



THE ASHMORE LAW FIRM, P.C.

*Expertise. Experience. Excellence.*

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# How to Protect your *Happily Ever After*

*The Ultimate Guide to Prenups in Texas*

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## **Acknowledgements**

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## **Disclaimer**

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You will find this book to be insightful and a general, educational guide on Premarital and Postmarital Agreements in Texas. This book is not designed to provide specific legal advice, as each case is unique. The subject matter is for informational purposes only and is based upon Texas law. For specific legal advice regarding your case, consult with a qualified attorney who will be able to review your situation and the factors involved.

## Introduction

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### *Let's Talk About It...*

Have you and your fiancé talked about the important questions below?

*Who is going to pay the bills?*

*Who is going to do the housework?*

*Who is going to cook meals?*

*Who is going to grocery shop?*

*Who is going to take care of the yard?*

*Who is going to stay home with the kids?*



Knowing the answers to questions like these BEFORE marriage can help with future planning. A prenup can do the same thing.

Some people say having a prenup dooms the relationship, but we are here to tell you there is nothing FURTHER FROM THE TRUTH!!! A Prenup, also known as a Premarital Agreement, can help protect your happily ever after.

## What is a Premarital Agreement?

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**A** Premarital Agreement is a contract entered between two people before marriage. It is a document that allows you and your fiancé to state how your property, or any inheritance you may receive from a family member, will be distributed if the family unit changes due to unfortunate circumstances like death, disability, etc.

It also forms agreements about who is responsible for any debt incurred before or during marriage. Making a financial plan together

can strengthen a relationship and talking about finances can prevent stress and conflict.

The great thing about a Premarital Agreement is you and your fiancé get to decide exactly how everything is handled.

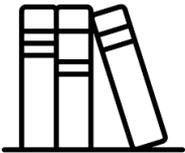
### *Marital Agreements Save Marriages*

Believe it or not, we have seen premarital agreements save marriages.

“ A premarital agreement allows you to communicate and learn answers to the essential need-to-know questions. ”

It allows you to walk into a marriage with your eyes wide open creating a foundation of communication and trust. This can also put both your families' minds at ease knowing you are both protected from marrying into a financial disaster. No one plans to marry a conartist or golddigger.

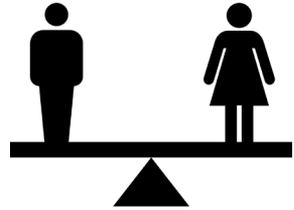
### *Our Goal is Education*



As family law and estate planning lawyers, we've seen it all. We want to pass on our wisdom and experience. Our goal is to educate you with your options and give you the tools so your "I dos" truly can last forever.

A premarital agreement, also known as a prenup, helps a couple define their rights, obligations, and can protect both parties in the case of a significant change in the family unit. A premarital agreement may deal with the division of property for any reason and can also be used for the following:

- Determining the responsibility for premarital debts.
- Defining the ownership of the marital home.
- Estate Planning and distribution of property after death.
- Deciding which items are community property and which are separate property.
- Resolution of future financial disputes.
- Spousal support (alimony) obligations.
- Support of existing children.
- Allocation of taxes.
- Protection of business interests.
- Etc...



### *Financial Responsibilities*

A premarital agreement in Texas can also be used to clarify financial responsibilities during the marriage. These responsibilities include:

- Filing of taxes
- Payment of household bills
- Maintenance & ownership of checking & savings accounts
- Payment of credit card charges
- Responsibility for large purchases
- Estate planning
- Payment of support and education costs
- Etc...

## 9 Common Myths About Premarital Agreements

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# M Y T H S

1. *Premarital Agreements* are only for wealthy: **No**
2. *Premarital Agreements* are unromantic and only contemplate Divorce: **No**
3. *Premarital Agreements* show lack of trust: **No**
4. *Premarital Agreements* are not enforced in Court: **No**
5. *Premarital Agreements* are only for Men: **No**
6. *Premarital Agreements* are expensive: **No**
7. *Premarital Agreements* are for only those people who do not really want to get married: **No**
8. *Premarital Agreements* are only helpful if you get Divorced: **No**
9. *Premarital Agreements* must deal with every issue that can come up in Divorce: **No**

“ A Premarital Agreement can benefit all couples. Discussing with your partner future financial plans and expectations can actually strengthen your relationship. ”

# Things to think about before entering into a Premarital or Postmarital Agreement (Frequently Asked Questions)

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## F A Q S

### **1. Is it best to sign a Premarital AND Postmarital Agreement?**

Yes, a Premarital Agreement is the contract you enter into before you are married. A Postmarital Agreement is also signed by you and your fiancé after you are married. A Postmarital Agreement reconfirms after the marriage all of the agreements you made in the Premarital Agreement. This eliminates the proverbial “I signed under duress”, or the typical, he or she “made” me do it.

### **2. Is Texas a Community Property State?**

Yes, but what does that mean? Any property acquired during marriage belongs 50% to each spouse. Property can include that couch or 70-inch TV you bought after you were married, or that real estate or house you purchased after you were married. It also includes any salary or paycheck you get while you are married. Even though Texas is a community property State, you still have separate property. Separate property includes:

- Any items owned prior to marriage,
- Any inheritance you receive at any time, and or
- Any gifts you receive at any time.

Also, any growth or income from separate property is now community property without a premarital agreement. Please keep in mind this list is not all inclusive.

### **3. Must A Premarital Agreement be signed before you say, “I Do”?**

Yes, a Premarital Agreement must be signed by both parties before the wedding for it to be considered a valid premarital agreement.

### **4. Does A Premarital Agreement need to be prepared or signed in the State or Country where your wedding ceremony is held?**

No, if you have a destination wedding, the Premarital Agreement does NOT need to be prepared or signed at that destination. It will be prepared and signed in Texas before you leave for your destination wedding.

### **5. Can a Pre or Post Marital Agreement be amended or revoked at any time?**

Yes, in order to amend or revoke a Pre or Post Marital Agreement it must be agreed to, in writing, and signed by both parties.

### **6. If we didn't sign a Premarital Agreement, can we still sign an Agreement after we are married?**

Yes, that is called a Postmarital Agreement, commonly known as a Post-Nuptial Agreement.

### **7. Can I sign an Agreement with my significant other even if we do not intend to ever get married?**

Yes, that is called a Cohabitation Agreement. That type of agreement differs because it does not deal with community property since a marriage is not taking place. Cohabitation Agreements are very helpful in outlining the joint intent to not be married and to avoid finding yourself in a Texas Common Law Marriage.

## 8. Can we sign an Agreement even if we are Common Law Married?

Uh oh, you may already be common law married depending on your living arrangements, shared financial responsibilities, and if you've introduced yourself as spouses/married. But, this is a matter for a different topic. Contact an attorney for more information.

To answer the question at hand, yes, you can sign an agreement even if you are common law married.

## 9 Reasons Why A Premarital Agreement Would Be Beneficial To Me And My Future Spouse

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**1 You have children from a previous marriage:** If you have children from a previous marriage, you probably have support obligations. A premarital agreement ensures that your assets are protected for the children of both marriages in the case of a change in the family unit or death.



**2 You own a business:** If a business is owned, you can protect your business and financial partners with a premarital agreement.

**3 You and/or your partner have significant debt:** A premarital agreement can protect your spouse and community property from debts.



**4 You have property that you would like to remain in the family:** A premarital agreement can ensure that certain family property or heirlooms remain in your family.

**5 You have inherited wealth or earn a lot more than your partner:** A premarital agreement can be used to protect your assets and limit your liabilities.

**6 You earn a lot less than your partner:** Just as a premarital agreement can protect a spouse with more money, it can also ensure each spouse's financial security.

**7 You plan to transition from two incomes to one to raise children:** Quitting a job to raise children affects both current income and future earning potential. This agreement can ensure that the financial cost of raising children is shared by both parents.



**8 Protecting assets from creditors and predators:** If you and/or your soon-to-be spouse are in a high risk business that may have exposure to litigation, identifying separate property and limiting community property in marital agreements could shield some assets from the exposure to the creditors and predators.

**9 Maintaining and protecting your property:** Engaged couples can reach their goals with proper planning and detailed written agreements. They can enter into premarital agreements in anticipation of marriage to define what will be community and separate property during their marriage.

# What Does a Valid Premarital or Postmarital Agreement Need to Include?

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## *The Absolute Must-Haves:*

- The Agreement must be in **writing**.
- The Agreement must be signed by **both** parties.
- Both parties must have **legal capacity** to enter into the Agreement.
- The Agreement was entered into **voluntarily** by both parties.
- There was full and **fair disclosure** of all assets and liabilities included by both parties, unless a valid waiver was signed showing not all assets and liabilities needed to be listed.



## *Highly Recommended:*

- Although not required, it is highly suggested you speak with an **attorney** who is well versed in Premarital Agreements.
- Note: A Premarital Agreement does **not** need to be filed.
- Although not required, it is high advisable that a Premarital Agreement be **notarized**.

## Conclusion

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Entering into a premarital or postmarital agreement often has a negative stigma attached to it. However, there are many beneficial reasons why one or both fiancés or spouses should enter into a marital agreement.

A marital agreement can protect a person who is entering into the marriage with far fewer assets than their partner, just as it can protect someone with far greater wealth than their fiancé or spouse. These agreements can protect a partner who plans to quit their job to raise a family or protect one partner's business.

You need to have an attorney that will listen to your specific concerns and goals and draft an agreement that keeps those concerns and goals in mind to create the agreement that is right for you and your family.

Entering into a marital agreement should not be seen as a sign of bad faith or a selfish act, it should be viewed as investing in a solid foundation of communication, full disclosure, and trust. In many situations, entering into a premarital or postmarital agreement is the wisest decision and provides protection for both fiancés or spouses.

Communicating about financial matters and creating a premarital agreement together can strengthen a relationship and provide a strong base for future financial dealings. If you are getting married, we wish you a long and happy future together. A premarital agreement can help protect your happily ever after.



## **About The Ashmore Law Firm, P.C.**

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At The Ashmore Law Firm, P.C. we have been focusing on the three “E’s” – expertise, experience and excellence – since 1987. We are a boutique firm that provides assertive legal representation to achieve successful results. We provide cost conscious collaboration among our team of attorneys to determine strategic options for your goals.

As a firm that focuses on Premarital and Postmarital Agreements, Child Custody and Visitation, Mediation, and Divorce, The Ashmore Law Firm has more than 134 years of combined experience. We are a family-owned law firm, founded by Judge Joseph E. Ashmore, Jr., a former probate judge, along with his son, Gary Ashmore, and daughter, Lori Ashmore Peters. Together, we have continued the family tradition of providing excellent service to our clients and have employed additional attorneys who share our same values.

Every one of our clients receives personal attention that can really only be found in a small firm atmosphere. We make it our mission to provide cost-effective services without compromising the quality of representation.

Our attorneys have the backgrounds to help you with a wide range of legal matters. We provide legal assistance with family law services that include premarital agreements, postmarital agreements, divorce, spousal support, property division, protective orders and mediation. Our practice also includes: personal injury, auto accidents, estate planning, will contests, corporate formations, probate administration, guardianship, guardianship contests, mental health law, contract disputes and general civil litigation.

As our client, we pledge to treat you and your loved ones as we would treat our own family. Your decisions are important to us, therefore, we believe you should be equipped to make knowledgeable and informed decisions. Our goal is to educate you on your options and together tailor a plan that benefits you and your loved ones.

## Practice Areas

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**Family Law**  
**Probate**  
**Estate Planning**

**Guardianship**  
**Civil Litigation**  
**Personal Injury**

## Sign Up for Our Free Newsletter

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Want to know what legal documents are necessary to protect you and your loved ones? Want to find out specific steps you can take to find the best lawyer for your case? Want to read the “inside story” about frivolous lawsuits?

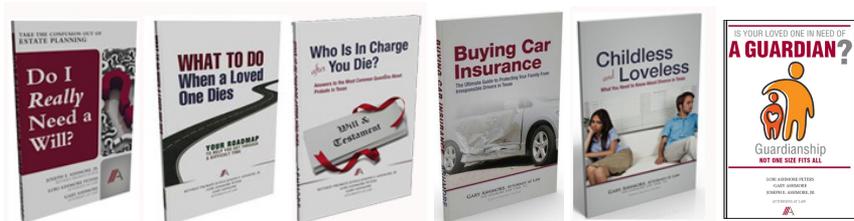
These are just some of the topics that are covered in our free newsletter. We strongly believe that most legal disputes could be avoided if people had a better general knowledge about the legal system.

To sign up for our newsletter, please visit:  
[ashmorelaw.com/newsletter.cfm](http://ashmorelaw.com/newsletter.cfm)

## Get Our Other Offers

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To request any of our free books or information, visit:  
[ashmorelaw.com/reports/](http://ashmorelaw.com/reports/)





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# Do you need a Prenup?

- 1. Are you getting married and live in Texas?*
- 2. Do you want to protect your assets?*
- 3. Do you own a business?*
- 4. Do you have children from a previous marriage?*



**If you have answered “yes” to any of these questions, you can benefit a Prenup.**