

3 Critical Prenuptial Agreement Clauses For Every Couple to Include

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Many people have the wrong idea about prenuptial agreements, thinking that they apply exclusively to settling the terms of a divorce. Because of this, there is a false notion floating around that prenuptial agreements are signs of cynicism surrounding a marriage.

The truth is that the best prenuptial agreement sets the terms for the different conditions that may arise over the course of a marriage. It can actually provide a fantastic opportunity for a couple to have difficult conversations and even seek counsel at a peaceful moment in their relationship. Should something arise in the marital household, the prenuptial agreement clauses included in the agreement will layout a precise course of action.

What Being “Happily Married” Involves

Everything from everyday finances through business holdings can be defined here. Assume nothing is a given; put it down on paper, just to be safe and make sure both of you are on the same page. Have the discussion about income and funds upfront, and then use these prenuptial agreement clauses to define whether you two will hold your money in a joint checking account or whether you will have joint credit cards. Clarify who’s responsible for paying the bills, and how they will go about doing that as well as how they might be reimbursed by the other partner.

Document assets here. Be sure to include any property holdings, and even down payments and mortgages, and note who pays for what as well as what belongs to whom. If one or both of you own a business, include that here, as well as what happens to assets if the business gets sued.

In these prenuptial agreement clauses, you can address all of these issues.

What Happens in the Event of Death

Ideally, each of you will also want to create a will. But, in your prenuptial agreement, you can start to address issues surrounding any assets, such as how they might be given to the surviving partner if the other one passes away. You'll also want to discuss the terms of any life insurance policies.

One thing you cannot include in your prenuptial agreement is anything attempting to clarify custody ahead of time. Your lawyer can help you work through any concerns you might have about this or anything else, and make sure that, if this is a concern for you, it gets properly documented.

The Terms of a Divorce

This really is a discussion to have in peaceful times, not in the heartbreak and acrimony that tends to surround the dissolution of a marriage.

First off, the prenuptial agreement clarifies the terms of conflict resolution—such as supervised mediation—that must be attempted before the divorce case is brought to court. The best prenuptial agreement will go into details like who should then pay attorney fees as well as defining the terms of spousal support. The prenuptial agreement also covers the conditions under which either party gets to inhabit and retain ownership of the real estate, and the terms for dividing any other assets.

These are the three main considerations to factor in as you develop your prenuptial agreement with your partner. Depending on your particular circumstances, you might have other issues you'd want to address and layout in clear writing. The best solution is for you and your partner to consult with an attorney, to make sure your prenuptial agreement covers your bases and can be upheld in court.

Contact Wall and Wall Attorneys to Help You Outline Your Prenuptial Agreement

Wall and Wall Attorneys has been practicing law for over 47 years and can offer you everything from legal coaching through complete representation. Reach out to us today by email or phone, and get your legal questions answered.