

## Post-Nuptial Agreement General Issues – with minor children

1. Division of all property and debts (keep in mind the court may only divide marital property which is property acquired during the marriage and not separate property.) Separate property is property acquired prior to marriage or after separation and inheritance or gifts (not from spouse) acquired during marriage and maintained separately. By agreement parties may divide their property and debts as they choose.

- Real Estate – land and buildings, timeshares. If a mortgage, will it be refinanced if property not sold?
- Tangible Personal Property - household furnishings, tools, collections, cars, etc.
- Intangible Personal Property (checking and savings account, investment accounts, stocks, bonds, stock options, etc.)
- Businesses – sole proprietorships, partnerships, corporations, LLC's, etc.
- Retirement Accounts (Pensions (VRS, etc.), 401(k), 403(b), IRAs, etc.) Division permissible by special court order.
- Life Insurance –cash value. Will beneficiaries be maintained?
- Debts (mortgage, auto loans, credit cards, student debt, medical bills, etc.) Consider getting a recent copy of your credit report. You may and should get a free credit report from the three major credit reporting agencies annually from this website: <https://www.annualcreditreport.com/index.action>)

### 2. Parenting Plan

- Custody – joint legal custody with sole/joint physical custody
- Visitation – specific days or reasonable, as agreed to by the parties
- Communication between parents
- Consideration of special needs
- Transportation

3. Child support – until 19 or until graduates from high school whichever occurs first. Based on both parents' gross income from all sources, cost of the children's health insurance and childcare. Considerations of special needs.

4. Spousal Support –is there need? Is there ability to pay? Type: periodic/permanent; fixed term; defined amount/defined term; rehabilitative. Vocational re-tooling (school, training, etc.), Will one or both parties waive and/or reserve right to reservation of the right to seek support?

5. Temporary Financial Issues: Until there is an agreement, who pays?

- Mortgage or rent and utility payments during separation.
- Real Estate and Personal Property taxes
- Car payments and auto insurance
- Health insurance and medications and bills not paid by insurance
- Life insurance, Disability insurance
- Credit card and other debt payments
- Other

6. Tax returns – joint or separate; if joint, how will refunds/taxes be divided?  
- children's tax exemptions (if restored to tax code) and child care credits

7. Medical insurance (Health, dental, vision) for spouse (until Final Order?) and children  
- division of medical expenses not paid by insurance (percentage of income?)

9. Higher education for children – The court cannot order, but parents may agree.

10. Attorney's fees & court costs

11. Standard provisions – indemnification, no-fault divorce, etc.