I Don't Have Many Assets...Do I Need A Pre-Nup In Pennsylvania?

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Regardless of a person's current assets, a pre-nup is always prudent prior to entering into a marriage because a it can offer so many things *other* than just protecting the assets you have before your marriage:

1. **Pre-Marital Assets:**Assets accrued prior to a marriage are largely protected from an equitable distribution (division of assets) incident to a divorce in Pennsylvania. However, the growth of those assets (i.e., increase in value) that occurs during the marriage will be considered part of the marital estate and subject to equitable distribution. Not only can a pre-nup protect the growth on the pre-marital assets during the marriage and ensure this increased value remains separate property (does not get divided incident to a divorce), but it can also take the case law and statutory protections that currently exist and extend those protections. For example, a pre-nup can extend protection in the event that a pre-marital asset is co-mingled or otherwise used for a joint purpose during the marriage. Without a pre-nup, co-mingling of a pre-marital asset often may be considered a gift to the marriage, and the pre-marital status may be lost.
2. **Assets Accrued During the Marriage:** In Pennsylvania, assets and income accrued/earned during the marriage are largely considered "marital" property and thus subject to equitable distribution (division of assets incident to the divorce). A pre-nuptial agreement is able to exempt assets that may be accrued during the marriage as a party's separate property, thereby avoiding distribution in the event of a divorce.
3. **Real Estate:** Whether real estate is acquired before or during the marriage, if there is a mortgage or other maintenance/capital contributions to a home during the course of a marriage, same may give rise to a claim for equitable distribution of this asset. A pre-nup can clearly define what, if any, of a pre-marital residence or a residence purchased using pre-marital funds is or is not subject to division between parties incident to a divorce (example: pre-marital savings used for the down payment on the marital home). A pre-nup can go even further and provide one party the option to purchase the other party's interest in real estate in the event of a divorce as well as a clause for vacatur of a home following a specified event (i.e., notice of wish for divorce or receipt of the filed Divorce Complaint). A pre-nup can even go so far as to address how bills will be paid and each party's obligation to contribute, including addressing issues of unemployment, staying home with children, among other possibilities.
4. **Retirement Assets:** Due to the fact that retirement assets are subject to equitable distribution, this is yet another reason for a pre-nup. If you are a saver and your significant other is not, do you want to give him/her half of your retirement savings in ten (10) years if your marriage ends? Whether retirement savings are accrued before or during a marriage, a pre-nup can address how such assets should be divided, as well as the growth on those accounts during the marriage.
5. **Gifts and Inheritances:** Similar to pre-marital assets, gifts and inheritances by one party/spouse are largely protected

from equitable distribution, however, a pre-nup can provide additional protections, including protection in the event of passive growth and co-mingling.

Protections in the Event of Death: A pre-nup can provide protection of assets and elective share rights in the event of death. This allows you to leave your assets to whomever you wish (children, other family members, etc.) and prevents your spouse from taking against your estate under intestacy or elective share unless you specifically leave asset(s) to him/her under a will.

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