

Reprinted

FEB 26 1991

HOUSE FILE 357
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

Place On the Calendar

(SUCCESSOR TO HSB 56)

Passed House, Date 5/7/91 (p. 567) Passed Senate, Date 4/17/91 (P. 135)
Vote: Ayes 77 Nays 20 Vote: Ayes 44 Nays 2
Approved April 30, 1991

A BILL FOR

1 An Act establishing the Iowa uniform premarital agreement Act,
2 and providing effective date and applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 357

3150 amendments added

1 Section 1. NEW SECTION. 595A.1 DEFINITIONS.

2 As used in this chapter:

3 1. "Prenuptial agreement" means an agreement between
4 prospective spouses made in contemplation of marriage and to
5 be effective upon marriage.

6 2. "Property" means an interest, present or future, legal
7 or equitable, vested or contingent, in real or personal
8 property.

9 Sec. 2. NEW SECTION. 595A.2 CONSTRUCTION AND
10 APPLICATION.

11 This chapter shall be construed and applied to effectuate
12 its general purpose to make uniform the law with respect to
13 prenuptial agreements.

14 Sec. 3. NEW SECTION. 595A.3 SHORT TITLE.

15 This chapter may be cited as the Iowa uniform prenuptial
16 agreement Act.

17 Sec. 4. NEW SECTION. 595A.4 FORMALITIES.

18 A prenuptial agreement must be in writing and signed by
19 both prospective spouses. It is enforceable without
20 consideration other than the marriage. Both parties to the
21 agreement shall execute all documents necessary to enforce the
22 agreement.

23 Sec. 5. NEW SECTION. 595A.5 CONTENT.

24 1. Parties to a prenuptial agreement may contract with
25 respect to the following:

26 a. The rights and obligations of each of the parties in
27 any of the property of either or both of them whenever and
28 wherever acquired or located.

29 b. The right to buy, sell, use, transfer, exchange,
30 abandon, lease, consume, expend, assign, create a security
31 interest in, mortgage, encumber, dispose of, or otherwise
32 manage and control property.

33 c. The disposition of property upon separation,
34 dissolution of the marriage, death, or the occurrence or
35 nonoccurrence of any other event.

1 d. The making of a will, trust, or other arrangement to
2 carry out the provisions of the agreement.

3 e. The ownership rights in and disposition of the death
4 benefit from a life insurance policy.

5 f. The choice of law governing the construction of the
6 agreement.

7 g. Any other matter, including the personal rights and
8 obligations of the parties, not in violation of public policy
9 or a statute imposing a criminal penalty.

10 2. The right of a spouse or child to support shall not be
11 adversely affected by a premarital agreement.

12 Sec. 6. NEW SECTION. 595A.6 EFFECTIVE DATE OF AGREEMENT.

13 A premarital agreement becomes effective upon the marriage
14 of the parties.

15 Sec. 7. NEW SECTION. 595A.7 REVOCATION.

16 After marriage, a premarital agreement may be revoked only
17 as follows:

18 1. By a written agreement signed by both spouses. The
19 revocation is enforceable without consideration.

20 2. To revoke a premarital agreement without the consent of
21 the other spouse, the person seeking revocation must prove one
22 or more of the following:

23 a. The person did not execute the agreement voluntarily.

24 b. The agreement was unconscionable when it was executed.

25 c. Before the execution of the agreement the person was
26 not provided a fair and reasonable disclosure of the property
27 or financial obligations of the other spouse; and the person
28 did not have, or reasonably could not have had, an adequate
29 knowledge of the property or financial obligations of the
30 other spouse.

31 Sec. 8. NEW SECTION. 595A.8 ENFORCEMENT.

32 A premarital agreement is not enforceable if the person
33 against whom enforcement is sought proves any of the
34 following:

35 1. The person did not execute the agreement voluntarily.

1 2. The agreement was unconscionable when it was executed.
2 3. Before the execution of the agreement the person was
3 not provided a fair and reasonable disclosure of the property
4 or financial obligations of the other spouse; and the person
5 did not have, or reasonably could not have had, an adequate
6 knowledge of the property or financial obligations of the
7 other spouse.

8 ⁵⁰⁹¹⁷ Sec. 9. NEW SECTION. 595A.9 UNCONSCIONABILITY.

9 In any action under this chapter to revoke or enforce a
10 premarital agreement the issue of unconscionability of a
11 premarital agreement shall be decided by the court as a matter
12 of law.

13 Sec. 10. NEW SECTION. 595A.10 ENFORCEMENT -- VOID
14 MARRIAGE.

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

19 Sec. 11. NEW SECTION. 595A.11 LIMITATION OF ACTIONS.

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

25 Sec. 12. NEW SECTION. 595A.12 EFFECTIVE DATE.

26 This chapter takes effect on January 1, 1992, and applies
27 to any premarital agreement executed on or after that date.
28 This chapter does not affect the validity under Iowa law of
29 any premarital agreement entered into prior to January 1,
30 1992.

31 EXPLANATION

32 This bill creates a uniform premarital agreement Act,
33 effective on January 1, 1992, and establishes the criteria for
34 enforcement, revocation, and content of premarital agreements.
35 Premarital agreements entered into prior to the effective date

1 of the Act would not be affected.

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H-3150

1 Amend House File 357 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 595A.1 DEFINITIONS.

5 As used in this chapter, unless the context
6 otherwise requires:

7 1. "No fault marriage license" means a marriage
8 license providing that the marriage may be dissolved
9 in accordance with chapter 598.

10 2. "Fault marriage license" means a marriage
11 license providing that the marriage shall only be
12 dissolved upon a showing that one or both of the
13 parties is at fault for the breakdown of the marriage
14 relationship.

15 Sec. 2. NEW SECTION. 595A.2 MARRIAGE LICENSE --
16 OPTION.

17 At the option of the parties to be married, the
18 clerk of the district court shall issue the parties
19 either a no fault marriage license or a fault marriage
20 license, in accordance with the provisions of chapter
21 595.

22 Sec. 3. NEW SECTION. 595A.3 EFFECTIVE DATE.

23 This chapter takes effect on January 1, 1992, and
24 applies to any marriage license application filed on
25 or after that date. This chapter does not affect the
26 validity under Iowa law of any marriage license issued
27 prior to January 1, 1992."

28 2. Title page, by striking lines 1 and 2 and
29 inserting the following: "An Act establishing a fault
30 marriage license."

By BANKS of Plymouth

H-3150 FILED MARCH 6, 1991

Revised not german 3/7 (p. 569)

HOUSE FILE 357

H-3091

1 Amend House File 357 as follows:

2 1. Page 3, by inserting after line 7 the
3 following:

4 "If a provision of the agreement or the application
5 of the provision to a party is found by the court to
6 be unenforceable, the provision shall be severed from
7 the remainder of the agreement and shall not affect
8 the provisions, or application, of the agreement which
9 can be given effect without the unenforceable
10 provision."

By BRAMMER of Linn
MILLAGE of Scott

H-3091 FILED FEBRUARY 26, 1991

HOUSE FILE 357

H-3091 (*Reprinted*)

1 Amend House File 357 as follows:

2 1. Page 3, by inserting after line 7 the
3 following:

4 "If a provision of the agreement or the application
5 of the provision to a party is found by the court to
6 be unenforceable, the provision shall be severed from
7 the remainder of the agreement and shall not affect
8 the provisions, or application, of the agreement which
9 can be given effect without the unenforceable
10 provision."

By BRAMMER of Linn
MILLAGE of Scott

H-3091 FILED FEBRUARY 27, 1991

Adopted 3/6 (p. 557)

House Judiciary L.S. Pass 4/11/91 (p. 1203)

HOUSE FILE 357
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 56)

(As Amended and Passed by the House March 7, 1991)

Passed House, Date 2/7/91 (p. 569) Passed Senate, Date 4/17/91 (p. 1315)
Vote: Ayes 77 Nays 2 Vote: Ayes 44 Nays 2
Approved April 30, 1991 (p. 1939)

A BILL FOR

1 An Act establishing the Iowa uniform premarital agreement Act,
2 and providing effective date and applicability provisions.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. NEW SECTION. 595A.1 DEFINITIONS.

2 As used in this chapter:

3 1. "Premarital agreement" means an agreement between
4 prospective spouses made in contemplation of marriage and to
5 be effective upon marriage.

6 2. "Property" means an interest, present or future, legal
7 or equitable, vested or contingent, in real or personal
8 property.

9 Sec. 2. NEW SECTION. 595A.2 CONSTRUCTION AND
10 APPLICATION.

11 This chapter shall be construed and applied to effectuate
12 its general purpose to make uniform the law with respect to
13 premarital agreements.

14 Sec. 3. NEW SECTION. 595A.3 SHORT TITLE.

15 This chapter may be cited as the Iowa uniform premarital
16 agreement Act.

17 Sec. 4. NEW SECTION. 595A.4 FORMALITIES.

18 A premarital agreement must be in writing and signed by
19 both prospective spouses. It is enforceable without
20 consideration other than the marriage. Both parties to the
21 agreement shall execute all documents necessary to enforce the
22 agreement.

23 Sec. 5. NEW SECTION. 595A.5 CONTENT.

24 1. Parties to a premarital agreement may contract with
25 respect to the following:

26 a. The rights and obligations of each of the parties in
27 any of the property of either or both of them whenever and
28 wherever acquired or located.

29 b. The right to buy, sell, use, transfer, exchange,
30 abandon, lease, consume, expend, assign, create a security
31 interest in, mortgage, encumber, dispose of, or otherwise
32 manage and control property.

33 c. The disposition of property upon separation,
34 dissolution of the marriage, death, or the occurrence or
35 nonoccurrence of any other event.

1 d. The making of a will, trust, or other arrangement to
2 carry out the provisions of the agreement.

3 e. The ownership rights in and disposition of the death
4 benefit from a life insurance policy.

5 f. The choice of law governing the construction of the
6 agreement.

7 g. Any other matter, including the personal rights and
8 obligations of the parties, not in violation of public policy
9 or a statute imposing a criminal penalty.

10 2. The right of a spouse or child to support shall not be
11 adversely affected by a premarital agreement.

12 Sec. 6. NEW SECTION. 595A.6 EFFECTIVE DATE OF AGREEMENT.

13 A premarital agreement becomes effective upon the marriage
14 of the parties.

15 Sec. 7. NEW SECTION. 595A.7 REVOCATION.

16 After marriage, a premarital agreement may be revoked only
17 as follows:

18 1. By a written agreement signed by both spouses. The
19 revocation is enforceable without consideration.

20 2. To revoke a premarital agreement without the consent of
21 the other spouse, the person seeking revocation must prove one
22 or more of the following:

23 a. The person did not execute the agreement voluntarily.

24 b. The agreement was unconscionable when it was executed.

25 c. Before the execution of the agreement the person was
26 not provided a fair and reasonable disclosure of the property
27 or financial obligations of the other spouse; and the person
28 did not have, or reasonably could not have had, an adequate
29 knowledge of the property or financial obligations of the
30 other spouse.

31 Sec. 8. NEW SECTION. 595A.8 ENFORCEMENT.

32 A premarital agreement is not enforceable if the person
33 against whom enforcement is sought proves any of the
34 following:

35 1. The person did not execute the agreement voluntarily.

1 2. The agreement was unconscionable when it was executed.

2 3. Before the execution of the agreement the person was
3 not provided a fair and reasonable disclosure of the property
4 or financial obligations of the other spouse; and the person
5 did not have, or reasonably could not have had, an adequate
6 knowledge of the property or financial obligations of the
7 other spouse.

8 If a provision of the agreement or the application of the
9 provision to a party is found by the court to be
10 unenforceable, the provision shall be severed from the
11 remainder of the agreement and shall not affect the
12 provisions, or application, of the agreement which can be
13 given effect without the unenforceable provision.

14 Sec. 9. NEW SECTION. 595A.9 UNCONSCIONABILITY.

15 In any action under this chapter to revoke or enforce a
16 premarital agreement the issue of unconscionability of a
17 premarital agreement shall be decided by the court as a matter
18 of law.

19 Sec. 10. NEW SECTION. 595A.10 ENFORCEMENT -- VOID
20 MARRIAGE.

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

25 Sec. 11. NEW SECTION. 595A.11 LIMITATION OF ACTIONS.

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

31 Sec. 12. NEW SECTION. 595A.12 EFFECTIVE DATE.

32 This chapter takes effect on January 1, 1992, and applies
33 to any premarital agreement executed on or after that date.
34 This chapter does not affect the validity under Iowa law of
35 any premarital agreement entered into prior to January 1,

- 1 1992.
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HSB 56
Judiciary & Law Enforcement

Brammer chair
Beatty
Kremer

HOUSE FILE 357
BY (PROPOSED COMMITTEE ON
JUDICIARY AND LAW
ENFORCEMENT BILL BY
CHAIRPERSON JAY)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing the Iowa uniform premarital agreement Act.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 595A.1 DEFINITIONS.

2 As used in this chapter:

3 1. "Premarital agreement" means an agreement between
4 prospective spouses made in contemplation of marriage and to
5 be effective upon marriage.

6 2. "Property" means an interest, present or future, legal
7 or equitable, vested or contingent, in real or personal
8 property.

9 Sec. 2. NEW SECTION. 595A.2 CONSTRUCTION AND
10 APPLICATION.

11 This chapter shall be construed and applied to effectuate
12 its general purpose to make uniform the law with respect to
13 premarital agreements.

14 Sec. 3. NEW SECTION. 595A.3 SHORT TITLE.

15 This chapter may be cited as the Iowa uniform premarital
16 agreement Act.

17 Sec. 4. NEW SECTION. 595A.4 FORMALITIES.

18 A premarital agreement must be in writing and signed by
19 both prospective spouses. It is enforceable without
20 consideration other than the marriage. Both parties to the
21 agreement shall execute all documents necessary to enforce the
22 agreement.

23 Sec. 5. NEW SECTION. 595A.5 CONTENT.

24 1. Parties to a premarital agreement may contract with
25 respect to the following:

26 a. The rights and obligations of each of the parties in
27 any of the property of either or both of them whenever and
28 wherever acquired or located.

29 b. The right to buy, sell, use, transfer, exchange,
30 abandon, lease, consume, expend, assign, create a security
31 interest in, mortgage, encumber, dispose of, or otherwise
32 manage and control property.

33 c. The disposition of property upon separation,
34 dissolution of the marriage, death, or the occurrence or
35 nonoccurrence of any other event.

1 d. The making of a will, trust, or other arrangement to
2 carry out the provisions of the agreement.

3 e. The ownership rights in and disposition of the death
4 benefit from a life insurance policy.

5 f. The choice of law governing the construction of the
6 agreement.

7 g. Any other matter, including the personal rights and
8 obligations of the parties, not in violation of public policy
9 or a statute imposing a criminal penalty.

10 2. The right of a spouse or child to support shall not be
11 adversely affected by a premarital agreement.

12 Sec. 6. NEW SECTION. 595A.6 EFFECTIVE DATE OF AGREEMENT.

13 A premarital agreement becomes effective upon the marriage
14 of the parties.

15 Sec. 7. NEW SECTION. 595A.7 REVOCATION.

16 After marriage, a premarital agreement may be revoked only
17 as follows:

18 1. By a written agreement signed by both spouses. The
19 revocation is enforceable without consideration.

20 2. To revoke a premarital agreement without the consent of
21 the other spouse, the person seeking revocation must prove one
22 or more of the following:

23 a. The person did not execute the agreement voluntarily.

24 b. The agreement was unconscionable when it was executed.

25 c. Before the execution of the agreement the person was
26 not provided a fair and reasonable disclosure of the property
27 or financial obligations of the other spouse; and the person
28 did not have, or reasonably could not have had, an adequate
29 knowledge of the property or financial obligations of the
30 other spouse.

31 Sec. 8. NEW SECTION. 595A.8 ENFORCEMENT.

32 1. A premarital agreement is not enforceable if the person
33 against whom enforcement is sought proves any of the
34 following:

35 a. The person did not execute the agreement voluntarily.

1 b. The agreement was unconscionable when it was executed.

2 c. Before the execution of the agreement the person was
3 not provided a fair and reasonable disclosure of the property
4 or financial obligations of the other spouse; and the person
5 did not have, or reasonably could not have had, an adequate
6 knowledge of the property or financial obligations of the
7 other spouse.

8 Sec. 9. NEW SECTION. 595A.9 UNCONSCIONABILITY.

9 In any action under this chapter to revoke or enforce a
10 premarital agreement the issue of unconscionability of a
11 premarital agreement shall be decided by the court as a matter
12 of law.

13 Sec. 10. NEW SECTION. 595A.10 ENFORCEMENT -- VOID
14 MARRIAGE.

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

19 Sec. 11. NEW SECTION. 595A.11 LIMITATION OF ACTIONS.

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

25 Sec. 12. NEW SECTION. 595A.12 EFFECTIVE DATE.

26 This chapter takes effect on January 1, 1992, and applies
27 to any premarital agreement executed on or after that date.
28 This chapter does not affect the validity under Iowa law of
29 any premarital agreement entered into prior to January 1,
30 1992.

31 EXPLANATION

32 This bill creates a uniform premarital agreement Act,
33 effective on January 1, 1992, and establishes the criteria for
34 enforcement, revocation, and content of premarital agreements.
35 Premarital agreements entered into prior to the effective date

1 of the Act would not be affected.

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HOUSE FILE 357

AN ACT
ESTABLISHING THE IOWA UNIFORM PREMARITAL AGREEMENT ACT, AND
PROVIDING EFFECTIVE DATE AND APPLICABILITY PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 595A.1 DEFINITIONS.

As used in this chapter:

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.

Sec. 2. NEW SECTION. 595A.2 CONSTRUCTION AND APPLICATION.

This chapter shall be construed and applied to effectuate its general purpose to make uniform the law with respect to premarital agreements.

Sec. 3. NEW SECTION. 595A.3 SHORT TITLE.

This chapter may be cited as the Iowa uniform premarital agreement Act.

Sec. 4. NEW SECTION. 595A.4 FORMALITIES.

A premarital agreement must be in writing and signed by both prospective spouses. It is enforceable without consideration other than the marriage. Both parties to the agreement shall execute all documents necessary to enforce the agreement.

Sec. 5. NEW SECTION. 595A.5 CONTENT.

1. Parties to a premarital agreement may contract with respect to the following:

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, dissolution of the marriage, death, or the occurrence or nonoccurrence of any other event.

d. The making of a will, trust, or other arrangement to carry out the provisions of the agreement.

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.

g. Any other matter, including the personal rights and obligations of the parties, not in violation of public policy or a statute imposing a criminal penalty.

2. The right of a spouse or child to support shall not be adversely affected by a premarital agreement.

Sec. 6. NEW SECTION. 595A.6 EFFECTIVE DATE OF AGREEMENT.

A premarital agreement becomes effective upon the marriage of the parties.

Sec. 7. NEW SECTION. 595A.7 REVOCATION.

After marriage, a premarital agreement may be revoked only as follows:

1. By a written agreement signed by both spouses. The revocation is enforceable without consideration.

2. To revoke a premarital agreement without the consent of the other spouse, the person seeking revocation must prove one or more of the following:

- a. The person did not execute the agreement voluntarily.
- b. The agreement was unconscionable when it was executed.

c. Before the execution of the agreement the person was not provided a fair and reasonable disclosure of the property or financial obligations of the other spouse; and the person did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other spouse.

Sec. 8. NEW SECTION. 595A.8 ENFORCEMENT.

A premarital agreement is not enforceable if the person against whom enforcement is sought proves any of the following:

1. The person did not execute the agreement voluntarily.
2. The agreement was unconscionable when it was executed.
3. Before the execution of the agreement the person was not provided a fair and reasonable disclosure of the property or financial obligations of the other spouse; and the person did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other spouse.

If a provision of the agreement or the application of the provision to a party is found by the court to be unenforceable, the provision shall be severed from the remainder of the agreement and shall not affect the provisions, or application, of the agreement which can be given effect without the unenforceable provision.

Sec. 9. NEW SECTION. 595A.9 UNCONSCIONABILITY.

In any action under this chapter to revoke or enforce a premarital agreement the issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

Sec. 10. NEW SECTION. 595A.10 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.

Sec. 11. NEW SECTION. 595A.11 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 of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

Sec. 12. NEW SECTION. 595A.12 EFFECTIVE DATE.

This chapter takes effect on January 1, 1992, and applies to any premarital agreement executed on or after that date. This chapter does not affect the validity under Iowa law of any premarital agreement entered into prior to January 1, 1992.

.....
ROBERT C. ARNOULD
Speaker of the House

.....
JOE J. WELSH
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 357, Seventy-fourth General Assembly.

.....
JOSEPH O'HEARN
Chief Clerk of the House

Approved *April 30* 1991

.....
TERRY E. BRANSTAD
Governor