

A Positive Approach to the Prenuptial Agreement Discussion



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Nothing says, “I’m not sure our marriage will last,” like asking your new fiancé for a prenuptial agreement. In fact, prenuptial agreements are often viewed by the other partner as a “you-get-everything-and-I-get-nothing” agreement in the event the marriage ends.

This situation is especially touchy when the parents of the bride or groom are the ones insisting on the prenuptial agreement. This insistence can cause a strained relationship with the child, who may feel anger or frustration at being forced to do something that he or she anticipates will be uncomfortable and possibly even damaging for the relationship. And it can also cause confusion or embarrassment for the fiancé, who suddenly may feel that the family doesn’t like or trust him or her, and may think twice about marrying into the family.

It may seem like a no-win situation, but it doesn’t have to be.

Often, a family can turn this situation into a win-win by helping the child:

- Understand what the family is trying to protect with the agreement and why it is important to the family
- Understand the benefits that can come from an agreement and from the experience of creating it
- Broach the topic at the right time in a positive way

Understand what you are protecting and why

By the time your children are teenagers, you have likely begun having conversations with them about the family's business or other legacy assets. It is important for them to understand the meaning and value of these assets, potentially amassed by many generations of the family. Children of this age will likely be included in family meetings or conversations focused on how this wealth is protected for the benefit of current family members and for generations to come.

Armed with this knowledge and the understanding of the family's values when it comes to use of family wealth, teens and young adult children will be better prepared for conversations with you about prenuptial agreements and their role in protecting the family's business ownership or legacy assets. These conversations (yes, multiple conversations) could and should occur in a variety of ways (family meetings, conversations with advisors, discussions with parents, role-playing, etc.) and they should happen long before children are at an age to be considering marriage. This will give children plenty of time to learn the:

- Effects of a divorce or death on the ownership of a family business
- Benefits of prenuptial agreements to each party
- Time frame it takes to negotiate a mutually acceptable agreement
- Assets their agreements are expected to cover

It may take time for your child to become comfortable with the concept of an agreement, but these conversations can lay the groundwork for the more difficult conversations that will come once the child is contemplating marriage.

Understand benefits from a prenuptial agreement

As part of their preparation for discussing prenuptial agreements, children should learn that while prenuptial agreements are used to protect the assets of the wealthier partner, when done thoughtfully, they can offer benefits to the other partner and to the couple as well. These include:

- Encouraging a healthy discussion of finances and expectations for the marriage, similar to

that included in premarital counseling required by many religions

- Offering financial security to a spouse that has less property and wonders how he or she will be able to afford the upkeep required of their home in the event of a spouse's death
- Affording peace of mind to a spouse who is moving to a new city/state or quitting a job for the marriage, so the spouse knows he or she will have resources available for support in the event of termination of the marriage
- Protecting a spouse if there are children from prior marriages. The agreement can document your intentions to provide for your spouse upon your death, avoiding challenges to your estate plan by your children.

Approach the topic in a positive way

Adult children should be prepared to approach these agreements in a confident, positive way, and to encourage fiancés to do the same. To help achieve the positive benefits of creating this agreement, children should understand that they **must be very thoughtful and intentional about how they approach the topic, the agreement and its negotiation.**

Providing the tips below to someone who is trying to broach the subject of a prenuptial agreement may make the process a more positive experience for both partners and their families:

1. Give thought to what your fiancé's **concerns or fears** might be so that you can be better prepared to address those in your discussions.
 - Is your fiancé financially secure in his or her own right, or will the agreement need to provide additional financial security?
 - Will your fiancé view a prenuptial agreement as contrary to the idea and partnership of marriage?
 - Will the agreement be viewed as establishing power and control, or conversely, eliminating power and control?
2. Give thought to the **purposes** of the agreement, and the **reasons** for those purposes, so that you can communicate clearly why the agreement is important to you, and perhaps to others. For example:
 - Are you wanting to protect very specific assets, such as ownership in a business? If so, is there a company policy or agreement among the owners that ownership remain within the hands of current owners and their descendants?

- Do you have children whom you need to support or whom you want to inherit assets at your death?
3. Consider, **how and where** you will approach the subject with your fiancé.
 - A private, calm setting is best to allow thoughts and emotions to be fully shared.
 - After the topic has been raised, subsequent meetings can be held with a trusted family advisor or attorney to assist with explaining the concept, reasons or process.
 4. Start the discussion **gradually and communicate fully**.
 - If your company has a policy that all owners have prenuptial agreements, inform your significant other about this before the engagement.
 - Express your reasons for desiring a prenuptial agreement. Be ready to address your fiancé's anticipated concerns about entering one.
 - If your fiancé is strongly opposed to or offended by the topic, give it a rest for a while before raising it again.
 5. Broach the subject as **far in advance** of the wedding as possible, and preferably in advance of, or immediately following, the engagement.
 - You both will need time to consult with your attorneys (you will need separate attorneys).
 6. Be prepared to **fully disclose** all material information that may impact the decision to get married, including your assets and relevant health history, as full disclosure is required for the agreement to hold up in court.

Disclosure of your net worth can be challenging, especially if your fiancé has little or no indication of your wealth level. Be prepared to discuss with him/her how you view your wealth and what it means to you, and, if it is family wealth, your sense of responsibility to honor your family's legacy.
 7. If you reach a point where you are having difficulty discussing the agreement with your fiancé or moving past an issue, **consider professional help**.
 - Marriage counselors or faith leaders can work wonders to facilitate a healthy discussion of money and partnership.
 - Counseling prior to marriage can result in a stronger, healthier marriage.

Finally, keep in mind throughout this process that the end goal is to get married and to have a happy marriage. Creating the agreement should strengthen, not weaken, your relationship and partnership. If approached positively and created thoughtfully, a prenuptial agreement can turn out to be a win-win.



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