

# Prenuptial Agreements

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**A KEY ESTATE  
PLANNING GUIDE**

**Law Easy**



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# Some Stats

- 50% of marriages end in divorce
- Under 5% of couples get a prenup agreement before marriage.
- Why? 'cause only 11% of couples think that there is a chance their marriage might end in divorce!

# What is a Prenuptial Agreement

- A prenuptial agreement (prenup) is an agreement between a couple intending to get married in the future. A prenup says what happens in the event of a future divorce or if one spouse dies.
- To be enforceable a prenup must meet various requirements and those requirements differ state to state. These might include:
  - each spouse must have their own attorney
  - full disclosure must be made of each person's income and assets
  - neither party can be put under pressure (duress) in negotiating or signing the agreement
  - the agreement cannot be unfair (unconscionable).

# What Issues Might be Addressed in a Prenup?

- What happens to each person's assets that they owned prior to the marriage (separate property)?
- What happens to growth in value and income earned on or from separate property?
- What happens to each person's income earned and assets acquired during the marriage?
  - Businesses
  - Retirement accounts
  - Real estate
  - Bank and investment accounts
- What happens to each person's inheritances and gifts from third parties (i.e. not the spouse to be) received before or after the marriage?

# What Issues Might be Addressed in a Prenup?

- What happens to debts and liabilities incurred by each person before or after the marriage. What if wife pays off husband's pre-marital student loans (or other debts)?
- What happens if the couple is given money from say husband's parents to buy a house?
- What does the couple want to do if one spouse dies during the marriage? What happens to assets acquired during the marriage? What happens to separate property?
- What about spousal support (alimony) in the event of a divorce? What if the wife has a child and wishes to stop working? How does the other partner feel about that?

# Additional information

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