

Preparing to Marry and Prenuptial Agreements in PA

Prenuptial Agreements:

What is it?

A prenup is an agreement made by a couple before they get married concerning the ownership of their respective assets if they get divorced.

Why do people get prenups?

Many people have preconceived notions about prenuptial agreements. Some people think if you sign a prenup it means you don't trust your spouse, or that you plan on getting a divorce in the near future. However, this is not always the case. There are many reasons people choose to enter into a prenup before they marry!

First and foremost, prenuptial agreements reduce unpredictability and with it, the likelihood of needing to engage in lengthy litigation. This can be very helpful during divorce proceedings, which are already extremely costly and contentious.

Perhaps the most obvious reason is an individual with significant assets may want to protect those assets in the event that a marriage ends in divorce. Protecting these assets is not only important for the individual, but could also potentially benefit other family members. In Pennsylvania, if you have significant assets, your lawyer may recommend that you enter into a prenuptial agreement with your future-spouse before marrying him or her.

People also get prenups to protect their future spouse. If you know your spouse has significant assets, you may want to shield them from litigation in the event of divorce. If you also have significant assets, you may want to ensure that if your marriage ends in divorce, the process will be as easy as possible. Sorting through significant assets may be a difficult and contentious experience, especially if those assets generate significant marital property. A prenup could avoid the long, and arduous task of going through each and every asset and figuring out who is entitled to what.

There are also implications for inheritance. When an individual gets married, their spouse is entitled to at least some of their estate when they die. You cannot completely cut your spouse out of your will, but you may want to reduce or increase the default amount that your spouse can inherit under state law. That being said, prenuptial agreements can be a good idea for someone who wants to protect their children from a prior marriage. If you want your children to get the bulk of your estate when you die, you may want to ensure that in the event of divorce, you still have that bulk of the estate to leave them.

Can a prenup be enforced against me?

When a couple gets divorced in Pennsylvania, the prenuptial agreement(s) they had in place are generally enforced. In some cases, if fraud or misrepresentation existed when the

prenup was created, or if there was not a full disclosure of financial assets when the parties entered into the agreement, the prenup can be contested.

Unlike other states, Pennsylvania doesn't really care if the terms in the prenup were reasonable or not. Pennsylvania's approach to prenuptial agreements is to treat them the same way as any other contract, and just as a court won't invalidate a contract for simply being unfair, it won't invalidate a prenuptial agreement for that reason either.

Do I need anything to get married?

In Pennsylvania, there are generally two things required to get married: a license and a ceremony.

1. Marriage license

No one is allowed to get married in the state of Pennsylvania until they have a marriage license. To get a marriage license, both you and your fiancé need to submit an application to the Department of Court Records Marriage License Bureau. This application may be submitted online, but remember, if you submit it electronically you are still required to go into the Department of Court Records and appear in person.

Many states used to require each marriage license applicant submit to a blood test. While this practice used to be part of Pennsylvania law, Pennsylvania no longer requires blood tests. However, Pennsylvania does require that you provide a lot of information when submitting an application for a marriage license, so make sure to check and make sure you have all of the items you are required to have.

Once you and your fiancé submit your applications and appear in person at the Department of Court Records, the mandatory waiting period begins. Pennsylvania imposes a three-day waiting period, so you need to apply for the license at least three days before you plan on having the ceremony. In Allegheny County, it is recommended that you begin the application process several weeks prior to the ceremony. This waiting period may be waived under certain special circumstances.

After the three-day waiting period, you can either pick up your marriage license in the Department of Court Records or have them mail it to you for no extra cost. A marriage license issued in any Pennsylvania county can be used anywhere in the state, and is valid for 60 days from the date it is issued.

2. The ceremony

People typically think of marriage ceremonies being as being more of a tradition than a requirement. However, a valid marriage in Pennsylvania requires a marriage ceremony. Generally, the ceremony has to be conducted by clergy or civil officers empowered to administer oaths.

Common Law marriage is a type of informal marriage that does not require a marriage ceremony. Instead, a couple enters into a valid common law marriage when they hold themselves out to be married and articulate in the present tense their desire to be married. Contrary to many myths (i.e., the “seven year rule”) there is generally no minimum period of cohabitation to be considered married! Pennsylvania is one of few states that still sometimes recognizes this type of informal marriage. In Pennsylvania, a valid common law marriage entered into before January 2, 2005.

*(For more information on this topic or any topic in divorce, custody, mediation, child support, collaborative law, PFA matters, alimony, or other family law matters, visit www.Pittsburgh-Divorce-Lawyer.com or contact **Notaro & Associates, PC** at **412-281-1988** for a free phone consultation with an attorney. You can also schedule online by clicking [here](#).)*