

What is a postnuptial agreement in PA

Unlike a prenuptial agreement, a postnuptial agreement is one that is entered into after the spouses are already married. Even though the timing of these agreements differ, they are governed by the same principles in Pennsylvania. If you are thinking about entering into a postnuptial agreement, it is best that you and your spouse seek independent counsel.

For those of you that are *not* considering a postnuptial agreement, you are not alone. Many people are reluctant to consider it. As you can imagine, most people do not want to think about their marriage ending. However, there are definitely some up-sides to these agreements. For example, they can reduce stress and uncertainty in the event of a divorce by having everything all spelled out and ready to go. They can also be used to protect children from a prior marriage, for example, by waiving the right to an elective share.

You can include a variety of terms in a postnuptial agreement: from money, property, and business interests, to how many vacations you will take, or who gets to keep the pet fish. There are, however, some terms which may not be enforced, like provisions for child support or child custody. One of the reasons it is important to seek independent counsel if you are considering a pre- or postnuptial agreement is that you can waive rights that you may otherwise be entitled to under the law. For example, alimony, as well as the other spouse's earnings during the marriage, can be waived in postnuptial agreements. So, it would likely be in your best interest to have independent counsel look at and explain a postnuptial agreement if your spouse has presented one to you.

If there is no pre- or postnuptial agreement in place, Pennsylvania law uses a process of equitable distribution to divide the marital property at divorce. However, if there is an agreement in place, the terms of the agreement will be enforced. So, for example, if Harry waived his right to alimony, or to any of his wife's earnings, those terms will be enforced. Similarly, if the agreement states that Harry gets to keep the pet fish, he gets to keep the fish.

The terms of the agreement will not stand, however, if one party is able to invalidate the agreement. Pennsylvania courts assume that postnuptial agreements are valid, so the burden is placed upon the party seeking to invalidate it. Furthermore, the law treats these agreements like any other contract, so it will not consider whether the agreement itself is fair. Instead, the party seeking to invalidate the agreement needs to show that it was entered into involuntarily, or that he/she did not receive "full and fair disclosure" or have adequate knowledge of the other party's financial circumstances prior to entering the agreement. Pennsylvania allows a spouse to waive his/her right to disclosure, which further highlights the importance of seeking independent counsel.

*(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](#).)*