

PRENUPTIAL AGREEMENT CHECKLIST

Looking for a checklist to help you prepare for a prenuptial agreement? Use this prenuptial agreement checklist to help you understand what's included in a prenup and what you should know before drafting one.

Talk to Your Partner First

Have a conversation with your partner about the prenup as soon as you can. Don't wait until you are almost married to bring it up. [NoCourtDivorce](#) says, "*Bring up the subject as soon as possible with your fiancé or partner. If you haven't talked about it before the engagement, I suggest raising the topic at least 6 months before the wedding date.*"

List of Assets & Debts Before Marriage

One of the requirements for a prenuptial agreement is to make a list of assets and debts that you acquired before the marriage. You should also be aware of any financial issues you have and share those with your partner.

- Do you know how your assets and debts will be divided if you get divorced?
- Will premarital debts and assets stay separate property, or will they return the party who acquired them before marriage?
- Will you inter-mingle separate property with your marital property?
- Will one person's property be used to pay off the other's debts?
- If so, will the other party require reimbursement, or is it considered a gift?
- Will you use premarital property to purchase a house you will own together?
- If so, will the other party require reimbursement, or is it considered a gift?

According to [DivorceNet](#), "*Premarital*" assets are any assets that you acquired before your marriage to your fiancé. This can be any type of property, such as your savings and brokerage accounts, pensions and retirement funds earned up through the date of the wedding, a car, jewelry, a home, or employee stock options."

Property Acquired During Marriage

Property acquired during the marriage is referred to as "marital property". Here are a couple of things to think about regarding property acquired during marriage:

- How will assets and income you acquired together be handled?
- Will they be 50/50?
- Is there a different arrangement you will use?

Income and Asset Management

Some people like to spend, some people like to save. Opposites attract and it's very common for a couple to have different styles when it comes to spending and saving. However, you must know your partner's goals and priorities so you can meet each other's needs. Here are a couple of questions to think about regarding income and asset management:

- Who makes the financial decisions for the household?
- Is that the same person that handles the checkbook?
- Will you handle finances together or will one spouse be the primary manager?
- Are they also responsible for large purchases?
- Does either spouse need to ask permission before purchasing a luxury item such as a flat-screen TV?
- Who will be responsible for paying the household bills?
- Will you have separate bank accounts, joint bank accounts, or a combination of the two?
- Do you and your partner have different money styles?
- Have you talked about financial goals with your partner and how both of you will contribute?
- Have you talked about retirement and how you will save?
- If you or your partner owe child support or spousal maintenance from their previous marriage, who will make those payments and how will they be made? From joint income or property, or separate income or property?
- If you get a divorce or separation, will you or your partner want to be reimbursed for those payments?

Tax, Debt, and Credit Issues

Do you know what your partner's credit score is? Have a talk with your partner about paying off debt and about accumulation debt together. Think about the following questions when discussing new and old debt:

- Do you or your partner have no credit or bad credit?
- Do you or your partner owe back taxes? If you do, how will you pay those debts? Individually, jointly, and from which account?

Contributions

What is your agreement on contributions that don't involve money, like managing the family home or raising children? It's important that you know your partner's attitude and your own when thinking about which roles each of you will take in the marriage. Here are a few questions regarding contributions:

- Do you know how much income or the types of jobs each of you will have?
- Do you or your spouse expect a change in either of your careers at any point?

- Does either of you work a dangerous job such as a police officer, firefighter, etc. where they could become disabled?
- How would you feel if your partner took a less profitable job for a more personally rewarding one such as a teacher?
- Do you know when you will retire? What age do you plan on working until?
- Will both of you work if you have kids? Will one spouse stay at home?
- What happens if you or your spouse need to move to another state for work?
- What happens if either spouse wants to move closer to their family after you have kids?

According to [PeaceTalks](#), *“Most states recognize these types of contributions during a marriage, but it’s important that you share your attitude, and that you know your fiancé’s attitude about these types of roles in a marriage.”*

Spousal Maintenance

Spousal maintenance can be included in your prenup if needed. Questions regarding spousal maintenance include:

- Are there any limitations to the duration, terms, or amount of spousal maintenance?
- Are you both expected to work and contribute to the home?
- What if circumstances lead to one partner or the other no working, such as the birth of a child or a health problem? What if one spouse wants to go back to school?

You can’t predict the future. Not including spousal maintenance in your agreement could leave a disabled spouse unable to support themselves.

Family Gifts

What happens if one of you receive a large monetary gift such as a down-payment to a home? Is it a gift or a loan? Questions regarding family gifts include:

- Is it a gift or a loan?
- Is the gift community property or separate property?
- If the gift is a loan, who is responsible for paying back the loan? Do you need formal documentation if it happens to be a loan?

[Marriage.com](#) says, *“Occasionally one set of guardians or relatives gives a pair substantial money related blessings, advance or a home up front installment. It is imperative to clarify what sort of blessing this is.”*

Filing Taxes

A married couple can file jointly on their taxes, but they don't have to. Talk to your partner about paying taxes to figure out if you are filing separately or jointly. Questions regarding filing taxes include:

- Will you file jointly or separately?
- Does either partner have tax debt?
- Will both parties be responsible for tax debt?

If your spouse owes money to the IRS, they can take it out of your joint refund.

Paying for School

One partner or the other might want to go back to school. If you or your partner went back to school, would the other be willing to provide more support? Questions regarding paying for school include:

- Will either spouse be attending college?
- Is one spouse willing to support the other while attending school?
- Who is responsible for paying back student loans?

Premarital Agreement Duration

You and your spouse can decide the duration of the premarital agreement. Questions regarding the duration of a premarital agreement include:

- Do you want your prenuptial agreement to expire?
- Would you be like to renegotiate your prenu in the future after 10, 20, or 30 years of marriage?

Being able to renegotiate your prenu is important if you expect major changes in the future.

Ownership of Business

If you or your soon to be spouse owns a business, there are a couple of things you should consider. Questions regarding ownership of business include:

- Do you want provisions made for auditing or books in the event of a divorce?
- Want to make an agreement of the amount of income contributed to the family home and the amount to be kept separate

Disability or Death

You might want to create a new estate plan after you get married, especially if you have kids from a previous marriage, so your estate is handled properly if you are to become disabled or pass away. Questions regarding disability and death include:

- Does either partner have kids or other people who might inherit from them?
- Does either one of you have life insurance?
- Does either of you have children already, or people who'd inherit from you?
- Who will be named as the beneficiary on your pension plans, survivor annuity benefits, IRAs, and retirement plans?
- Does the prenup end upon the death of a spouse?
- Is the surviving spouse capable of supporting the same lifestyle after one of you passes away?
- Will either spouse have instant access to funds if the other passes?
- Will the surviving spouse be able to maintain the family home if you die?
- What happens if either one of you become disabled or incapacitated?
- Would one of you becoming disabled change the way finances are handled?
- Would you be willing to use separate property to support the disabled spouse?
- Do you need long term care or disability insurance?

According to [RocketLawyer](#), *“When you get married, you’ll want to take the time to update your Will, if you have one. You might also consider adding a Living Will or Power of Attorney.”*

Drafting a Prenuptial Agreement

To start drafting a prenup, both partners must complete a list of current income, debts, assets, and any health-related problems you may have.

Also, it’s worth considering adding a clause about mediating disputes that cannot be resolved between the two of you or that you’ll seek marriage counseling before filing for divorce.

Some people even include a clause about the divorce process they will use in the event of a divorce such as collaborative law or divorce mediation process vs litigating in court.

According to [MortgageCalculator](#), *“40% to 50% of all marriages in the United States end in divorce; and part of planning for the future as a married couple is considering every eventuality, even the ones you might prefer not to think about. For many couples, that plan includes a prenuptial agreement.”*

See Also:

- [How You Can Get an Ironclad Prenup](#)

- [How much does a prenuptial agreement cost?](#)
- [How long does a prenuup last?](#)
- [Pros and cons of a prenuup](#)

Trust Ogborne Law for Your Prenuptial Agreement in Phoenix, AZ

At [Ogborne Law](#), we dedicated our time to working with couples as they hash out the details of a prenuptial agreement. We understand that the process can be stressful, and aim to make it easy and straightforward. Ogborne Law we work on a flat-fee basis according to your needs. The costs can vary from a few thousand dollars to tens of thousands depending on what you need to cover. Learn more about the [cost of a prenuup in Arizona](#).

Our service area for [prenuptial agreements in Phoenix](#), Arizona including Paradise Valley, Fountain Hills, Cave Creek, Carefree, and more. We also service many popular Phoenix neighborhoods such as Paradise Valley Village, Desert Ridge, Desert View Village, Norterra, Deer Valley, North Mountain Village, Arrowhead Ranch, Camelback East Village, Arcadia, Kierland, and more.

We also offer services that include the evaluation of business and [estate planning](#). These services can work in conjunction with your prenuptial agreement to ensure your complete protection in the case of divorce. To better understand your options and the cost associated with [prenuptial agreements](#) call Ogborne Law today for a consultation. We are happy to answer all your questions from “How much does a prenuup cost?” to “how do I talk to my fiancé about it?”