STATUTES

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**Ariz. Rev. Stat. § 25-211. Property acquired during marriage as community property; exceptions; effect of service of a petition**

A. All property acquired by either husband or wife during the marriage is the community property of the husband and wife except for property that is:

1. Acquired by gift, devise or descent.

2. Acquired after service of a petition for dissolution of marriage, legal separation or annulment if the petition results in a decree of dissolution of marriage, legal separation or annulment.

B. Notwithstanding subsection A, paragraph 2, service of a petition for dissolution of marriage, legal separation or annulment does not:

1. Alter the status of preexisting community property.

2. Change the status of community property used to acquire new property or the status of that new property as community property.

3. Alter the duties and rights of either spouse with respect to the management of community property except as prescribed pursuant to section 25-315, subsection A, paragraph 1, subdivision (a).

**ARS §25-213  Separate property**

A. A spouse's real and personal property that is owned by that spouse before marriage and that is acquired by that spouse during the marriage by gift, devise or descent, and the increase, rents, issues and profits of that property, is the separate property of that spouse.

B. Property that is acquired by a spouse after service of a petition for dissolution of marriage, legal separation or annulment is also the separate property of that spouse if the petition results in a decree of dissolution of marriage, legal separation or annulment.

C. Notwithstanding subsection B of this section and section 25-214, subsection C, a mortgage or deed of trust executed by a spouse who acquires the real property encumbered by that mortgage or deed of trust after service of a petition for dissolution of marriage, legal separation or annulment shall be enforceable against the real property if the petition does not result in a decree of dissolution of marriage, legal separation or annulment.

D. A contribution to an irrevocable trust that has as its principal asset life insurance on the person making the contribution is a contribution of the insured's separate property if the spouse of the insured is the primary beneficiary of the trust.

**ARS §25-214  Management and control**

A.  Each spouse has the sole management, control and disposition rights of his or her separate property.

B.  The spouses have equal management, control and disposition rights over their community property, and have equal power to bind the community.

C.  Either spouse separately may acquire, manage, control or dispose of community property, or bind the community, except that joinder of both spouses is required in any of the following cases:

1.  Any transaction for the acquisition, disposition or encumbrance of an interest in real property other than an unpatented mining claim or a lease of less than one year.

2.  Any transaction of guaranty, indemnity or suretyship.

3.  To bind the community, irrespective of any person's intent with respect to that binder, after service of a petition for dissolution of marriage, legal separation or annulment if the petition results in a decree of dissolution of marriage, legal separation or annulment.

**ARS §25-215  Liability of community property and separate**

**property for community and separate debts**

A.  The separate property of a spouse shall not be liable for the separate debts or obligations of the other spouse, absent agreement of the property owner to the contrary.

B.  The community property is liable for the premarital separate debts or other liabilities of a spouse, incurred after September 1, 1973 but only to the extent of the value of that spouse’s contribution to the community property which would have been such spouse’s separate property if single.

C.  The community property is liable for a spouse’s debts incurred outside of this state during the marriage which would have been community debts if incurred in this state.

D.  Except as prohibited in §25-214, either spouse may contact debts and otherwise act for the benefit of the community.  In an action on such a debt or obligation the spouses shall be sued jointly and the debt or obligation shall be satisfied:  first, from the community property, and second, from the separate property of the spouse contracting the debt or obligation.

**ARS §25-217   Ownership of property acquired after moving into state**

Marital rights in property which is acquired in this state during marriage by persons married without the state who move into the state shall be controlled by the laws of this state.

**ARS §25-315  Temporary order or preliminary injunction; effect**

A.  In all actions for the dissolution of marriage or for legal separation or for annulment, the clerk of the court shall pursuant to order of the superior court issue a preliminary injunction in the following manner:

1.  The preliminary injunction shall be directed to each party . . . and contain the following orders:

(a) That both parties are enjoined from transferring, encumbering, concealing, selling or otherwise disposing of any of the joint, common or community property of the parties except in the usual course of business, the necessities of life or court fees and reasonable attorney fees associated with an action filed under this article, without the written consent of the parties or the permission of the court.

(b) That both parties are enjoined from:

(i) molesting, harassing, disturbing the peace of or committing an assault or battery on the person of the other party or any natural or adopted child of the parties.

(ii) Removing any natural or adopted child of the parties then residing in Arizona from the jurisdiction of the court without the prior written consent of the parties or the permission of the court

(iii) Removing or causing to be removed the other party or the children of the parties from any existing insurance coverage, including medical, hospital, dental, automobile and disability insurance.

(c) That both parties shall maintain all insurance coverage in full force and effect.

2.  The preliminary injunction shall include [a written statement that the injunction is an official court order and that failure to follow it may result in contempt, arrest and prosecution].

3.  [The injunction is effective upon filing and service upon the other spouse of the petition for dissolution, and lasts until further order or dissolution decree]. . . .

B.  [Either part may move for an order for temporary equal possession of the marital liquid assets (including cash, traveler's checks, cash in financial institutions and lottery winnings) that existed on the date the petition was served, as well as for temporary maintenance or temporary child support, while the dissolution proceedings are pending]

. . .

**ARS §25-317  Separation agreement; effect**

A. To promote amicable settlement of disputes between parties to a marriage attendant upon their separation or the dissolution of their marriage, the parties may enter into a written separation agreement containing provisions for disposition of any property owned by either of them, maintenance of either of them, and support, custody and visitation of their children. A separation agreement may provide that its maintenance terms shall not be modified.

B. In a proceeding for dissolution of marriage or for legal separation, the terms of the separation agreement, except those providing for the support, custody and visitation of children, are binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties, on their own motion or on request of the court, that the separation agreement is unfair.

C. If the court finds the separation agreement unfair as to disposition of property or maintenance, it may request the parties to submit a revised separation agreement or may make orders for the disposition of property or maintenance.

D. If the court finds that the separation agreement is not unfair as to disposition of property or maintenance, and that it is reasonable as to support, custody and visitation of children, the separation agreement shall be set forth or incorporated by reference in the decree of dissolution or legal separation and the parties shall be ordered to perform them. If the separation agreement provides that its terms shall not be set forth in the decree, the decree shall identify the separation agreement as incorporated by reference and state that the court has found the terms as to property disposition and maintenance not unfair and the terms as to support, custody and visitation of children reasonable.

E. Terms of the agreement set forth . . . in the decree are enforceable by all remedies available for enforcement of a judgment, including contempt.

F. Except for terms concerning the maintenance of either party and the support, custody or visitation of children, entry of the decree shall thereafter preclude the modification of the terms of the decree and the property settlement agreement, if any, set forth or incorporated by reference.

G. Notwithstanding subsection F, entry of a decree that sets forth or incorporates by reference a separation agreement that provides that its maintenance terms shall not be modified prevents the court from exercising jurisdiction to modify the decree and the separation agreement regarding maintenance, including a decree entered before July 20 1996.

**ARS §25-318  Disposition of property; retroactivity; notice to creditors; assignment of debts; contempt of court**

A. In a proceeding for dissolution of the marriage, or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which previously lacked personal jurisdiction over the absent spouse or previously lacked jurisdiction to dispose of the property, the court shall assign each spouse's sole and separate property to such spouse. It shall also divide the community, joint tenancy and other property held in common equitably, though not necessarily in kind, without regard to marital misconduct. For purposes of this section only, property acquired by either spouse outside this state shall be deemed to be community property if the property would have been community property if acquired in this state.

B. In dividing property, the court may consider all debts and obligations that are related to the property, including accrued or accruing taxes that would become due on the receipt, sale or other disposition of the property.  The court may also consider the exempt status of particular property pursuant title 33, chapter 8 [pertaining to homestead and personal property exemptions].

C.  This section does not prevent the court from considering all actual damages and judgments from conduct that resulted in criminal conviction of either spouse in which the other spouse or a child was the victim or excessive or abnormal expenditures, destruction, concealment or fraudulent disposition of community, joint tenancy and other property held in common.

D.  The community, joint tenancy and other property held in common for which no provision is made in the decree shall be from the date of the decree held by the parties as tenants in common, each possessed of an undivided onehalf interest.

E. The court may impress a lien on the separate property of either party or the marital property awarded to either party in order to secure the payment of:

1. Any interest or equity the other party has in or to the property.

2. Community debts that the court has ordered to be paid by the parties.

3. An allowance for child support or spousal maintenance, or both.

4. All actual damages and judgments from conduct that resulted in criminal conviction of either spouse in which the other spouse or a child was the victim.

F. The decree or judgment shall specifically describe by legal description any real property affected and shall specifically describe any other property affected.

G. This section applies through both prospective and retrospective operation to property without regard to the date of acquisition.

H. In all actions for the dissolution of marriage or legal separation the court shall require the following statement in the materials provided to the petitioner and to be served on the respondent:

Notice

In your property settlement agreement or decree of dissolution or legal separation, the court may assign responsibility for certain community debts to one spouse or the other. Please be aware that a court order that does this is binding on the spouses only and does not necessarily relieve either of you from your responsibility for these community debts. These debts are matters of contract between both of you and your creditors (such as banks, credit unions, credit card issuers, finance companies, utility companies, medical providers and retailers).

Since your creditors are not parties to this court case, they are not bound by court orders or any agreements you and your spouse reach in this case. On request, the court may impose a lien against the separate property of a spouse to secure payment of debts that the court orders that spouse to pay.

You may want to contact your creditors to discuss your debts as well as the possible effects of your court case on your debts. To assist you in identifying your creditors, you may obtain a copy of your spouse's credit report by making a written request to the court for an order requiring a credit reporting agency to release the report to you. Within thirty days after receipt of a request from a spouse who is party to a dissolution of marriage or legal separation action, which includes the court and cause number of the action, creditors are required by law to provide information as to the balance and account status of any debts for which the requesting spouse may be liable to the creditor. . . . [The remaining portion contains a form which may be used to contact creditors and obtain debt status.]

I. On the written request of any party to a pending dissolution of marriage or legal separation action, the court, except for good cause shown, shall issue an order requiring any credit reporting agency to release the credit report as to the spouse of the requesting party on payment by the requesting party of any customary fee for providing the credit report.

J. On the request of either party and except for good cause shown, the court shall require the parties to submit a debt distribution plan that states the following:

1. How community creditors will be paid.

2. Whether any agreements have been entered into between the parties as to responsibility for the payment of community debts, including what, if any, collateral will secure the payment of the debt.

  3. Whether the parties have entered into agreements with creditors through which a community debt will be the sole responsibility of one party.

K. . . . [contains a form that may be used for agreements between debtors and creditors] . . .

L. If the parties are not able to agree to a joint debt distribution plan pursuant to subsection J the court may order each party to submit a proposed debt distribution plan to the court. In its orders relating to the division of property the court shall reflect the debt distribution plan approved by the court and shall confirm that any community debts that are made the sole responsibility of one of the parties by agreement with a creditor are the sole responsibility of that party.

M. An agreement with a creditor pursuant to subsection K that assigns or otherwise modifies repayment responsibility for community debts secured by real property located in this state shall include . . . A legal description of the real property. . . . A copy of the note and recorded security instrument, the repayment of which is to be assigned or modified by the agreement with a creditor. . . . A written and notarized acknowledgment . . . executed by all parties to the debt, including the lender, and that states one of the following:  (a) The terms for the repayment of the debt remain unchanged.  (b) The terms for the repayment of the debt have been modified and, beginning on the date of the execution of the acknowledgment, the creditor has agreed that one of the debtors assumes the sole responsibility for the debt and that the other debtor is released from any further liability on the debt.  (c) The debt is paid in full and all parties to the debt are released from any further liability. . . .

P. If a party fails to comply with an order to pay debts, the court may enter orders transferring property of that spouse to compensate the other party. If the court finds that a party is in contempt as to an order to pay community debts, the court may impose appropriate sanctions under the law. A party must bring an action to enforce an order to pay a debt pursuant to this subsection within two years after the date in which the debt should have been paid in full.

Q. Within thirty days after receipt of a written request for information from a spouse who is a party to a dissolution of marriage or legal separation action, which includes the court and cause number of the action, a creditor shall provide the balance and account status of any debts of either or both spouses identified by account number for which the requesting spouse may be liable to the creditor.

R.  If any part of the court's division of joint, common or community property is in the nature of child support or spousal maintenance, the court shall make specific findings of fact and supporting conclusions of law in its decree.

**ARS 25-318.01. Military retirement benefits; disability related waiver**

In making a disposition of property pursuant to section 25-318 or 25-327 [pertaining to modification and termination of maintenance], a court shall not do any of the following:

1. Consider any federal disability benefits awarded to a veteran for service-connected disabilities pursuant to 10 United States Code section 1413a or 38 United States Code chapter 11.

2. Indemnify the veteran's spouse or former spouse for any prejudgment or postjudgment waiver or reduction in military retired or retainer pay related to receipt of the disability benefits.

3. Award any other income or property of the veteran to the veteran's spouse or former spouse for any prejudgment or postjudgment waiver or reduction in military retired or retainer pay related to receipt of the disability benefits. Page Break

**Uniform Premarital Agreements Act**

**ARS §25-201 Definitions**

In this article, unless the context otherwise requires:

1. "Premarital agreement" means an agreement between prospective spouses that is made in contemplation of marriage and that is effective on marriage.

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

**ARS §25-202  Enforcement of premarital agreements; exception**

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

B. The agreement becomes effective on marriage of the parties.

C. The agreement is not enforceable if the person against whom enforcement is sought proves either of the following:

1. The person did not execute the agreement voluntarily.

2. The agreement was unconscionable when it was executed and before execution of the agreement that person:

(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.

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

D. 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.

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

F. 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.

**ARS §25-203  Scope of agreement**

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 or create a security interest in, mortgage, encumber, dispose of or otherwise manage and control property.

3. The disposition of property on separation, marital dissolution, death or the occurrence or nonoccurrence of any other event.

4. The modification or elimination of spousal 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.

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.

**ARS §25-204  Amendment or revocation of agreement**

After marriage, 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.  Page Break