

Effective 9/1/2024

Chapter 3 Rights and Obligations During Marriage

Part 1 Property Rights

81-3-101 Definitions for part.

Reserved.

Enacted by Chapter 366, 2024 General Session

81-3-102 Married individual's right to contract, sue, and be sued.

A married individual may contract, sue, or be sued, to the same extent and in the same manner as if the individual was unmarried.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-103 Conveyances between spouses.

A conveyance, transfer, or lien executed by an individual, to or in favor of the individual's spouse is valid to the same extent as between other persons.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-104 Married individual's right to wages -- Actions for personal injury.

(1) A married individual may:

- (a) receive the wages for the individual's personal labor as if unmarried;
- (b) maintain an action in the individual's own name and hold the same in the individual's own right as if unmarried; and
- (c) prosecute and defend all actions for the preservation and protection of the individual's rights and property as if unmarried.

(2) A husband does not have a right of recovery:

- (a) on account of personal injury or wrong to the husband's wife; or
- (b) for expenses connected with the personal injury or wrong to the husband's wife.

(3)

- (a) A wife may recover against a third person for a personal injury or wrong to the wife as if unmarried.
- (b) A recovery shall include expenses of medical treatment and other expenses paid or assumed by the husband.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-105 Separate debts.

(1) A married individual is not personally liable for the separate debts, obligations, or liabilities of the individual's spouse that are:

- (a) contracted or incurred before marriage;

- (b) contracted or incurred during marriage, except family expenses as provided in Section 81-3-109;
 - (c) contracted or incurred after divorce or an order for separate maintenance under Chapter 4, Dissolution of Marriage, except that the individual is personally liable for any support ordered by a court as described in Chapter 6, Child Support, or an administrative agency as described in Title 26B, Chapter 9, Recovery Services and Administration of Child Support; or
 - (d) ordered by the court to be paid by the individual's spouse under Chapter 4, Dissolution of Marriage, and not in conflict with Section 15-4-6.5 or 15-4-6.7.
- (2) A creditor of a married individual may not reach the wages, earnings, property, rents, or other income of the individual's spouse to satisfy a debt, obligation, or liability of the individual under Subsection (1).

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-106 Actions based on property rights.

If a married individual obtains possession or control of property belonging to the individual's spouse before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if the individual was unmarried.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-107 Liability for spouse's torts.

- (1) If a married individual is held liable in a civil action, the plaintiff may recover damages from the individual alone.
- (2) The spouse of the individual described in Subsection (1) may not be held liable in the civil action, except in an action where the spouse would be jointly liable with the individual if the marriage did not exist.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-108 Agency between spouses.

A married individual may:

- (1) constitute the attorney in fact to control and dispose of the property of the individual's spouse for the mutual benefit of the individual and the individual's spouse or otherwise; and
- (2) revoke the appointment the same as other persons.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-109 Family expenses -- Joint and several liability.

- (1) As used in this section:
 - (a) "Family expenses" means expenses incurred that benefit and promote the family unit.
 - (b) "Family expenses" do not include items purchased in accordance with a written contract or agreement during the marriage that do not relate to the expenses described in Subsection (1)(a).
- (2)
 - (a) A married individual, and the married individual's property, is chargeable for family expenses and expenses for the education of a minor child.

- (b) A married individual may be sued separately or jointly with the individual's spouse for the expenses described in Subsection (2)(a).
- (3) For the expenses described in Subsection (2), where there is a written agreement signed by a spouse that allows for the recovery of agreed upon amounts, a creditor or an assignee or successor in interest of the creditor is entitled to recover the contractually allowed amounts against both spouses, jointly and severally.
- (4) Subsection (3) applies to all contracts and agreements under this section entered into by a spouse during the time the parties are married and living together.
- (5) The provisions of Subsections (3) and (4) do not create a right to attorney's fees or collection fees as to the nonsigning spouse for purchases of:
 - (a) food or clothing; or
 - (b) home improvements or repairs over \$5,000.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-110 Homestead rights -- Custody of a minor child.

- (1) A married individual may not remove the individual's spouse or minor child from the homestead without the consent of the individual's spouse, unless the owner of the property shall in good faith provide another homestead suitable to the condition in life of the family.
- (2) If a married individual abandons the individual's spouse, the individual's spouse is entitled to the custody of a minor child, unless a court with jurisdiction orders otherwise.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-111 Action for consortium due to personal injury.

- (1) As used in this section:
 - (a) "Injury" or "injured" means a significant permanent injury to an individual that substantially changes that individual's lifestyle , including:
 - (i) a partial or complete paralysis of one or more of the extremities;
 - (ii) significant disfigurement; or
 - (iii) incapability of the individual of performing the types of jobs the individual performed before the injury.
 - (b) "Spouse" means the legal relationship:
 - (i) established between two individuals as recognized by the laws of this state; and
 - (ii) existing at the time of the person's injury.
- (2) The spouse of an individual injured by a third party on or after May 4, 1997, may maintain an action against the third party to recover for loss of consortium.
- (3) A claim for loss of consortium begins on the date of injury to the spouse.
- (4) The statute of limitations applicable to the injured individual shall also apply to the spouse's claim of loss of consortium.
- (5) A claim for the spouse's loss of consortium shall be:
 - (a) made at the time the claim of the injured person is made and joinder of actions shall be compulsory; and
 - (b) subject to the same defenses, limitations, immunities, and provisions applicable to the claims of the injured individual.
- (6) The spouse's action for loss of consortium:
 - (a) shall be derivative from the cause of action existing on behalf of the injured individual; and

- (b) may not exist in cases where the injured individual would not have a cause of action.
- (7) Fault of the spouse of the injured individual, as well as fault of the injured individual, shall be compared with the fault of all other parties, pursuant to Sections 78B-5-817 through 78B-5-823, for purposes of reducing or barring any recovery by the spouse for loss of consortium.
- (8) Damages awarded for loss of consortium, when combined with any award to the injured individual for general damages, may not exceed any applicable statutory limit on noneconomic damages, including Section 78B-3-410.
- (9) Damages awarded for loss of consortium which a governmental entity is required to pay, when combined with any award to the injured individual which a governmental entity is required to pay, may not exceed the liability limit for one individual in any one occurrence under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Renumbered and Amended by Chapter 366, 2024 General Session

Part 2

Uniform Premarital Agreement Act

81-3-201 Definitions for part.

As used in this part:

- (1) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.
- (2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-202 Writing -- Signature required.

- (1) A premarital agreement shall be in writing and signed by both parties.
- (2) A premarital agreement is enforceable without consideration.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-203 Content.

- (1) Parties to a premarital agreement 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 right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;
 - (c) the disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;
 - (d) the modification or elimination of spousal support;
 - (e) the ownership rights in and disposition of the death benefit from a life insurance policy;
 - (f) the choice of law governing the construction of the agreement, except that a court with jurisdiction may apply the law of the legal domicile of either party, if it is fair and equitable; and

- (g) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.
- (2) The right of a child, as defined in Section 81-6-101, to support, health and medical provider expenses, medical insurance, and child care coverage may not be affected by a premarital agreement.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-204 Effect of marriage -- Amendment -- Revocation.

- (1) A premarital agreement becomes effective upon marriage.
- (2)
 - (a) After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties.
 - (b) The amended agreement or the revocation is enforceable without consideration.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-205 Enforcement.

- (1) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:
 - (a) that party did not execute the agreement voluntarily; or
 - (b) the agreement was fraudulent when the agreement was executed and, before execution of the agreement, that party:
 - (i) was not provided a reasonable disclosure of the property or financial obligations of the other party insofar as was possible;
 - (ii) did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and
 - (iii) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.
- (2) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.
- (3) An issue of fraud of a premarital agreement shall be decided by the court as a matter of law.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-206 Enforcement -- Void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-207 Limitations of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement.

Renumbered and Amended by Chapter 366, 2024 General Session

81-3-208 Application and construction.

This part shall be applied and construed to effectuate the part's general purpose to make uniform the law with respect to the subject of this part among states enacting this uniform law.

Renumbered and Amended by Chapter 366, 2024 General Session