

Five Reasons Millennials Need a Prenup

By Alan Plevy and Kyung (Kathryn) Dickerson

Millennials, too often maligned for their need for Instagram and instant gratification, are actually slowing things down when it comes to getting married. Family law attorneys report a significant spike in millennials requesting prenups, according to a survey by the American Academy of Matrimonial Lawyers.

Alan Plevy and Kyung (Kathryn) Dickerson, principals and family law attorneys at **SmolenPlevy** in suburban Washington, D.C., point out several reasons for the increase.



Alan Plevy

- They are getting married after establishing careers and becoming more financially stable.
- They are protective of future earnings and existing assets.
- Their parents are insisting on prenups to protect their children's inheritance.
- They are entering marriage with substantial educational debt.

Once, it was a difficult topic to discuss, but Plevy says millennials seem more likely to talk about a prenuptial agreement because they're more open about divorce and recognize they are older than when their parents got married. Better yet, Plevy says, "Talking about a prenuptial forces couples to confront vital issues, including income, debt and how they plan to handle finances in the future. A prenup opens the door to those hard conversations."

Here are five reasons prenuptial agreements can be useful for millennials:

- 1. If you own a business:** Young entrepreneurs rarely imagine a divorce being one of the biggest threats to the stability of their business, but it can significantly impact cash flow, ownership and productivity, says Dickerson.



Kyung (Kathryn) Dickerson

Regardless of whether you started your company before marriage, a spouse may claim a portion of the business appreciation or income. Prenups can classify which assets are separate or marital. This means you and your intended spouse can agree that your business will be considered your separate property and not subject to division upon divorce.

- 2. Protect Intellectual Property:** For millennials, intellectual property is just as important to them as money, says Dickerson. Intellectual property can include songs, patents, software, apps or ideas for technology concepts. Legally, protecting intangible concepts isn't easy, but a prenup can help protect his or her copyrighted materials and separate his or her patents or trademarks from becoming marital property.

- 3. Inheritances:** If one or both spouses expect to receive an inheritance over the course of their marriage, a premarital agreement can protect it from division upon death or a divorce, advises Dickerson. Family heirlooms can also be specified to remain in one spouse's possession.

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Accolades

SmolenPlevy is pleased to announce Principals Jason Smolen, Alan Plevy, Daniel Ruttenberg and Kyung (Kathryn) Dickerson are named in the 24th edition of The Best Lawyers in America® for 2018. Co-Founding Principal Jason Smolen is also honored as the Best Lawyers® 2018 Business Organizations "Lawyer of the Year" in Washington, D.C. Smolen, Plevy, Ruttenberg and Dickerson were selected for this honor by other leading lawyers from the Washington, D.C. area in the specialties of business organizations, family law, family law mediation, and trusts and estates.

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Adoption: Types of Adoption and How to Adopt

Adopting a child is a serious commitment in your life, but it also can be the most rewarding. There are many types of adoptions as well as many subsets, all decisions you must take seriously while going through the adoption process. This article presents an overview of the types of adoptions you may choose in order to help make your process as easy as possible.

Types of Adoption

International adoption, U.S. agency adoption, private adoption, stepparent adoption, open adoption and closed adoption are all options for you to think about as a prospective adoptive parent.

Agency Adoptions: In an agency adoption, the child's legal custody is first transferred to a licensed adoption agency. Legal custody then passes to the adoptive family. When you decide to adopt through an agency, you can choose either a public agency or a private agency.

- **Public agencies** — These include social services, child welfare and foster care. These municipal agencies seek to place children who are freed for adoption, usually after being placed into foster care. A child is freed for adoption once the county social services agency has obtained the termination of the parental rights of the biological parents through voluntary means or through contested legal proceedings, sometimes known as termination of parental rights proceedings, or TPRs. One of the advantages of working with a county social services agency is that the cost is minimal.
- **Private agencies** — These are located throughout different states and foreign countries. You can often obtain information about private agencies over the Internet and through an attorney. A private agency seeks to place children who have been surrendered in writing by their parents, usually at birth. These transfers are almost always voluntary. The advantage of using a private adoption agency is that the family will receive an infant placement.

Independent Adoptions: In a private adoption, also called an independent adoption, the child's legal custody passes directly from the biological parent(s) to the adoptive family. This type of adoption may involve stepparent adoption, related family adoption, and grandparent adoption. Adopting a stepchild is the most common type of adoption. To adopt a stepchild, the stepparent must have the consent of both his or her spouse and the child's other birth parent. After the adoption, the stepparent assumes the rights and responsibilities for the child. In effect, the stepparent is no longer a stepparent, but becomes the child's parent. After the stepparent adopts the child, the other birth parent no longer has any rights or responsibilities for the child, such as paying child support. Another type of adoption that falls under this category is a kinship adoption, which is the adoption of a child by an adult member of the child's extended family. This may include a younger sibling, grandchild, niece, nephew or a cousin.

How to Adopt: 9 Steps

1. **Learn All You Can about Adoption** — This includes getting informed on the types of adoptions and what it means to adopt. Research through reading materials, contact local agencies or attend a seminar on adoption.
2. **Complete a Self-Assessment** — Prospective parents do not have to be rich, married, under 40, highly educated, or homeowners to adopt. Far more important are positive personal characteristics. Write them down, create a list and ask yourself questions if you truly believe you are ready to adopt. This is a useful tool to help individuals make better-informed decisions about adopting a child.
3. **Decide What Type of Adoption You Want to Pursue** — Once you've decided adopting a child is the right decision for you, you must now decide what type of adoption best suits your needs and desires. You should consider whether you would rather work through a public

or a private adoption agency and weigh the pros and cons of each option.

4. **Select an Adoption Agency** — If you choose to work with an adoption agency, it is crucial to pick the best one that suits you. To find a public or private agency that is a good fit for you, your values, and your unique situation, compare information from several agencies. Before selecting an agency, take the initiative to learn more about them by interviewing agency representatives by phone or in person.
5. **Let Your Agency Know You are Serious About Adoption** — When you call an agency to let the staff there know you are interested in adopting, the person you talk to may ask a series of screening questions or simply volunteer to send literature about the agency. If you want to adopt relatively soon, find out how you can get the process started. One common first step is an orientation meeting or training session for prospective adoptive parents. Adoption can be a very long process.
6. **Complete the Application** — If possible, attend an orientation session before filling out the application so you are confident in the agency's ability to meet your needs. Application fees are often non-refundable, even if you decide to work through a different agency or change your mind about adopting. Make sure you fill it out correctly.
7. **Begin the Home Study Process** — A home study can loosely be defined as an educational process designed to help your social worker learn more about your ability to parent and provide a stable home, to teach you about adoption and its effect on children and families, and to prepare you to parent a child whose experiences and history are very different from your own. Everyone who hopes to adopt must have a completed home study.

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Estate Planning for Blended Families

By Jason Smolen and Dan Ruttenberg

Blending two families smoothly is difficult enough. Now imagine if one parent dies, leaving the grieving spouse with the financial challenge of determining what's yours, mine and ours — especially when it comes to the children.

Second marriages bring special challenges for estate planning. Of particular concern: taking care of your children from previous relationships after you're gone. It's not an isolated problem. According to Pew Research Center, the number of remarriages keeps rising, with 40% of new marriages involving at least one spouse who has previously been married. In twenty percent of new marriages, both spouses have been married. In many cases, newly remarried spouses also say "I do" to their new mate's children.



Jason Smolen



Daniel Ruttenberg

Jason Smolen, co-founding principal and estate law attorney at SmolenPlevy, says potential problems come when one spouse dies. Legally, they're allowed to leave their entire estate to their spouse, tax-free. But the concern is that the surviving spouse is now in charge of all the inherited assets, including funds that may have been intended for the late spouse's children. While all may have worked well as a blended family, the temptation after death could be for the surviving spouse to say, "My kids first." Or worse. (What if the surviving spouse marries again, adding more complications?) "Creating an estate plan for your family ensures that everyone is protected," says Smolen. "Without an estate plan, there is the potential for children to be disinherited, delays in the children's receipt of inheritance and disputes over the division of authority."

Smolen has the following tips to make estate planning for your unique family a smooth process:

- **Communication is Key** — The first step is to have an open, honest conversation with your spouse about finances and estate planning goals, says Smolen. What do you want to happen to your assets

— investments, insurance, retirement plans, house, car, jewelry and other personal items — when you or your spouse pass away? Sharing your estate-planning intentions with all members of your blended family can help prevent any bad feelings miscommunication could bring.

- **Review and update all of your beneficiary designations** — Forgetting to update beneficiary designations is the most common mistake a person in

a blended family can make. Designations will overrule whatever instruction you have included in your will, so even a well-thought-out estate plan can be destroyed by an incorrect beneficiary designation. In short, you don't want your insurance money going to a past spouse.

- **Consider a premarital agreement** — Prenups aren't just about protecting the wealthier partner anymore. They are used to facilitate important conversations between the couple getting married to keep a focus on fairness for both parties. When it is time to settle an estate, having an established contract that both partners have created together can help avoid

arguments among all members of a blended family.

- **Establish a trust** — A trust structure ensures your assets end up with your chosen beneficiaries. A living trust will help you avoid the time-consuming and costly process of probate, while also giving you the freedom to determine the how, and when, you want your assets distributed. For a living trust, you might need to think about a professional third-party trustee to make it fair for everyone — the spouse, children, etc.

- **Talk with an estate planning attorney** — Each blended family is different and has its own set of challenges, but an estate planning attorney in your state with experience in blended families will help guide you through completing a plan and achieving your goals. You might also need to consider hiring your own lawyer because, if you have the same lawyer as your spouse and you are planning your estate, it can create a conflict of interest.

If you have any questions regarding the estate and gift tax, please contact Jason Smolen at jdsmolen@smolenplevy.com or Daniel Ruttenberg at dh Ruttenberg@smolenplevy.com.

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8. **Begin Searching for a Child** — If you adopt through an agency, learn how the agency will conduct a search. What criteria do they use to match children with families? Are they willing to search outside your immediate area for a child or youth? Find the child that best fits your situation and whom you can see inviting to be a part of your family

is not legally complete until your newly created family goes through the finalization process. Once your adoption becomes legal, enjoy your family and the love you share.

9. **Bring the Child Home, Make it Legal, and Enjoy your Family** — The adoption

If you have any questions regarding adoption or family law, please contact Alan Plevy at ablevy@smolenplevy.com or Kyung (Kathryn) Dickerson at kindickerson@smolenplevy.com.

In the Community

SmolenPlevy Co-founding Principal Jason Smolen was a panel speaker at the 2017 Dental Business & Legal Symposium on September 29. He discussed estate planning and tax strategies to achieve financial freedom.

SmolenPlevy Principal Dan Ruttenberg, Vice President of Devotion To Children, is proud to announce the firm is the Chip Sponsor for Cards 4 Kids™. The event raises funds for child care services for economically disadvantaged families in the Washington, D.C. metropolitan area.

Mr. Ruttenberg is also proud to announce a generous donation of \$20,000 from Rosenthal Automotive. The donation will go a long way in helping Devotion To Children fulfill its mission of helping working parents secure quality child care.

SmolenPlevy is proud to announce Associate Joshua Isaacs has been named the Vice President of the Fairfax Law Foundation. The Fairfax Law Foundation works with the Fairfax Bar Association to serve the community by providing legal and other assistance to the indigent and those with special needs, providing law-related community education programs and promoting access to and improvements in the justice system.

SmolenPlevy Associates Joshua Isaacs and Julie Swerbinsky volunteered at the Fairfax Law Foundation's Heroes vs. Villains 9th Annual Run for Justice 5k. Participants wore their best superhero or villain costumes as they ran to raise money for the Foundation's Pro Bono Program. It provides legal services for impoverished residents in Fairfax County and law-related education programs for students in the community.

Associate Marissa Bagasra gave two comprehensive seminars on selling estate properties and transferring property into trusts this summer. Her first presentation was at Keller Williams Realty on June 28 and the second was at Pearson Smith Realty on August 23. In each of these presentations, she spoke to real estate professionals about effectively selling property owned by an estate and how to avoid common pitfalls associated with selling these properties. She also spoke about how property owners can avoid those issues by conveying their real estate into a trust. On October 20, Ms. Bagasra spoke at a forum presented by the Northern Virginia Association of Realtors entitled "Estates & Trusts for the Trusted Advisor: What Every Realtor Should Know."

In the Media

It's back-to-school season and, for divorced or separated parents, the question is: Who is paying for the expensive TI-84 calculator their child needs for class? Alan Plevy is featured on WTOP and Mandy Walker's popular Since My Divorce blog to weigh in on what is covered with child support and how parents can decide who will pay for out-of-pocket expenses. Kyung (Kathryn) Dickerson shares her own insights on these complex family law issues on WUSA 9's *Great Day Washington*.

While no one likes to think about their own death, developing and reviewing your estate plan can ensure you are caring for your family, even after you are gone. SmolenPlevy Principal Jason Smolen is mentioned in "9 Estate Transfer Issues to Avoid" in *U.S. News & World Report*.

Celebrity divorces are subject to invasive scrutiny, but a prenuptial agreement can cut the drama and the gossip that can follow. SmolenPlevy Principal Alan Plevy gives tips to avoid a messy split on Newsmax Finance in "The Price of Love: What Celebrity Divorces Teach the Rest of Us."

Keeping your relationship going strong, year after year, can be a challenge. As your life changes, so will your relationship. SmolenPlevy Principal Kyung (Kathryn) Dickerson, adds her insight to *Woman's Day's* "15 Signs Your Marriage is Stronger Than You Think, According to Divorce Lawyers."

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4. Debt: Some couples may have more debt than assets, especially if they've started their own business or taken out educational loans. Plevy says couples with significantly different debt loads can protect themselves in the same way as couples with vastly different amounts of wealth. The couple can agree on which debt shall be considered a separate, non-marital obligation and how the income of the couple will be allocated during the marriage as to the payment of that debt.

5. Death or Disability: While most people think divorce when they hear about premarital agreements, such agreements can also protect your assets in case of disability or death. Premarital agreements can prevent or provide a remedy if an estranged spouse re-titles or liquidates assets during their spouse's disability.

If you have any questions regarding divorce or family law, please contact Alan Plevy at ablevy@smolenplevy.com or Kyung (Kathryn) Dickerson at knickerson@smolenplevy.com.

Accolades

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Virginia Super Lawyers names Principals Alan Plevy and Kyung (Kathryn) Dickerson to its "Top 100" list in 2017. Ms. Dickerson is also included in the Top 50 Virginia Women Super Lawyers list. Fewer than five percent of attorneys in Virginia receive both honors. This is the third time since 2014 that Ms. Dickerson has received both awards.

Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects, but rather to provide insight into legal developments and issues. The reader should always consult with legal counsel before taking action on matters covered by this newsletter.