

# Your Legal Corner: Prenuptial agreements

By [Jim Six](#)

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Today, Your Legal Corner discusses the marriage contract; specifically the Prenuptial Agreement.



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Truth be told, this week I received a phone call in favor of same-sex marriages while at the same time on my desk lay a copy of a recently delivered newspaper promoting that marriage is only between a man and a women.

It's not my call to judge or decide the definition of what a marriage is; not for a nation nor the State of New Jersey.

Yet many families presently are "blended." One way to protect children's interests is by entering into a prenuptial agreement.

## EXPRESS PRENUPTIAL AGREEMENT

A prenuptial agreement is an express contract signed by prospective spouses in contemplation of marriage, to be effective upon that marriage. The agreement shall be in writing, with a list of all assets attached. It is enforceable without consideration. This contract may be useful as a planning tool where a spouse has been previously married and wishes to secure specific assets for the children of the earlier marriage.

As with all contracts but especially with a prenuptial agreement, signing or drafting this type of agreement "moments" before a marriage could have the effect of weakening the contract. Why? Well, contracts as you may recall from last week, should be entered into freely, without duress, fraud or coercion. As a matter of law, concealing assets, or failing to give a party a fair and reasonable opportunity to consider a disclosure of assets, have often been cited as grounds for invalidating the agreement.

The contents of a premarital agreement may include: disposition of property that is held separately, jointly, upon death, separation, marital dissolution or when a certain stated event occurs. You may also include if a will, a trust or other agreed arrangement should be made in an effort to carry out the terms of the prenuptial agreement.

As long as it does not violate public policy, it may be written into your prenuptial agreement. Because prenuptial agreements are situation specific, a Family attorney will be able to guide your detailed questions or concerns. For those of you who are not married and are cohabitating, absent a written contract, the courts would inquire into the conduct of the parties to determine whether the conduct itself demonstrates an implied contract, agreement of partnership or some other understanding between the parties in order to be successful with a Palimony claim.

For your review, the following are listed below:

- Sign the contract only after careful review. It's never a good idea to sign the contract before it has been properly reviewed and explained to you by your attorney.
- Make sure you understand the terms of the contract. If what is written in your contract is unclear, you have the option to request a modification so the terms are written so you can understand them.
- Rely only on what is written within the contract. Remember, you are guaranteed only what is contained in your document according to the written terms.

Enjoy this beautiful fall weather! Join us next week when Your Legal Corner examines the Home Improvement Contract.

Submit your contract questions for September to Victoria M. Dalton Esquire at Hoffman DiMuzio, 4270 Route 42, Turnersville, New Jersey 08028, email at [vdalton@hdhlaw.com](mailto:vdalton@hdhlaw.com) or phone **856-637-3000**.