

Minnesota Antenuptial Agreements

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Overview

An **antenuptial agreement** is a written contract made **before marriage** between two individuals, defining how property, income, and spousal rights will be handled during marriage or upon divorce or death.

Governing Law: Minnesota Statutes § 519.11. Agreements entered into before August 1, 2024 are subject to the prior version of § 519.11 for agreements addressing nonmarital property and case law for agreements addressing marital property.

Key Requirements (Procedural Fairness)

REQUIREMENT	RULE / DESCRIPTION
Who May Enter	Any two individuals of legal age intending to marry.
Form	Must be in writing, signed by both parties, witnessed by two people , and acknowledged before a notary or authorized officer.
Timing	Should be signed at least 7 days before the wedding ceremony (new rule effective Aug. 1, 2024). Agreements signed at least 7 days before the marriage are presumed enforceable, and the burden of proof is on the contestant. Agreements signed less than 7 days before the marriage are not presumed enforceable and the proponent bears the burden of proof.
Disclosure	Each party must provide full and fair disclosure of their income, assets, and debts and the basis for those disclosures.
Legal Counsel	Each party must have a meaningful opportunity to consult independent legal counsel before signing.
Voluntariness	Agreement must be entered into freely and voluntarily , without coercion or duress.

Content Requirements (Substantive Fairness)

TOPIC	RULE / DESCRIPTION
Fairness of Terms	Agreement cannot be unconscionable (grossly unfair) either when made or due to unforeseen changes in circumstances during the marriage that were not foreseen when the agreement was entered into.
Scope	May address property rights in marital and nonmarital property, division of assets, spousal maintenance (alimony), and inheritance/estate rights.
Consideration	The marriage itself is sufficient legal consideration for the agreement (new rule effective Aug. 1, 2024).
Court Review	Courts may refuse enforcement if procedural fairness was lacking or if terms are substantively unfair.

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New Law Changes (Effective for Agreements Entered into After August 1, 2024)

CHANGE	SUMMARY
Gender-Neutral Language	Statute now refers to “two individuals” instead of “a man and woman.”
7-Day Execution Rule	Agreement must be executed at least 7 days before marriage to ensure voluntariness.
Independent Counsel Opportunity	Each party must have a real opportunity to consult a lawyer (recommended to have separate counsel).
Postnuptial Agreements Aligned	Postnuptial agreements (signed after marriage) must also meet the same fairness and counsel standards.
Terminology Updated	The law now uses the term “ agreements ” instead of “contracts.”
Same-Sex Marriage Clarification	Older agreements are valid regardless of the genders of the parties.

Key Cases

CASE	COURT	CITATION	KEY PRINCIPLE
<i>McKee-Johnson v. Johnson</i>	Minnesota Supreme Court	444 N.W.2d 259 (Minn. 1989)	Prenuptial agreements must satisfy procedural and substantive fairness.
<i>Kremer v. Kremer</i>	Minnesota Supreme Court	912 N.W.2d 617 (Minn. 2018)	Distinguishes statutory safe-harbor (Minn. Stat. § 519.11) from common-law fairness; invalidated agreement for lack of procedural fairness.
<i>In re Estate of Kinney</i>	Minnesota Supreme Court	733 N.W.2d 118 (Minn. 2007)	Establishes common-law procedural fairness test for agreements affecting marital property.
<i>Muschik v. Conner-Muschik</i>	Minnesota Court of Appeals	920 N.W.2d 215 (Minn. Ct. App. 2018)	Strict compliance with statutory execution formalities (e.g., witnesses) required.
<i>Rudbeck v. Rudbeck</i>	Minnesota Court of Appeals	365 N.W.2d 330 (Minn. Ct. App. 1985)	Lack of financial disclosure or meaningful opportunity for counsel may render agreement unenforceable.

Practical Tips for Drafting

- Allow **ample time** before the wedding for review and discussion.
- Ensure **full written disclosure** of all assets, debts, and income.
- Each party should have **separate attorneys** to strengthen enforceability.
- Include **severability and amendment clauses** for flexibility.
- Avoid terms that could appear **one-sided or punitive**.
- Make sure that the agreements are **not so one-sided as to be unconscionable**. Also be aware that the unconscionability standard is a high bar to meet to try to show that an agreement is unenforceable.