

**UNIFORM PREMARITAL AGREEMENT ACT AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brett Garner**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill modifies provisions of the Uniform Premarital Act in relation to criminal acts between the parties.

**Highlighted Provisions:**

This bill:

- ▶ permits a court to amend or revoke a premarital agreement if one of the parties to the marriage is responsible for the death or incapacitation of the other; and
- ▶ modifies provisions in Utah's "slayer statute," which governs homicide or a criminal, incapacitating injury in relation to inheritance and beneficiary status.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**30-8-5**, as enacted by Laws of Utah 1994, Chapter 105

**75-2-803**, as last amended by Laws of Utah 2022, Chapters 116, 157 and 430 and last amended by Coordination Clause, Laws of Utah 2022, Chapter 157

*Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section 30-8-5 is amended to read:

29 **30-8-5. Effect of marriage -- Amendment -- Revocation.**

30 (1) A premarital agreement becomes effective upon marriage.

31 (2) (a) After marriage, a premarital agreement may be amended or revoked only by:

32 (i) a written agreement signed by the parties~~[-The amended agreement or the~~  
33 ~~revocation]; or~~

34 (ii) upon the conviction of one party to the agreement for causing the homicide or total  
35 incapacitation of the other party, by a court as provided under Section 75-2-803.

36 (b) An amendment or revocation made under Subsection (2)(a) is enforceable without  
37 consideration.

38 Section 2. Section 75-2-803 is amended to read:

39 **75-2-803. Definitions -- Effect of homicide or disqualifying crime on intestate**  
40 **succession, wills, trusts, joint assets, life insurance, beneficiary designations, and**  
41 **premarital agreements -- Petition -- Forfeiture -- Revocation.**

42 (1) As used in this section:

43 (a) "Conviction" means the same as that term is defined in Section 77-38b-102.

44 (b) "Decedent" means:

45 (i) a deceased individual; or

46 (ii) as relates to a premarital agreement, an individual who is totally incapacitated as  
47 described in Subsection (1)(d)(i)(B).

48 (c) "Disposition or appointment of property" includes a transfer of an item of property  
49 or any other benefit to a beneficiary designated in a governing instrument.

50 (d) (i) ~~[Except as provided in Subsection (1)(d)(ii), "disqualifying homicide"]~~  
51 "Disqualifying crime" means:

52 (A) any felony homicide offense described in Title 76, Chapter 5, Offenses Against the  
53 Individual, against the decedent for which the elements are established by a preponderance of  
54 the evidence and by applying the same principles of culpability and defenses described in Title  
55 76, Utah Criminal Code~~[-]; or~~

56 (B) for the purposes of a premarital agreement, conviction of a party to the premarital  
57 agreement of a misdemeanor or felony that proximately causes the death or total incapacitation  
58 of the other party to the premarital agreement.

59 (ii) "Disqualifying [~~homicide~~] crime" does not include an offense for:

60 (A) negligently operating a vehicle resulting in death, as described in Section 76-5-207;

61 and

62 (B) automobile homicide involving using a handheld wireless communication device  
63 while driving, as described in Section 76-5-207.5.

64 (e) "Governing instrument" means a governing instrument executed by the decedent.

65 (f) "Killer" means an individual who commits a disqualifying [~~homicide~~] crime.

66 (g) "Revocable" means a disposition, appointment, provision, or nomination under  
67 which the decedent, at the time of or immediately before death, was alone empowered, by law  
68 or under the governing instrument, to cancel the designation in favor of the killer regardless of  
69 whether at the time or immediately before death:

70 (i) the decedent was empowered to designate the decedent in place of the decedent's  
71 killer; or

72 (ii) the decedent had the capacity to exercise the power.

73 (2) (a) An individual who commits a disqualifying [~~homicide of the decedent~~] crime  
74 forfeits all benefits under this chapter with respect to the decedent's estate and benefits  
75 associated with a premarital agreement, including an intestate share, an elective share, an  
76 omitted spouse's or child's share, a homestead allowance, any exempt property, an inheritance,  
77 a financial benefit, and a family allowance.

78 (b) If the decedent died intestate, the decedent's intestate estate passes as if the killer  
79 disclaimed the killer's intestate share.

80 (3) The [~~killing of the decedent by means~~] commission of a disqualifying [~~homicide~~]  
81 crime:

82 (a) revokes any revocable:

83 (i) disposition or appointment of property made by the decedent to the killer in a  
84 governing instrument;

85 (ii) provision in a governing instrument conferring a general or nongeneral power of  
86 appointment on the killer; and

87 (iii) nomination of the killer in a governing instrument, nominating or appointing the  
88 killer to serve in any fiduciary or representative capacity, including a personal representative,  
89 executor, trustee, or agent; [~~and~~]

90 (b) severs the interests of the decedent and killer in property held by them at the time of  
91 the killing as joint tenants with the right of survivorship, transforming the interests of the  
92 decedent and killer into tenancies in common[~~;~~]; and

93 (c) revokes any benefit available to the killer in relation to a premarital agreement  
94 existing between the decedent and the killer.

95 (4) A severance under Subsection (3)(b) does not affect any third-party interest in  
96 property acquired for value and in good faith reliance on an apparent title by survivorship in the  
97 killer unless a writing declaring the severance has been noted, registered, filed, or recorded in  
98 records appropriate to the kind and location of the property which are relied upon, in the  
99 ordinary course of transactions involving such property, as evidence of ownership.

100 (5) Provisions of a governing instrument are given effect as if the killer disclaimed all  
101 provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or  
102 representative capacity, as if the killer predeceased the decedent.

103 (6) A wrongful acquisition of property or interest by one who kills another under  
104 circumstances not covered by this section shall be treated in accordance with the principle that  
105 a killer cannot profit from the killer's wrong.

106 (7) (a) An interested person may petition the court to determine whether an individual  
107 has committed a disqualifying [~~homicide of the decedent~~] crime.

108 (b) An individual has committed a disqualifying [~~homicide of the decedent~~] crime for  
109 purposes of this section if:

110 (i) unless the court finds that disinheritance would create a manifest injustice, the court  
111 finds that, by a preponderance of the evidence, the individual has committed a disqualifying  
112 [~~homicide of the decedent~~] crime; or

113 (ii) the court finds that a judgment of conviction has been entered against the  
114 individual for a disqualifying [~~homicide of the decedent~~] crime and all direct appeals for the  
115 judgment have been exhausted.

116 (8) (a) Before a court determines whether an individual committed a disqualifying  
117 [~~homicide of the decedent~~] crime under Subsection (7), the decedent's estate may petition the  
118 court to:

119 (i) enter a temporary restraining order, an injunction, or a temporary restraining order  
120 and an injunction, to preserve the property or assets of the killer or the killer's estate;

- 121 (ii) require the execution of a trustee's bond under Section 75-7-702 for the killer's  
122 estate;
- 123 (iii) establish a constructive trust on any property or assets of the killer or the killer's  
124 estate that is effective from the time the killer's act caused the death of the decedent; or
- 125 (iv) take any other action necessary to preserve the property or assets of the killer or the  
126 killer's estate:
- 127 (A) until a court makes a determination under Subsection (7); or
- 128 (B) for the payment of all damages and judgments for conduct resulting in the  
129 disqualifying [~~homicide of the decedent~~] crime.
- 130 (b) Upon a petition for a temporary restraining order or an injunction under Subsection  
131 (8)(a)(i), a court may enter a temporary restraining order against an owner's property in  
132 accordance with Rule 65A of the Utah Rules of Civil Procedure, without notice or opportunity  
133 of a hearing, if the court determines that:
- 134 (i) there is a substantial likelihood that the property is, or will be, necessary to satisfy a  
135 judgment or damages owed by the killer for conduct resulting in the disqualifying [~~homicide of~~  
136 ~~the decedent~~] crime; and
- 137 (ii) notice of the hearing would likely result in the property being:
- 138 (A) sold, distributed, destroyed, or removed; and
- 139 (B) unavailable to satisfy a judgment or damages owed by the killer for conduct  
140 resulting in the disqualifying [~~homicide of the decedent~~] crime.
- 141 (9) (a) (i) A payor or other third party is not liable for having made a payment or  
142 transferred an item of property or any other benefit to a beneficiary designated in a governing  
143 instrument affected by a disqualifying [~~homicide~~] crime, or for having taken any other action in  
144 good faith reliance on the validity of the governing instrument, upon request and satisfactory  
145 proof of the decedent's death, before the payor or other third party received written notice of a  
146 claimed forfeiture or revocation under this section.
- 147 (ii) A payor or other third party is liable for a payment made or other action taken after  
148 the payor or other third party received written notice of a claimed forfeiture or revocation under  
149 this section.
- 150 (b) (i) Written notice of a claimed forfeiture or revocation under Subsection (9)(a) shall  
151 be mailed to the payor's or other third party's main office or home by registered or certified

152 mail, return receipt requested, or served upon the payor or other third party in the same manner  
153 as a summons in a civil action.

154 (ii) Upon receipt of written notice of a claimed forfeiture or revocation under this  
155 section, a payor or other third party may pay any amount owed or transfer or deposit any item  
156 of property held by the payor or third party to or with:

157 (A) the court having jurisdiction of the probate proceedings relating to the decedent's  
158 estate; or

159 (B) if no proceedings have been commenced, the court having jurisdiction of probate  
160 proceedings relating to the decedent's estates located in the county of the decedent's residence.

161 (iii) The court shall hold the funds or item of property and, upon the court's  
162 determination under this section, shall order disbursement in accordance with the  
163 determination.

164 (iv) Payments, transfers, or deposits made to or with the court discharge the payor or  
165 other third party from all claims for the value of amounts paid to or items of property  
166 transferred to or deposited with the court.

167 (10) (a) A person who purchases property for value and without notice, or who receives  
168 a payment or other item of property in partial or full satisfaction of a legally enforceable  
169 obligation, is:

170 (i) not obligated under this section to return the payment, item of property, or benefit;  
171 and

172 (ii) not liable under this section for the amount of the payment or the value of the item  
173 of property or benefit.

174 (b) Notwithstanding Subsection (10)(a), a person who, not for value, receives a  
175 payment, item of property, or any other benefit to which the person is not entitled under this  
176 section is:

177 (i) obligated to return the payment, item of property, or benefit to the person who is  
178 entitled to the payment, property, or benefit under this section; and

179 (ii) personally liable for the amount of the payment or the value of the item of property  
180 or benefit to the person who is entitled to the payment, property, or benefit under this section.

181 (c) If this section or any part of this section is preempted by federal law with respect to  
182 a payment, an item of property, or any other benefit covered by this section, a person who, not

183 for value, receives the payment, item of property, or any other benefit to which the person is  
184 not entitled under this section is:

185 (i) obligated to return the payment, item of property, or benefit to the person who  
186 would have been entitled to the payment, property, or benefit if this section or part were not  
187 preempted; and

188 (ii) personally liable for the amount of the payment or the value of the item of property  
189 or benefit, to the person who would have been entitled to the payment, property, or benefit if  
190 this section or part were not preempted.

191 Section 3. **Effective date.**

192 This bill takes effect on May 1, 2024.