

Should Your Wedding Checklist Include a Prenup?

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Fans of *The Golden Girls* may remember the episode in which Dorothy decides to remarry her ex-husband, Stan. He's the selfish, cheating, novelty salesman Dorothy had married as a teenager in a shotgun wedding. Although they are now divorced, Stan remains the bane of Dorothy's existence. She calls him, without irony, a "yellow-bellied sleaze ball," among other epithets.

Dorothy's decision to remarry Stan has Rose, Blanche, and Sophia all rolling their eyes. It is only on the day of the wedding, when Stan unexpectedly asks Dorothy to sign a prenuptial agreement, that she comes to her senses and calls it off. "I don't want to make the same mistake twice," she tells her disbelieving guests.

A prenuptial agreement may be the least romantic thing an engaged couple can talk about. Simply bringing up the topic may arouse suspicion, suggesting a lack of good faith or an expectation of divorce.

But rather than any want of sincerity, preparing a prenup can reflect a couple's maturity and respect for each other. The process of sorting through the terms of the agreement may even bring them closer together.

Under Maryland law, the separate assets each partner brings to a marriage belong to that person, even if the marriage ends in divorce. The assets they acquire during the marriage, however, would be divided equitably between them in the event of a breakup.

A prenup is a contingency plan that enables the couple to say what that division should look like. For example, each partner could simply take what they separately contributed to the union and be on their way. Or the partner with greater assets could agree to support the other long enough for them to get back on their feet.

The agreement can also say what happens to the family home. Should one partner be allowed to buy out the other's interest in the house? Or should the property be sold and the proceeds divided according to the percentages each of them contributed to the down payment and mortgage installments?

Children are another consideration. If one partner has children from a prior relationship, the agreement could allow him to bequeath his entire estate to them, rather than his new spouse. This provision would trump the surviving spouse's legal right to take a third or more of the estate as her "spousal share." If the couple already has children together, one or both spouses could agree to maintain life insurance for the children's benefit while they are still minors. The one thing a prenup cannot dictate is custody of the parties' own children in the event of divorce.

Regardless of what provisions it includes, a prenuptial agreement can be a reassuring document to have in the fire safe. It's a

lot like the airbag in your car—you hope you'll never have to use it, but you'll be grateful to have it if the need arises.

As a practical matter, that need may be more likely to arise for some couples than for others.

With the arrival of same-sex marriage, many couples are tying the knot after having been together for years or even decades. These relationships have already withstood the test of time and are unlikely to end in divorce. But two people in a newer relationship may like the idea of a prenup so they can enter into marriage prepared for the unexpected.

In the same way, couples who are significantly different in age, wealth, or level of education should give a prenuptial agreement serious consideration. Having children from a prior marriage is another circumstance in which a prenup may be advisable.

If Dorothy Zbornak, already in her wedding dress, had gone ahead and signed Stan's prenup, it probably wouldn't have held up in court. Stan, ever the yutz, had neglected to follow some important formalities.

First, the document should include full financial disclosures from both partners. Any omission could invalidate the agreement. Second, *two* attorneys should be involved, one to represent the separate interests of each partner. And third, sufficient time should be allowed between executing the agreement and exchanging vows to avoid the suggestion that either partner was pressured into signing.

A valid prenuptial agreement can save a couple time, money, and heartache if things don't go as expected. If there are wedding bells in your future, contact an attorney who practices in this area to determine whether a prenuptial agreement is right for you.