



10 THINGS YOU NEED TO KNOW BEFORE DRAFTING A PRENUP AGREEMENT

A Guide by The Valley Law Group
TheValleyLawGroup.com



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Prenuptial agreements, often considered unsavory, are common. These agreements are a safety net to protect you at the start of the marriage, even if you trust your partner unconditionally. But, prenuptials are difficult to navigate. And if you make a mistake, it can make for bigger problems in the future.

Before drafting a prenuptial, keep these ten things in mind:

#1: BE FAIR

Your prenup should always be fair and respectful to your partner. In many states, this fairness is enforced by law. If the agreement isn't agreed upon by both parties, each having counsel, then it's considered an unequal agreement and the state won't allow it to pass.

#2: BE REASONABLE

Every relationship is different, and so too will be the agreements. If one partner entered the relationship with more money as a result of having a higher-paying job, it's not fair if they're forced to leave with fewer assets than their partner. At the same time, if the other partner took care of the children and house all day, they're still entitled to support afterward.



#3: SEEK LEGAL COUNSEL

To make sure these agreements are fair and that each partner is okay with what they'd be getting and giving, each needs their own personal lawyer. A legal professional can study the contract being drafted and offer advice. A lawyer isn't strictly necessary, but hiring one can really help.

#4: BE HONEST

When preparing a prenup, both partners need to list out their assets, debts, and finances. Have all of your documents and financial information in order. This will make the process smoother later and prevent the decision from being unfair, even if by accident.

#5: DISTINGUISH PREMARITAL AND MARITAL PROPERTY

One classic problem with divorces involves deciding who gets what. Decide (now) which assets are considered separate and which are owned by both of you - including things like the houses, cars, tangible property, bank accounts, investment accounts, retirement accounts, etc.. This also includes any intellectual property you or your partner created during the marriage.



#6: UNDERSTAND PET CUSTODY

Pets are considered a form of property. You may not know what the future holds, and it's impossible to decide custody rights for a pet who isn't part of the family yet, but you should still sort out who would own and have responsibility for pets after a divorce case.

#7: PROTECT YOURSELF FROM DEBT



If one partner is in debt or falls into debt during the marriage, the other partner shouldn't end the divorce needing to pay off the other's debt. A prenup can avoid this problem by ensuring that all debts are considered the property of the debtor.

#8: SET SPOUSAL MAINTENANCE / ALIMONY TERMS

If you forget to set terms for spousal maintenance / alimony when drafting the prenup, then it leaves the subject ambiguous down the line, and both partners would be able to seek money from the other. To avoid a case like this, determining the amount and duration of spousal maintenance payments, which includes the possibility of waiving the concept altogether, should be another item you consider when preparing a prenup.

#9: KNOW THE RIGHTS UPON DEATH

If a partner passes away, they have the right to give their assets to whomever they choose in their will or trust, but their surviving spouse should still have enough to take care of themselves afterward. It's also important to figure out things like life insurance and rights to the estate.

#10: KNOW WHAT YOU CAN'T DO

Prenups might be helpful, but they can't be used to settle every possible divorce dispute. For example, prenups can't be used to decide the rights of children – just to figure out the related financials. Prenups are also obviously not designed to help encourage illegal acts, encourage divorce to occur, or to resolve petty disputes.

Experienced professionals are here to educate and help you take the next steps.

Drafting a prenup can be complicated, but with help, you can draft a fair and respectful agreement that makes both parties happy.

Also, prenups can be amended later. If circumstances change, you may also alter your agreement.



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