

Five Myths (And Truths) About Prenuptial Agreements



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Getting married is a huge step, and not one that you want to rush into without giving ample thought and consideration into the “why”, and even the “what if”, behind the decision. No matter how much you think about and plan for your marriage, you cannot guarantee that everything will work out as hoped. This is why a growing number of couples are opting to have a prenuptial agreement in place to help protect their interests.

Sadly, many people still think that prenups are only for those who aren't fully committed to being married or assume that it will end up in a divorce. That is simply not the truth. Read on to see how we debunk some of the most common myths about prenuptial agreements and identify a few of the best reasons you should have one.



Myth #1 – A Prenuptial Agreement Means You Don’t Trust Each Other

There is a preconceived notion that discussing a prenuptial agreement with your future spouse is really saying, “I don’t trust you and I doubt our marriage will work out, so I have to protect myself.”

Truth #1 – They Are a Demonstration of Trust

In truth, unmet expectations are often the cause of marital breakdowns, and prenuptial agreements help to build trust and defeat doubt by giving couples an opportunity to discuss their hopes, dreams, and lifestyle expectations for the future.

Prenups also prompt couples to be fully honest with each other about their personal and financial situations and broach delicate topics that otherwise would have been left unsaid. Marriages are intended to last a lifetime, and by sharing these long-term expectations for the future, spouses-to-be are taking a crucial step to help ensure that outcome.

While going through a prenuptial agreement may not be the most romantic of gestures, the process of exposing each person’s vulnerabilities to the other can also work to strengthen intimacy and enhance the romance.



Myth #2 – Prenuptial Agreements Are Only for Protecting Assets

A very common myth associated with prenuptial agreements is that they are only designed to protect the person with all the wealth, at the expense of the other spouse.

Truth #2 – They Can Benefit Everyone, Depending on Their Circumstances.

It is a misconception that a prenuptial agreement is only meant to help protect the person with the most assets. These agreements can be essential for couples in many other situations, such as where one partner owns a small business or professional practice, there are children from a previous marriage or where there are care responsibilities for elderly parents. Prenups are also a must if one partner supports the other through schooling, especially graduate or professional school.

They can also be a powerful way of protecting against the potential for lost earnings if a partner is leaving the workforce to raise children. A recent study found that parents who stay home to raise children, even if for only one year, lose almost 40 percent of their earning power. The impact of this can be neutralized by using a prenuptial agreement to ensure that the parent who stays home with the children is protected by an equitable asset distribution and financial support by his or her spouse if the marriage ends. Without a well-structured prenuptial agreement, a judge decides if and how a stay-at-home parent is financially supported, which may not fully recognize the stay-at-home spouse's full contribution.

Prenups are also useful to protect one person from the debts of the other. If one party is entering the marriage with a large amount of debt, a prenuptial agreement can protect the other spouse from having to bear the weight of those payments in the event of a divorce. Specifying that certain debt will remain with the person who brought it into the marriage after a divorce can give peace of mind.

Myth #3 – Prenuptial Agreements Only Address Situations Involving Divorce

Most people associate prenuptial agreements with divorce, and that makes sense given that this is where they are most often used.

Truth #3 – They Can Address Many Situations Besides Divorce.

A prenuptial agreement can also be a great estate planning tool. For example, the agreement can outline the steps you want taken should one party unexpectedly pass away. This is especially important when a couple that has children from previous relationships decide to get married. It will help to ensure that the final wishes of each party are honored.

It can also be used by parties who enter into a registered domestic relationship or do not intend to get married. Serving the same function as a prenuptial agreement, it allows a couple to keep finances and debts separate. Additionally, it protects them in the event that the registered domestic partnership is dissolved, the couple stops living together, or upon the death of one of the parties.

Post-marital agreements cover these same issues, but they are negotiated and signed after the parties have married. Post-marital agreements (also known as postnuptial or postnup) have grown in popularity as couples utilize this tool to provide predictability in the handling of inheritances or gifts received during a marriage, or in the allocation of their business interests. Sometimes, the parties have had marital discord but have reconciled and wish to formalize any new understanding about financial issues they have reached.

Myth #4 – A Prenuptial Agreement Won't Stand Up in Court

This is a myth that has been spreading like wildfire on the internet, but with little reason.

Truth #4 – Make a prenuptial agreement unenforceable

The large majority of prenuptial agreements are enforceable (and followed) by the courts in dissolution or separation proceedings. While special circumstances may make a prenuptial agreement unenforceable, it's usually the ones that are poorly written, patently unreasonable or are shown to be coercive in some way.

What does this mean? First, each party needs to fully disclose what they have. This is important so that both parties can have a transparent and honest understanding of what they are agreeing to. Each person should have help from their own attorney in reviewing the agreement and be given adequate time to ask any questions they may have so that they can feel confident in their decision moving forward.

And very importantly, the agreement has to be reasonable. If one spouse brings 100% of the assets into the marriage, and the other spouse has nothing, it may not be reasonable that, upon a divorce of a thirty-year marriage, one spouse walks away with nothing.

As long as each person has attorneys working with them to ensure everything is handled correctly and with the interests of both parties in mind, the prenup will likely be enforceable by the courts if necessary.

Myth #5 – Prenups Are Too Expensive

Many people believe that only rich people can afford prenuptial agreements, and that they are unaffordable for the “rest of us”.

Truth #5 – They Can Be Affordable and Save a Lot of Money

Prenuptial agreements are not just for the rich and famous. For the rest of us, it can be an affordable legal document that protects the interests of everyday people from the fighting and legal expenses that occur when issues have to be negotiated again or litigated in a trial. A clear and precise prenuptial agreement also reduces attorney fees and accounting costs in the event of a divorce.

The cost of having a prenuptial agreement written up can vary, depending on the amount of assets and the complexity of the agreement, but when compared to the expenses of a divorce or separation, a prenup can be a great deal.

While prenuptial agreements are not only about preparing for a divorce, the fact is that reducing the conflict in a divorce is a big benefit. Of course, nobody enters a marriage thinking that they will divorce, but should it happen, everyone involved will appreciate the reduction in not only the cost, but also time, conflict and stress.

Do You Need a Prenuptial Agreement? We can Help!

If you would like to learn more about prenuptial agreements, we can help to answer your questions and get you started right away. Our team has helped many couples to understand their needs in this area, and get the agreement in place that will help everyone involved. Please [contact us](#) to set up a consultation today.



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