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Decision Points: Should You Sign a Prenuptial Agreement?

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During the excitement of an engagement, most couples can't imagine one day getting a divorce, but the stats are against them: 1 out of 2 marriages end in divorce these days, and experts say prenuptial agreements can save a lot of time, money and heartache down the road.

A prenuptial agreement, often referred to as a prenup, is a written contract between two people who are about to wed that defines out the terms of possession of assets, treatment of future earnings, control of the property of each and potential division if the marriage is later dissolved.

While prenups are most common if either party has substantial assets, children from a prior marriage, high income or has lost assets to a previous spouse, Lynne Gold-Bikin, a partner at Philadelphia-based law firm Weber Gallagher Simpson Stapleton Fires & Newby, says individuals might also want to plan successions related to family businesses or protect parental trusts that have been set up for either party.

Gold-Bikin recommends signing a prenup at least 30 days before exchanging vows, but says couples should set aside time prior to that for planning specifics of the agreement.

"While the two parties can negotiate the terms of the prenuptial agreement themselves, I prefer attorneys to get involved in the process once the issues are spelled out," says Gold-Bikin, who adds she often videotapes the signing of the agreement to avoid any claims of invalidation.

Tina Tessina, a licensed psychotherapist and author of 13 books including *Money, Sex and Kids: Stop Fighting About the Three Things That Can Ruin Your Marriage*, says each party needs to know as much as possible about each other's money, "because when you marry, you create a financial entity much like a business."

"A pre-nuptial agreement is a great way to do this, because it legally requires that both spouses disclose all their assets, or be liable for fraud," Tessina says. "Hiding financial assets from your new spouse is a bad-faith move, and doesn't bode well for the marriage."

But while prenups can help avoid conflict in the event of a divorce, the process of negotiating the terms of an agreement can lead to relationship strife.

"Don't wait until you've booked the venue, sent the invitations and had a final fitting on the gown that is being shipped from Italy," says April Masini, a relationship advice expert and author of the "Ask April" advice column and online forum.

"One way to make sure the process doesn't cause a break up is to be generous," adds Masini, who also recommends that each party use a separate attorney. "Consider losing your fiancé over a prenup break up, and decide how much the relationship is worth to you ... If a partner feels like the prenup you're offering is fair and generous, he or she will be more likely to go along with the process."

Gold-Bikin says couples must learn to communicate openly, understand why each party is asking what they're asking for and ensure the terms of the prenup are fair to both.

"In some situations, the prenuptial agreement negotiations themselves are so difficult that the marriage ends up not happening - usually, for the best," she says.

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