

CHAPTER 123 - RIGHTS OF HUSBAND AND WIFE

GENERAL PROVISIONS

SECTION 123.010	Property rights of husband and wife governed by chapter.
SECTION 123.020	Curtsey and dower not allowed.
SECTION 123.030	How husband and wife may hold property.
SECTION 123.050	Husband or wife not liable for debts of other incurred before marriage.
SECTION 123.060	No interests in property of other.
SECTION 123.070	Husband and wife may make contracts.
SECTION 123.080	Contract altering legal relations: Separation agreement; consideration; introduction in evidence in divorce action.
SECTION 123.090	Necessaries provided wife when husband neglects to provide; recovery of value.
SECTION 123.100	Abandoned spouse not liable for support of abandoning spouse.
SECTION 123.110	When wife must support husband.
SECTION 123.121	Segregation of damage awards when spouses sue jointly.

SEPARATE PROPERTY

SECTION 123.130	Separate property of wife; separate property of husband.
SECTION 123.140	Inventory of separate property: Execution; recording; supplemental inventory.
SECTION 123.150	Recording of inventory is notice and evidence of title.
SECTION 123.160	Effect of failure to record inventory.
SECTION 123.170	Each spouse controls own separate property.
SECTION 123.180	Property and earnings of minor children.
SECTION 123.190	Earnings of either spouse appropriated to own use pursuant to written authorization of other spouse deemed gift.

COMMUNITY PROPERTY

SECTION 123.220	Community property defined.
SECTION 123.225	Interests of husband and wife in community property are present, existing and equal interests.
SECTION 123.230	Control of community property.
SECTION 123.250	Ownership of survivor upon death of spouse; disposal by will of decedent.
SECTION 123.259	Division of income and resources of husband and wife: Manner; conditions; restrictions.

MARRIAGE CONTRACTS OR SETTLEMENTS

SECTION 123.270	Contracts or settlements to be written and acknowledged.
SECTION 123.280	Recording in counties where real property situated.
SECTION 123.290	Record of contract to impart notice.
SECTION 123.300	Effect of not recording contract or settlement.
SECTION 123.310	Minors may make marriage contracts or settlements.

GENERAL PROVISIONS

- SECTION 123.010 Property rights of husband and wife governed by chapter.**
1. The property rights of husband and wife are governed by this chapter, unless there is:
 - (a) A premarital agreement which is enforceable pursuant to [chapter 123A](#); or
 - (b) A marriage contract or settlement,

↳ containing stipulations contrary thereto.

SECTION 123.020 Curtesy and dower not allowed. No estate is allowed the husband as tenant by curtesy upon the death of his wife, nor is any estate in dower allotted to the wife upon the death of her husband.

SECTION 123.030 How husband and wife may hold property. A husband and wife may hold real or personal property as joint tenants, tenants in common, or as community property.

SECTION 123.050 Husband or wife not liable for debts of other incurred before marriage. Neither the separate property of a spouse nor his share of the community property is liable for the debts of the other spouse contracted before the marriage.

SECTION 123.060 No interests in property of other. Except as mentioned in [SECTION 123.070](#), neither husband nor wife has any interest in the property of the other.

SECTION 123.070 Husband and wife may make contracts. Either husband or wife may enter into any contract, engagement or transaction with the other, or with any other person respecting property, which either might enter into if unmarried, subject in any contract, engagement or transaction between themselves, to the general rules which control the actions of persons occupying relations of confidence and trust toward each other.

SECTION 123.080 Contract altering legal relations: Separation agreement; consideration; introduction in evidence in divorce action.

1. A husband and wife cannot by any contract with each other alter their legal relations except as to property, and except that they may agree to an immediate separation and may make provision for the support of either of them and of their children during such separation.

2. The mutual consent of the parties is a sufficient consideration for such an agreement as is mentioned in subsection 1.

3. In the event that a suit for divorce is pending or immediately contemplated by one of the spouses against the other, the validity of such agreement shall not be affected by a provision therein that the agreement is made for the purpose of removing the subject matter thereof from the field of litigation, and that in the event of a divorce being granted to either party, the agreement shall become effective and not otherwise.

4. If a contract executed by a husband and wife, or a copy thereof, be introduced in evidence as an exhibit in any divorce action, and the court shall by decree or judgment ratify or adopt or approve the contract by reference thereto, the decree or judgment shall have the same force and effect and legal consequences as though the contract were copied into the decree, or attached thereto.

SECTION 123.090 Necessaries provided wife when husband neglects to provide; recovery of value. If the husband neglects to make adequate provision for the support of his wife, any other person may in good faith supply her with articles necessary for her support, and recover the reasonable value thereof from the husband. The separate property of the husband is liable for the cost of such necessities if the community property of the spouses is not sufficient to satisfy such debt.

SECTION 123.100 Abandoned spouse not liable for support of abandoning spouse. A husband or wife abandoned by his spouse is not liable for the support of the abandoning spouse until such spouse offers to return unless the misconduct of the husband or wife justified the abandonment.

SECTION 123.110 When wife must support husband. The wife must support the husband out of her separate property when he has no separate property and they have no community property and he, from infirmity, is not able or competent to support himself.

SECTION 123.121 Segregation of damage awards when spouses sue jointly. When a husband and wife sue jointly, any damages awarded shall be segregated as follows:

1. If the action is for personal injuries, damages assessed for:
 - (a) Personal injuries and pain and suffering, to the injured spouse as his separate property.
 - (b) Loss of comfort and society, to the spouse who suffers such loss.
 - (c) Loss of services and hospital and medical expenses, to the spouses as community property.
2. If the action is for injury to property, damages shall be awarded according to the character of the injured property. Damages to separate property shall be awarded to the spouse owning such property, and damages to community property shall be awarded to the spouses as community property.

SEPARATE PROPERTY

SECTION 123.130 Separate property of wife; separate property of husband.

1. All property of the wife owned by her before marriage, and that acquired by her afterwards by gift, bequest, devise, descent or by an award for personal injury damages, with the rents, issues and profits thereof, is her separate property.
2. All property of the husband owned by him before marriage, and that acquired by him afterwards by gift, bequest, devise, descent or by an award for personal injury damages, with the rents, issues and profits thereof, is his separate property.

SECTION 123.140 Inventory of separate property: Execution; recording; supplemental inventory.

1. A full and complete inventory of the separate property of a married person, exclusive of money, may be made out and signed by such person, acknowledged or proved in the manner required for the acknowledgment or proof of a conveyance of real property, and may be recorded, in the office of the recorder of the county in which such person resides. If any real property lying in another county is included in a recorded inventory, then the inventory shall be also recorded in the office of the recorder of such other county.
2. From time to time thereafter, a further and supplemental inventory may be made out, signed, acknowledged or proved, and recorded in like manner, of all other separate property afterward acquired by such married person, excepting money, and the rents, issues and profits of such person's separate property, included in the original or any subsequent inventory, if the same be in money.

SECTION 123.150 Recording of inventory is notice and evidence of title.

1. If a married person is a resident of this state, the recording of the inventory of the person's separate property in the office of the recorder on this Reservation in which the person resides is notice of the person's title to the separate property, except as to any real property situate in another county, and as to that real property, the recording of the inventory thereof in the office of the recorder of the Reservation where the same is situate, is notice of the person's title thereto.

SECTION 123.160 Effect of failure to record inventory.

1. When a married person is a resident of this reservation, the failure to file or record an inventory of such person's separate property in the office of the recorder of the county of residence, or the omission from the inventory, filed for record in such office, of any part of such property, except as to real property situate in another county, is prima facie evidence, as between such married person and purchasers in good faith and for a valuable consideration from the other spouse, that the property of which no inventory has been so filed, or which has been omitted from the inventory, is not the separate property of such person. As to any real property situate in another county, the failure to file for record an inventory thereof in the office of the recorder of the county where the same is situate, or the omission from the inventory, filed for record in such office, of any part of such real property, is prima facie evidence, as between the married person and such purchasers as aforesaid, that such real property of which no inventory has been so filed, or which has been omitted from the inventory, is not such person's separate property.
2. The provisions of [SECTION 123.140](#), [123.150](#) and this section do not preclude the introduction of other evidence to show the separate or community character of the property of the spouses.

SECTION 123.170 Each spouse controls own separate property. Either spouse may, without the consent of the other spouse, convey, charge, encumber or otherwise in any manner dispose of his separate property.

SECTION 123.180 Property and earnings of minor children.

1. Any property acquired by a child by gift, bequest, devise or descent, with the rents, issues and profits thereof, is his own property, and neither parent is entitled to any interest therein.

2. The earnings and accumulations of earnings of a minor child are the community property of his parents unless relinquished to the child. Such relinquishment may be shown by written instrument, proof of a specific oral gift, or proof of a course of conduct.

3. When a husband and wife are living separate and apart the earnings and accumulations of earnings of their minor children, unless relinquished, are the separate property of the spouse who has their custody or, if no custody award has been made, then the separate property of the spouse with whom such children are living.

SECTION 123.190 Earnings of either spouse appropriated to own use pursuant to written authorization of other spouse deemed gift.

1. When the husband has given written authority to the wife to appropriate to her own use her earnings, the same, with the issues and profits thereof, is deemed a gift from him to her, and is, with such issues and profits, her separate property.

2. When the wife has given written authority to the husband to appropriate to his own use his earnings, the same, with the issues and profits thereof, is deemed a gift from her to him, and is, with such issues and profits, his separate property.

COMMUNITY PROPERTY

SECTION 123.220 Community property defined. All property, other than that stated in [SECTION 123.130](#), acquired after marriage by either husband or wife, or both, is community property unless otherwise provided by:

1. An agreement in writing between the spouses, which is effective only as between them.
2. A decree of separate maintenance issued by a court of competent jurisdiction.
3. [SECTION 123.190](#).
4. A decree issued or agreement in writing entered pursuant to [SECTION 123.259](#).

SECTION 123.225 Interests of husband and wife in community property are present, existing and equal interests.

1. The respective interests of the husband and wife in community property during continuance of the marriage relation are present, existing and equal interests, subject to the provisions of [SECTION 123.230](#).

2. The provisions of this section apply to all community property, whether the community property was acquired before, on or after March 26, 1959.

SECTION 123.230 Control of community property. A spouse may, by written power of attorney, give to the other the complete power to sell, convey or encumber any property held as community property or either spouse, acting alone, may manage and control community property, whether the community property was acquired before, on or after July 1, 1975, with the same power of disposition as the acting spouse has over his separate property, except that:

1. Neither spouse may devise or bequeath more than one-half of the community property.
2. Neither spouse may make a gift of community property without the express or implied consent of the other.
3. Neither spouse may sell, convey or encumber the community real property unless both join in the execution of the deed or other instrument by which the real property is sold, conveyed or encumbered, and the deed or other instrument must be acknowledged by both.
4. Neither spouse may purchase or contract to purchase community real property unless both join in the transaction of purchase or in the execution of the contract to purchase.
5. Neither spouse may create a security interest, other than a purchase-money security interest as defined in Section 104.9103 of the Nevada Revised Statutes, in, or sell, community household goods, furnishings or appliances unless both join in executing the security agreement or contract of sale, if any.

6. Neither spouse may acquire, purchase, sell, convey or encumber the assets, including real property and goodwill, of a business where both spouses participate in its management without the consent of the other. If only one spouse participates in management, he may, in the ordinary course of business, acquire, purchase, sell, convey or encumber the assets, including real property and goodwill, of the business without the consent of the nonparticipating spouse.

SECTION 123.250 Ownership of survivor upon death of spouse; disposal by will of decedent.

1. Except as otherwise provided in subsection 2, upon the death of either husband or wife:
 - (a) An undivided one-half interest in the community property is the property of the surviving spouse and his or her sole separate property.
 - (b) The remaining interest:
 - (1) Is subject to the testamentary disposition of the decedent or, in the absence of such a testamentary disposition, goes to the surviving spouse; and
 - (2) Is the only portion subject to administration under the provisions of title 12 of the Nevada Revised Statutes.
2. The provisions of this section:
 - (a) Do not apply to the extent that they are inconsistent with the provisions of [chapter 41B](#) the Nevada Revised Statutes.
 - (b) Do not apply to community property with right of survivorship.
 - (c) Apply to all other community property, whether the community property was acquired before, on or after July 1, 1975.
3. As used in this section, “community property with right of survivorship” means community property in which a right of survivorship exists pursuant to [SECTION 111.064](#) or [115.060](#) of the Nevada Revised Statutes, or any other provision of law.

SECTION 123.259 Division of income and resources of husband and wife: Manner; conditions; restrictions.

1. Except as otherwise provided in subsection 2, a court of competent jurisdiction may, upon a proper petition filed by a spouse or the guardian of a spouse, enter a decree dividing the income and resources of a husband and wife pursuant to this section if one spouse is an institutionalized spouse and the other spouse is a community spouse.
2. The court shall not enter such a decree if the division is contrary to a premarital agreement between the spouses which is enforceable pursuant to [chapter 123A](#).
3. Unless modified pursuant to subsection 4 or 5, the court may divide the income and resources:
 - (a) Equally between the spouses; or
 - (b) By protecting income for the community spouse through application of the maximum federal minimum monthly maintenance needs allowance set forth in 42 U.S.C. § 1396r-5(d)(3)(c) and by permitting a transfer of resources to the community spouse an amount which does not exceed the amount set forth in 42 U.S.C. § 1396r-5(f)(2)(A)(ii).
4. If either spouse establishes that the community spouse needs income greater than that otherwise provided under paragraph (b) of subsection 3, upon finding exceptional circumstances resulting in significant financial duress and setting forth in writing the reasons for that finding, the court may enter an order for support against the institutionalized spouse for the support of the community spouse in an amount adequate to provide such additional income as is necessary.
5. If either spouse establishes that a transfer of resources to the community spouse pursuant to paragraph (b) of subsection 3, in relation to the amount of income generated by such a transfer, is inadequate to raise the income of the community spouse to the amount allowed under paragraph (b) of subsection 3 or an order for support issued pursuant to subsection 4, the court may substitute an amount of resources adequate to provide income to fund the amount so allowed or to fund the order for support.
6. A person may enter into a written agreement with his spouse dividing their community income, assets and obligations into equal shares of separate income, assets and obligations of the spouses. Such an agreement is effective only if one spouse is an institutionalized spouse and the other spouse is a community spouse or a division of the income or resources would allow one spouse to qualify for services under [SECTION 427A.250](#) to [427A.280](#) of the Nevada Revised Statutes, inclusive.
7. As used in this section, “community spouse” and “institutionalized spouse” have the meanings respectively ascribed to them in 42 U.S.C. § 1396r-5(h).

MARRIAGE CONTRACTS OR SETTLEMENTS

SECTION 123.270 Contracts or settlements to be written and acknowledged. All marriage contracts or settlements must be in writing, and executed and acknowledged or proved in like manner as a conveyance of land is required to be executed and acknowledged or proved.

SECTION 123.280 Recording in counties where real property situated. When such marriage contract or settlement is acknowledged or proved, it must be recorded in the office of the recorder of every county in which any real property may be situated which is conveyed or affected by such contract.

SECTION 123.290 Record of contract to impart notice. When such marriage contract or settlement is deposited in the recorder's office for record, it shall, as to all property affected thereby in the county where the same is deposited, impart full notice to all persons of the contents thereof.

SECTION 123.300 Effect of not recording contract or settlement. No such marriage contract or settlement shall be valid as to any real property, or affect the same, except as between the parties thereto, until it shall be deposited for record with the recorder of the county in which such real property is situate.

SECTION 123.310 Minors may make marriage contracts or settlements. A minor capable of contracting marriage may make a valid marriage contract or settlement.