

Maryland Postnuptial Agreement

What Is a Postnuptial Agreement

A postnuptial agreement ("Postnup") is a contract that couples can create after they are married, slightly different than a prenuptial agreement. Usually, these agreements outline how they will handle financial matters like property division and how assets and debts will be divided in the event of a divorce or separation. Other than timing, these can look virtually indistinguishable from a prenuptial agreement.

Postnuptial vs. Prenuptial Agreements

The main difference between a prenuptial and a postnuptial agreement is when they're signed. A prenuptial agreement is signed before the marriage, while a postnuptial agreement is signed at any time during the marriage. Both agreements establish financial rights and obligations. Prenups usually protect individual and joint assets, retirement plans, and alimony, while postnuptial agreements reflect changes that have occurred in the marriage or cover similar issues as a prenup. Without a prenup or a postnup, the laws on marital property and spouses' rights that exist in your jurisdiction would decide how assets are divided and support provided.

Why Couples Choose Postnuptial Agreements

Couples choose to enter into postnuptial agreements for various reasons, but it is most commonly tied to changes in their financial situations. For instance, starting a new business, acquiring a substantial asset, or even receiving an inheritance, a postnuptial agreement can help define marital property entitlements.

Another less common use of a postnuptial agreement is when couples have separated but then later reconcile and the use of postnuptial agreements can help define property entitlements in case the reconciliation does not continue.

An up-and-coming use of postnuptial agreements is to include a "career-sacrifice" clause, which occurs when one spouse stops working to care for a new child to the marriage and the "career-sacrifice" clause can define entitlements in the event of a divorce due to the cessation of career progress.

What a Postnuptial Agreement Cannot Cover

While postnuptial agreements can cover a range of financial issues, discuss how marital and separate property is defined, how assets will be divided if a divorce occurs, and how spousal support will be paid, they cannot define custodial rights in the event of a divorce. Child-related issues are determined based on the best interests of the child at the time of the case and are subject to your state jurisdictional laws.

How Postnuptial Agreements Affect Divorce and Property Division

If a divorce occurs, a valid postnuptial agreement can play a significant role in how the case moves forward. It can define how assets are divided, limit or outline spousal support, and reduce the number of issues that need to be resolved in court. That said, the agreement must be properly drafted and executed. The courts will review each agreement to ensure it meets legal standards before the terms are applied.

Are Postnuptial Agreements Enforceable in Maryland

In Maryland, postnuptial agreements are usually upheld by the courts if they meet specific requirements. For a postnuptial

agreement to be considered valid, both parties must enter into it willingly and competently, which often means there has been a full financial disclosure. The agreement cannot be obtained through coercion and the terms must be fair for both spouses. If all conditions are met, the agreement is usually treated as a binding contract.

When Postnuptial Agreements May Be Challenged

While difficult, it is possible to challenge the document in court, especially if there are questions about how it was created. If there are incomplete financial disclosures, an indication of pressure on one spouse to sign, or that the terms are heavily one-sided, a court may determine that the postnuptial is not valid.

How a Maryland Postnuptial Attorney Helps

An experienced family law attorney can help you establish a structured agreement that reflects your goals, ensures compliance with Maryland law, and verifies that all required information in your agreement is accurate.

Contact Joseph, Greenwald & Laake

The family law attorneys of JGL take your business, family, and personal issues as personally as you do. We relentlessly pursue the outcomes you desire. If you need guidance concerning postnuptial agreement, contact a JGL Family Attorney [here](#).

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