



PRENUPTIAL AGREEMENTS RESOURCE GUIDE

Congratulations, you are engaged to be married! This is one of the most exciting times in your life. As you look for the perfect venue and flowers to make your wedding day shine, think about some of the business aspects of your relationship, too.

Not to be unromantic, but right now is the perfect time to discuss prenuptial agreements. At this moment, you may be thinking that nothing could ever go wrong, but no one knows what the future has in store, so it's best to be prepared.



Prenuptial Agreement Definition

The definition of a prenuptial agreement is a private agreement between a couple, that is signed prior to their marriage which sets forth the division of their pre-marriage and post-marriage assets and debts in the event of divorce or death. A prenuptial agreement can also be used to address future spousal or child support arrangements should a marriage not last. Each state has different regulations as pertains to prenuptial agreements and depending on where you get married and where you plan to live will depend on the laws applied.

The Basics of Prenups

Many people associate prenuptial agreements with celebrities, the rich and famous, or people with millions of dollars. While the press coverage that high profile marriages and divorces get makes it seem that the “average person” doesn’t need to be thinking of a prenuptial agreement, there are many benefits of prenups for every couple, no matter their wealth or fame. Prenups are for people who are planning on sharing a life together and want to avoid future disputes over daily finances or how to split their assets or debts if the marriage doesn’t last. This agreement guides the division of property and debts, future family support obligations, and it helps you protect what you have worked so hard to gain up to this point in your life.

It’s best not to thrust the idea of getting an agreement at your partner as you are headed to your ceremony or on the day of your wedding. Bringing up and discussing your plans and future well before the wedding date and in a reasonable and measured manner allows both parties to have sensible clear conversations and to get used to the idea. Placing these thoughts and plans into an agreement is not only the right thing to do but helps prevent disagreements during the marriage by clarifying expectations. Ideally at least six months prior to a wedding date allows time to iron out all the details.



1. MATRIMONIAL HARMONY

Money is the number one reason that couples have disagreements, and one of the most common reasons marriages end in divorce.

Sure, marriage is first and foremost an emotional partnership, but it is also a financial partnership. Think about it as a business partnership with clear roles and responsibilities. Would you go into business with someone without spelling out in writing what the partner's financial rights and responsibilities are? Of course not! So why would you go into your marriage partnership without a clear understanding of how finances will be handled now that you will be a married couple. Discussing this now ahead of the marriage can prevent disagreements later on. How you share the responsibility of managing your individual and joint finances is a key element of a good prenup.

When developing a good prenup agreement, it is important to disclose all your financial assets and debts. If someone "forgets" that secret account their grandmother set up for them the court can invalidate the contract. Giving your future partner a clear financial picture will make the decision easier and will hopefully make for a better marriage – allowing trust and goodwill. It is also important to factor in debts – coming to the table with credit card debt or student loans is something that should be addressed at the outset to avoid future bad feelings.

Clear plans on bank accounts will help make those day to day decisions easier and clearer as you move into the marriage partnership. During your marriage, you will no doubt buy furniture, decorate a home, purchase vehicles and real estate, save for retirement and more. What if one of you uses your pre-marriage savings of \$25,000 to purchase a car for the other's use. If you break up, is that car a marital asset or the separate property of the spouse who paid for it? The answer to that may depend on the laws concerning marital and separate property in your state. Without a prenup that addresses these types of situations, the legal outcome may not be what either of you expect.



2. FAMILY

If you plan to start a family or either of you has aging parents or siblings now is the time to review and discuss the financial implications that could have on your marriage.

For instance, if one of your parents gets sick will one of you have to take time off work or even forego a career to stay home? If there is a break-up how will that person be compensated for their time?

Are you planning on having children? How many do you want to have and how will the children impact your financial responsibilities? Will one of you have to stay home and help child-rear for a few years and if so, will the other be able to financially support the family?

Other topics we see more often today is the subject of IVF – if you are going through IVF how do you plan to both pay for that and what if your eggs are frozen – who would have rights to them in a breakup?



3. BLENDED FAMILIES

Is one of you bringing children from another marriage into this relationship? It's time to review the impact of blending the families and how that will impact your current relationships.

How will the costs and financial obligations of children from an existing relationship impact your combined finances? Is one of you paying child support to a former spouse? How will the obligation be shouldered and what is the impact on your new household's budget? Is one of you receiving child support payments? If so, is there an agreement as to how the child support money will be used? And what about those "big ticket" items for the step-children, such as

computers, cell phones, cars and college? Who gets to decide if such expenditures are made, and how will these affect your overall household budget? Clear and honest discussions about these things BEFORE they arise can avoid arguments and misunderstandings later.

And don't forget the pets – they are as much a part of the family! More often than not, in the divorce discussions, the animals can become a contentious issue – think about the pets and how the breakdown of ownership would work in the worst case scenario. Courts provide little clear guidance on what happens to the family pets after a break-up, so it makes a lot of sense and can avoid a lot of heartache if you plan for how you will share the family pets in the event of a breakup.



4. PRE-EXISTING ASSETS OR DEBTS

Do one or both of you own real estate. If so, where do you plan to live? If not, will you purchase or rent a home? How do you plan on handling mortgages or rental payments?

Do you have credit card debt or student loans? If so, this should be addressed as you do not want to end up with the other partner's debt problems.

Are you in line to inherit money from relatives? If you are, do you plan to keep this separate from your joint assets or will you use that money for renovating your house or apartment or buying that car you have been wanting?

A prenup is an excellent way to lay that all out now and to protect what you have all worked so hard to earn up until this point in your life.

Having these conversations now won't ruin your relationship – if anything it opens up conversations about needs and expectations, fosters communication, and helps couples practice conflict resolution – all essential ingredients in a successful marriage.

Working with a lawyer will help you better manage those awkward conversations or topics that perhaps have been hard to work through. With experience in these matters, mediators can

guide you through the thought processes and help you both get to the ultimate goal of securing your future together.

If you feel uncomfortable about bringing up this topic with your fiancée or are just unsure where to begin, let WhitsonLaw's team of family law specialists guide you.

How WhitsonLaw Can Assist You

Our team of knowledgeable Certified Divorce Specialists™, mediators and collaborative family law attorneys at WhitsonLaw are here to help make your path to divorce as stress-free as possible. If you desire to use options that keep you out of court, we offer mediation and collaborative divorce. If the Court is where your divorce will be decided, we will fiercely advocate for you and help you obtain the best possible outcome in court. Moreover, we can help you with any problems related to child custody, such as spousal support and child support. We understand the sensitive nature of these cases, and we want to help educate and empower you so that you can make the most pragmatic decisions for yourself.

WhitsonLaw's team of Certified Divorce Specialists™ and experienced family law attorneys are ready to support and guide you. Call us today at 518.412.4111 or email us at info@whitsonlawfirm.com.



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