

TITLE 8: FAMILY LAW AND PROBATE
DIVISION 1: DOMESTIC RELATIONS

§ 1830. Marital Property Agreement.

(a) A marital property agreement must be in writing and signed by both spouses. It is enforceable without consideration.

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

(c) Except as provided in 8 CMC §§ 1814, 1821(d) and (e), 1822, 1824(e), 1825(c) and in subsection (b) of this section, in a marital property agreement spouses may agree with respect to:

(1) Rights and obligations in any of their property whenever and wherever acquired or located;

(2) Management and control of any of their property;

(3) Disposition of any of their property on dissolution, death, or the occurrence or nonoccurrence of any other event;

(4) Modification or elimination of spousal support;

(5) Making a will, trust, or other arrangement to carry out the agreement;

(6) A provision that upon the death of either of them, any of their property, including after-acquired property, will pass without probate to a designated person, trust, or other entity by non-testamentary disposition;

(7) Choice of law governing construction of the agreement; and

(8) Any other matter affecting their property not in violation of public policy, N.M.I. Const. art. XII or a statute imposing a criminal penalty.

(d) A marital property agreement may be amended or revoked only by a later marital property agreement. The amended agreement or the revocation is enforceable without consideration.

(e) Persons intending to marry each other may enter into a marital property agreement as if married, but the agreement becomes effective only upon their marriage.

(f) A marital property agreement executed during marriage is not enforceable if the spouse against whom enforcement is sought proves that:

(1) The agreement was unconscionable when made; or

(2) That spouse did not execute the agreement voluntarily; or

(3) Before execution of the agreement, that spouse:

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

(ii) Did not voluntarily sign a written consent expressly waiving any right to disclosure of the property or financial obligations of the other spouse beyond the disclosure provided; and

(iii) Did not have notice of the property or financial obligations of the other spouse.

(g) A marital property agreement executed before marriage is not enforceable if the spouse against whom enforcement is sought proves that:

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

(2) The agreement was unconscionable when made and before execution of the agreement that spouse:

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

(ii) Did not voluntarily sign a written consent expressly waiving any right to disclosure of the property or financial obligations of the other spouse beyond the disclosure provided; and

(iii) Did not have notice of the property or financial obligations of the other spouse.

(h) An issue of unconscionability of a marital property agreement is for decision by the court as a matter of law.

(i) If a provision of a marital property agreement modifies or eliminates spousal support and that modification or elimination causes one spouse to be eligible for support under a program of public

assistance at the time of dissolution, the court may require the other spouse to provide support to the extent necessary to avoid that eligibility, notwithstanding the terms of the agreement.

(j) A document signed before February 22, 1991, by spouses or unmarried persons who subsequently married each other which affects the property of either of them and is enforceable by either of them without reference to this chapter is not affected by this chapter except as provided otherwise in a marital property agreement made after the determination date.

Source: PL 7-22, § 13.