Same-Sex Marriages, Prenuptial Agreements, and Divorce Issues

In June 2011, New York Governor Andrew M. Cuomo signed a bill allowing same-sex marriage[CK1] in New York. With this new law, many gay couples are enthusiastic about having a right previously reserved for straight couples.

But while they now have the advantages of marriage, such as joint property and spousal rights, they also face the challenges of marriage, including the prospect of separation, divorce, and child custody disputes.

If you are in a same-sex relationship and considering marriage in New York, it is advisable to prepare a prenuptial agreement with the help of a qualified, knowledgeable divorce attorney. Hire an attorney with the experience and legal muscle to do the job right.

The prenuptial agreement addresses how the couple wants key issues to be settled in the event of death or divorce, including the following:

- Property and assets jointly owned as marital assets
- Non-marital assets each partner expects to keep following divorce
- How partner and child support payments will be handled in divorce
- A fair child custody plan
- Equitable division of income, debts, and retirement accounts

Since many gay couples jointly raise a child with biological ties to one of the partners, or jointly adopt a child, a prenup protects their respective rights to joint custody. It is advisable that both partners take an active role in the prenup process with the help of their lawyers, tax accountants, and other advisors.   Marriage is a lifelong commitment, but is wise to prepare for unforeseen events like death or divorce.

[CK1]http://www.nytimes.com/2011/06/25/nyregion/gay-marriage-approved-by-new-york-senate.html?_r=1&pagewanted=all

Tagged divorce, prenuptial agreement, same-sex marriage