

# PRENUPTIAL AGREEMENTS & POSTNUPTIAL AGREEMENTS

## Quick Reference Guide



### Enforcing a Prenup (the minimum):

- fair disclosure of both parties' assets
- "fair and reasonable" provisions
- clear waivers outlined in the agreement
- no fraud or coercion.

### LEGAL REFERENCES:

- M.G.L. c. 209 §25
- statutory authority
- Osborne v. Osborne  
436 Mass. 18 (1981)
- prenups are enforceable & can address property obtained in marriage

Rosenberg v. Lipnick  
377 Mass. 666 (1979)

- outlines factors for finding a prenup valid

Austin v. Austin  
445 Mass. 601 (2005)

- prenup with alimony waiver can be enforced if fair and reasonable at the time of divorce

Korff v. Korff  
64 Mass. App. Ct. 94 (2005)

- a valid prenup can't be altered by the court

Consider the benefits of a **MEDIATION** or a

**COLLABORATIVE LAW** approach to settling prenuptial & postnuptial agreements!

### Enforcing a Postnup (the minimum):

- each party has their own attorney
- full disclosure of both parties' assets
- "fair and reasonable" provisions
- clear waivers outlined in the agreement
- no fraud or coercion.

### LEGAL REFERENCES:

Ansin v. Craven-Ansin  
457 Mass. 283 (2010)

- court found postnups are enforceable
- court required higher scrutiny than required for prenups
- court listed the factors necessary to determine whether a postnup can be enforced

### Best Practices:

- each party has their own attorney
- asset/income schedules are included in the agreement
- agreement is drafted & signed well in advance of the wedding
- agreement addresses both death and divorce
- agreement provides opportunity for out of court dispute resolution

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- agreement outlines the motives for the postnup
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### THE BENEFITS OF MARITAL MEDIATION & COLLABORATIVE LAW

- focus on the future and building skills to foster better communication
- private & confidential resolution
- professionals trained in negotiation styles that promote relationships rather than leverage