

Frequently Asked Questions about **Postnuptial Agreements**

A Postnuptial Agreement—often called a “Postnup”—is a legal contract made between current spouses whom have no intention of ending the marriage. Similar to the Prenup, a Postnup can define asset ownership, debt obligations, and financial responsibilities during the marriage or in the event of separation or divorce. This FAQ explains the mechanics and creation of Postnups.

How is a Postnuptial Agreement different from a Prenuptial Agreement?

The main difference is timing: Prenuptial Agreements are signed before the date of marriage while Postnuptial Agreements are signed after marriage. Both serve similar purposes in defining financial rights and responsibilities.

What can a Postnuptial Agreement include?

Postnups often include specific provisions that address ownership interests and debt obligations, since traditional ownership as reflected by statements, deeds, or titles do not legally operate in the same manner for married individuals. They can also include an arrangement on the division of property and debt in the event of a separation or divorce. Note: a Postnup cannot waive spousal support, define a child custody arrangement, or predetermine child support.

Why would a couple want a Postnuptial Agreement?

A couple might want a Postnuptial Agreement to achieve a specific goal—like addressing an investment risk or setting expectations around future financial decisions. A Postnup can also clarify how assets and debts will be handled if the marriage ends, especially after a major financial change or relationship challenge.

Can a Postnuptial Agreement be amended or revoked?

Yes. A Postnup can be amended or revoked at any time, as long as both spouses agree and sign a new agreement.

Can a Postnuptial Agreement be challenged in court?

Yes. A Postnup may be challenged in the same ways as other contracts, such as if the Agreement was signed under duress or coercion, there was a lack of related disclosure, or the terms are grossly unfair or unconscionable under specific circumstances.

Is an attorney required to create a Postnuptial Agreement?

While not legally required, it is strongly recommended that each spouse consult with independent legal counsel to ensure the agreement is fair, valid, and enforceable.

