

PreNuptial Agreements

Please be advised that anyone entering into a premarital agreement should consult an attorney before signing the agreement. You may not be aware of the rights that you may be giving up by signing such an agreement.

A prenuptial agreement is also called an antenuptial agreement or a premarital agreement. Whatever you call it, you should know that it is an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage. After marriage, a premarital agreement may be amended, revoked, or abandoned only by a written agreement signed by the parties. The amended agreement, revocation, or abandonment is enforceable without consideration.

Parties to a premarital agreement may contract with respect to:

1. The rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;
2. The right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;
3. The disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;
4. The establishment, modification, waiver, or elimination of spousal support;
5. The making of a will, trust, or other arrangement to carry out the provisions of the agreement;
6. The ownership rights in and disposition of the death benefit from a life insurance policy;
7. The choice of law governing the construction of the agreement; and
8. Any other matter, including their personal rights and obligations, not in violation of either the public policy of this state or a law imposing a criminal penalty.

However, the right of a child to support may not be adversely affected by a premarital agreement.

Enforcement of a premarital agreement

A premarital agreement is not enforceable in an action proceeding under the Florida Family Law Rules of Procedure if the party against whom enforcement is sought proves that:

1. The party did not execute the agreement voluntarily;
2. The agreement was the product of fraud, duress, coercion, or overreaching; or
3. The agreement was unconscionable when it was executed and, before execution of the agreement, that party:
 - a. Was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;
 - b. Did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

- c. Did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.
4. If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.
5. An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

If you are going to enter into a premarital agreement, consult an attorney first!!!!