

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 46.**  
**DOMESTIC RELATIONS.**

**CHAPTER 5.**  
**PREMARITAL AGREEMENTS.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 5. PREMARITAL AGREEMENTS.**

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# CHAPTER 5. PREMARITAL AGREEMENTS.

*Refs & Annos*

Jurisdiction	Laws	Effective Date	Statutory Citation
Arizona	1991, c. 4	3-25-1991[FN*]	A.R.S. §§ 25-201 to 25-205.
Arkansas	1987, Act 715	8-20-1987	A.C.A. §§ 9-11-401 to 9-11-413.
California	1985, c. 1315	1-1-1986	West's Ann.Cal.Fam.Code §§ 1600 to 1617.
Connecticut	1995, P.A. 95-170	10-1-1995	C.G.S.A. §§ 46b-36a to 46b-36j.
Delaware	70 Del. Laws, c. 462	9-1-1996	13 Del. C. §§ 321 to 328.
District of Columbia	1995, D.C. Law 11-82	2-9-1996	D.C. Official Code, 2001 Ed. §§ 46-501 to 46-510.
Florida	2007, c. 171	10-1-2007	F.S.A. §61.079.
Hawaii	1987, Act 321		HRS §§ 572D-1 to 572D-11.
Idaho	1995, c. 229		I.C. §§ 32-921 to 32-929.
Illinois	1989, P.A. 86-966	1-1-1990	S.H.A. 750 ILCS 10/1 to 10/11.
Indiana	P.L.1-1997	7-1-1997	West's A.I.C. 31-11-3-1 to 31-11-3-10.
Iowa	1991, H.F. 357	1-1-1992	I.C.A. §§ 596.1 to 596.12.
Kansas	1988, c. 204	5-9-1988	K.S.A. 23-801 to 23-811.
Maine	1987, c. 302	[FN*] 6-15-1987[FN*]	19-A M.R.S.A. §§ 601 to 611.
Montana	1987, c. 189		MCA 40-2-601 to 40-2-610.
Nebraska	1994, LB202	3-25-1994*	R.R.S. 1943, §§ 42-1001 to 42-1011.
Nevada	1989, c. 472	6-24-1989	N.R.S. 123A.010 to 123A.100.
New Jersey	1988, c. 99	[FN*] 90th day after 8-5-1988	N.J.S.A. 37:2-31 to 37:2-41.
New Mexico	1995, c. 61	7-1-1995	NMSA 1978, §§ 40-3A-1 to 40-3A-10.
North Carolina	1987, c. 473	7-1-1987	G.S. §§ 52B-1 to 52B-11.
North Dakota	1985, c. 190		NDCC 14-03.1-01 to 14-03.1-09.
Oregon	L.1987, c. 715	1-1-1988	ORS 108.700 to 108.740.
Rhode Island	1987, c. 449	7-1-1987	Gen. Laws 1956, §§ 15-17-1 to 15-17-11.
South Dakota	1989, c. 216		SDCL 25-2-16 to 25-2-25.
Texas	1997, c. 7	4-17-1997	V.T.C.A. Family Code, §§ 4.001 to 4.010.
Utah	1994, c. 105	5-2-1994	U.C.A.1953, 30-8-1 to 30-8-9.
Virginia	1985, c. 434	7-1-1986	Code 1950, §§ 20-147 to 20-155.
		[FN1]	

[FN\*] Date of approval.

[FN1] Act applicable to any premarital agreement executed on or after July 1, 1986 (see Code 1950, § 20-147).

## § 46-501. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Domestic partner" shall have the same meaning as provided in § 32- 701(3).
- (2) "Domestic partnership" shall have the same meaning as provided in § 32- 701(4).
- (3) "Premarital agreement" means an agreement between prospective spouses or prospective domestic partners made in contemplation of marriage or domestic partnership and to be effective

upon marriage or domestic partnership.

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

(Feb. 9, 1996, D.C. Law 11-82, § 2, 42 DCR 6770; Apr. 4, 2006, D.C. Law 16-79, § 8(a), 53 DCR 1035.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 30-141.

##### *Effect of Amendments*

D.C. Law 16-79 rewrote section which had read as follows:

"For the purposes of this chapter, the term:

"(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."

##### *Legislative History of Laws*

Law 11-82, the "Uniform Premarital Agreement Act of 1995," was introduced in Council and assigned Bill No. 11-227, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on October 10, 1995, and November 7, 1995, respectively. Signed by the Mayor on November 27, 1995, it was assigned Act No. 11-159 and transmitted to both Houses of Congress for its review. D.C. Law 11-82 became effective on February 9, 1996.

Law 16-79, the "Domestic Partnership Equality Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-52 which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on December 6, 2005, and January 4, 2006, respectively. Signed by the Mayor on January 26, 2006, it was assigned Act No. 16-265 and transmitted to both Houses of Congress for its review. D.C. Law 16-79 became effective on April 4, 2006.

##### *Uniform Law*

This section is based upon § 1 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

## **§ 46-502. FORMALITIES.**

A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration.

(Feb. 9, 1996, D.C. Law 11-82, § 3, 42 DCR 6770.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 30-142.

##### *Legislative History of Laws*

For legislative history of D.C. Law 11-82, see Historical and Statutory Notes following § 46-501.

##### *Uniform Law*

This section is based upon § 2 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

## **§ 46-503. CONTENT.**

(a) Parties to a premarital agreement may contract with respect to:

(1) 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;

(2) 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;

(3) The disposition of property upon separation, marital dissolution, annulment, termination of a domestic partnership pursuant to § 32-702(d), death, or the occurrence or nonoccurrence of any other

event;

- (4) The modification or elimination of spousal or domestic partner support;
- (5) The making of a will, trust, or other arrangement to carry out the provisions of the agreement;
- (6) The ownership rights in, and disposition of, the death benefit from a life insurance policy;
- (7) The choice of law governing the construction of the agreement; and
- (8) Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(b) The right of a child to support may not be adversely affected by a premarital agreement.

(Feb. 9, 1996, D.C. Law 11-82, § 4, 42 DCR 6770; Apr. 4, 2006, D.C. Law 16-79, § 8(b), 53 DCR 1035; Sept. 12, 2008, D.C. Law 17-231, § 40(a), 55 DCR 6758.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 30-143.

##### *Effect of Amendments*

D.C. Law 16-79, in subsec. (a)(3), substituted "annulment, termination of a domestic partnership under § 32-702," for "annulment,"; and in subsec. (a)(4), substituted "spousal or domestic partner support" for "spousal support".

D.C. Law 17-231, in subsec. (a)(3), substituted "pursuant to § 32-702(d)," for "under § 32-702,".

##### *Legislative History of Laws*

For legislative history of D.C. Law 11-82, see Historical and Statutory Notes following § 46-501.

For Law 16-79, see notes following § 46-501.

Law 17-231, the "Omnibus Domestic Partnership Equality Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-135, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on June 6, 2008, it was assigned Act No. 17-403 and transmitted to both Houses of Congress for its review. D.C. Law 17-231 became effective on September 12, 2008.

##### *Uniform Law*

This section is based upon § 3 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

## **§ 46-504. EFFECT OF MARRIAGE OR DOMESTIC PARTNERSHIP.**

A premarital agreement becomes effective upon marriage or the registration of a domestic partnership under § 32-702.

(Feb. 9, 1996, D.C. Law 11-82, § 5, 42 DCR 6770; Apr. 4, 2006, D.C. Law 16-79, § 8(c), 53 DCR 1035.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 30-144.

##### *Effect of Amendments*

D.C. Law 16-79 rewrote section which had read as follows:

"A premarital agreement becomes effective upon marriage."

##### *Legislative History of Laws*

For legislative history of D.C. Law 11-82, see Historical and Statutory Notes following § 46-501.

For Law 16-79, see notes following § 46-501.

##### *Uniform Law*

This section is based upon § 4 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

## **§ 46-505. AMENDMENT; REVOCATION.**

After marriage or the registration of a domestic partnership under § 32-702, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

(Feb. 9, 1996, D.C. Law 11-82, § 6, 42 DCR 6770; Apr. 4, 2006, D.C. Law 16-79, § 8(d), 53 DCR 1035.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 30-145.

##### *Effect of Amendments*

D.C. Law 16-79 substituted "After marriage or the registration of a domestic partnership under § 32-702," for "After marriage,".

##### *Legislative History of Laws*

For legislative history of D.C. Law 11-82, see Historical and Statutory Notes following § 46-501.

For Law 16-79, see notes following § 46-501.

##### *Uniform Law*

This section is based upon § 5 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

## **§ 46-506. ENFORCEMENT.**

(a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(1) That party did not execute the agreement voluntarily; or

(2) The agreement was unconscionable when it was executed and, before execution of the agreement, that party:

(A) Was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;

(B) 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

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

(b) If a provision of a premarital agreement modifies or eliminates spousal or domestic partner 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, marital dissolution, or termination of a domestic partnership pursuant to § 32-702(d), a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(c) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

(Feb. 9, 1996, D.C. Law 11-82, § 7, 42 DCR 6770; Apr. 4, 2006, D.C. Law 16-79, § 8(e), 53 DCR 1035; Sept. 12, 2008, D.C. Law 17-231, § 40(b), 55 DCR 6758.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Prior Codifications*

1981 Ed., § 30-146.

##### *Effect of Amendments*

D.C. Law 16-79 rewrote subsec. (b) which had read as follows:

"(b) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes 1 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."

D.C. Law 17-231, in subsec. (b), substituted "pursuant to § 32-702(d)," for "under § 32-702,".

##### *Legislative History of Laws*

For legislative history of D.C. Law 11-82, see Historical and Statutory Notes following § 46-501.

For Law 16-79, see notes following § 46-501.

For Law 17-231, see notes following § 46-503.

*Uniform Law*

This section is based upon § 6 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

## **§ 46-507. VOID MARRIAGE OR DOMESTIC PARTNERSHIP.**

If a marriage or domestic partnership 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, unless the agreement expressly provides that it shall be enforceable in the event that the marriage or domestic partnership is later determined to be void.

(Feb. 9, 1996, D.C. Law 11-82, § 8, 42 DCR 6770; Apr. 4, 2006, D.C. Law 16-79, § 8(f), 53 DCR 1035.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 30-147.

*Effect of Amendments*

D.C. Law 16-79, in section heading, substituted "marriage or domestic partnership" for "marriage"; and substituted "marriage or domestic partnership" for "marriage".

*Legislative History of Laws*

For legislative history of D.C. Law 11-82, see Historical and Statutory Notes following § 46-501.

For Law 16-79, see notes following § 46-501.

*Uniform Law*

This section is based upon § 7 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

## **§ 46-508. LIMITATION OF ACTIONS.**

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage or domestic partnership of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

(Feb. 9, 1996, D.C. Law 11-82, § 9, 42 DCR 6770; Apr. 4, 2006, D.C. Law 16-79, § 8(g), 53 DCR 1035.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 30-148.

*Effect of Amendments*

D.C. Law 16-79 substituted "marriage or domestic partnership" for "marriage".

*Legislative History of Laws*

For legislative history of D.C. Law 11-82, see Historical and Statutory Notes following § 46-501.

For Law 16-79, see notes following § 46-501.

*Uniform Law*

This section is based upon § 8 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

## **§ 46-509. APPLICABILITY.**

This chapter applies to any premarital agreement executed on or after February 9, 1996.

(Feb. 9, 1996, D.C. Law 11-82, § 10, 42 DCR 6770.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 30-149.

*Legislative History of Laws*

For legislative history of D.C. Law 11-82, see Historical and Statutory Notes following § 46-501.

*Uniform Law*

This section is based upon § 12 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.

## **§ 46-510. APPLICATION AND CONSTRUCTION.**

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

(Feb. 9, 1996, D.C. Law 11-82, § 11, 42 DCR 6770.)

*HISTORICAL AND STATUTORY NOTES*

*Prior Codifications*

1981 Ed., § 30-150.

*Legislative History of Laws*

For legislative history of D.C. Law 11-82, see Historical and Statutory Notes following § 46-501.

*Uniform Law*

This section is based upon § 9 of the Uniform Premarital Agreement Act. See 9C Uniform Laws Annotated, Master Edition, or ULA Database on Westlaw.