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Prenuptial Agreements Becoming More Necessary with Changing Face of the American Family

Michelle McLean

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When you think of a prenuptial agreement, the first thing that probably comes to mind is a picture of a wealthy business tycoon intent on prohibiting his soon-to-be bride from claiming any part of his assets. Not so. As a result of the changing face of the American family, prenuptial agreements have become extremely helpful if not downright necessary. Below are but a few instances which demonstrate the need for a prenuptial agreement:

1. Cohabiting Couples. Couples who have been cohabitating before marriage (especially for significant time periods) may find prenuptial agreements to be an important part of their marriage planning. In these instances, prenuptial agreements ensure that the equity gained in the other spouse's home during the period of cohabitation, or even his or her premarital retirement funds acquired during the cohabitation period, will be included in the marital estate.
2. Same Sex Couples. There are many same sex couples who have been partners for years but up until recently were not able to enjoy the benefits of marriage. These couples have also accumulated significant assets together and should use prenuptial agreements to establish rights to premarital assets if the assets are held in one or the other person's sole name prior to the marriage.
3. Estate Planning/Second Marriages. Since more people are getting married more than once, prenuptial agreements can ensure that any premarital wills and trusts remain fully enforceable after the marriage. Additionally, a prenuptial agreement may be a means to preserve assets for a new, elderly spouse and his/her children from previous marriages in the event that the other new spouse requires long-term, assisted care and Medicaid needs to get involved.
4. Premarital Debt. More people are bringing thousands of dollars of debt into their marriages - credit card, student loans, etc. Just as with assets, people are now planning on how to divide "debt" in the event of a divorce, especially when bankruptcy is not an option.

In summary, a prenuptial agreement should be looked at as a tool to ensure a successful, long-term marriage. Thus, before a person says "I do" (again), they would be wise to seek the advice of competent legal counsel about drafting a prenuptial agreement.