEFINITIONS. In this chapter, unless the context requires otherwise,
30 (1) "premarital agreement" means an agreement between prospective spouses
31 made in contemplation of marriage, to be effective upon marriage;

1 (2) "property" means an interest, present or future, legal or equitable, vested or
2 contingent, in real or personal property, including income and earnings.
3 * Sec. 10. APPLICABILITY. This Act applies to a premarital agreement executed on or after the
4 effective date of this Act. Nothing in this Act invalidates a premarital agreement entered into before the
5 effective date of this Act.