



ALL IN THE FAMILY

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Prenuptial Agreements in Massachusetts: Why More Couples Are Choosing to Plan Ahead

BY CATHERINE E. SPANU • JULY 29, 2026

For decades, prenuptial agreements carried a certain stigma. Many people associated them with a lack of romance, distrust, or even an assumption that a marriage was doomed from the start. That perception is changing, and quickly. In Massachusetts and throughout the United States, prenuptial agreements are becoming a standard part of wedding planning for couples of all ages and financial backgrounds, not merely the ultra-wealthy or the previously divorced.

WHAT IS A PRENUPTIAL AGREEMENT?

A prenuptial agreement is a legal contract entered into by two people before they marry. It typically outlines how assets, debts, and property will be divided if the marriage ends in divorce or death. In Massachusetts, prenuptial agreements can also address alimony and the treatment of property and business interests acquired during the marriage.

However, prenuptial agreements can't determine everything that will happen in the event of divorce. Massachusetts courts will not enforce provisions that attempt to determine child custody or child support, since child-related matters must be determined in light of the child's best interests at the time they arise.

WHY ARE PRENUPS BECOMING MORE COMMON?

Several trends are driving the rise in prenuptial agreements:

- **People are marrying later in life.** Many couples now marry once they have established careers and retirement accounts, purchased real estate, or even started their own businesses. A prenuptial agreement allows each person to protect what they built before the relationship began.
- **Business ownership is on the rise.** Entrepreneurs and business owners increasingly use prenuptial agreements to keep business interests separate from marital assets, protecting not just their own interests but those of business partners as well.

- **Student debt is a growing factor.** With rising education costs, one partner may enter a marriage with significant debt. A prenuptial agreement can provide that this debt remains the responsibility of the person who incurred it, rather than becoming a shared liability.
- **Greater financial transparency and communication.** Younger generations in particular tend to view prenuptial agreements less as a sign of distrust and more as a practical planning tool, similar to a will or life insurance policy. Discussing finances openly before marriage is also increasingly seen as a sign of a healthy relationship.

THE LEGAL REQUIREMENTS IN MASSACHUSETTS

For a prenuptial agreement to be enforceable in Massachusetts, it must meet several conditions established by case law, most notably from the Supreme Judicial Court's decision in *DeMatteo v. DeMatteo*:

- **Signed and in writing.** The agreement must be in writing and signed by both parties.
- **Full financial disclosure.** Both parties must provide full financial disclosure to the other before signing the agreement.
- **Fair and reasonable terms.** The agreement must be fair and reasonable at the time it was signed and, importantly, "not unconscionable" at the time it is enforced (typically, years later, at divorce). The "unconscionability" standard is understood to mean that enforcement of the agreement would leave a spouse without sufficient property, maintenance, or appropriate employment to support themselves, or where changed circumstances that were not contemplated at the time they entered into the agreement would work an "unconscionable hardship" if the agreement is enforced.
- **Voluntary agreement.** Both parties must enter into the agreement freely and voluntarily, without coercion, fraud, or duress.
- **Independent legal counsel.** Both parties must have adequate opportunity to consult with independent legal counsel.
- **Waiver.** There must be a waiver indicating the parties understand and intend to waive the rights they would otherwise have, absent the agreement.
- **Adequate time before the wedding.** Signing a prenuptial agreement days before the wedding can raise questions about whether a party felt pressured to sign. But even more significantly, it is important for both parties to have sufficient time to negotiate and consider the agreement, well in advance of the wedding. Couples considering a prenuptial agreement should start the conversation early to ensure there is ample time to discuss their intentions, negotiate specifics, work with counsel, and finalize the agreement.

Because Massachusetts courts evaluate fairness at the time of enforcement as well as at the time of signing of an agreement, prenuptial agreements here require careful, thoughtful drafting. An agreement that seemed reasonable for a young couple starting out may look very different after 20 years of marriage, children, and career changes.

COMMON PROVISIONS OF A MASSACHUSETTS PRENUPTIAL AGREEMENT

While every prenuptial agreement is different, common provisions include:

- Division of property owned before the marriage
- Treatment of property acquired during the marriage, including property acquired through gifts and inheritances
- Provisions relating to treatment of the marital home in the event of death or divorce
- Alimony or spousal support
- Protection of business interests

- Rights to inheritance and estate planning coordination
- Responsibility for premarital and marital debts

A TOOL FOR PROTECTION, NOT PESSIMISM

In recent years, couples increasingly see entering into a prenuptial agreement as an act of care rather than a hedge against failure. A well-drafted prenuptial agreement can reduce conflict during marriage by establishing clear financial expectations from the start. Should the marriage then end, the spouses have already agreed on key financial terms, which can make the process significantly less contentious, costly, and emotionally draining for both spouses and the family. Prenuptial agreements are viewed less about planning for divorce, and more about entering marriage with clarity, transparency, and a shared understanding of how to handle life's uncertainties together.

TALK TO AN ATTORNEY EARLY

If you're considering a prenuptial agreement, the most important step is to start the conversation early, and ideally, many months before the wedding. This gives both parties time to gather financial documentation, consult with independent attorneys, and negotiate terms without the pressure of an approaching deadline. An [experienced family law attorney](#) can help ensure your agreement truly reflects the spouses' intentions will be upheld under Massachusetts law.