

# PRE-NUPS AND ADULTERY

**Kelly McClure, CEO & Managing Partner**  
**Buck McClure, Attorney | Brody McClure, Attorney**

**I'm 30 years old, never married, and do not have any kids. Do I still need a prenup?**

"Prenups are becoming more prevalent, especially with people tending to get married after they've established themselves in their careers," says Brody McClure, 31, family law attorney at McClure Law Group. People should look at prenups as financial planning for a marriage—setting expectations — especially as to how you will budget as a couple/ family, where incomes will be deposited, and how funds acquired prior to marriage will be handled once married (i.e. will it all be added to the marital pot or will it stay separate). It's also important to consider how the ownership of the marital residence will be acquired/retained and how those bills will be paid. These are all foundational topics to discuss before marriage to avoid heated disputes afterward. Prenups don't have to be an "I keep everything, you get nothing" situation. They can be a "this is how we want to build our lives"—and that is not a negative thing. "Prenups get a bad rap, but they really can save marriages," Brody advises.

**I'm not sure I want to get married any time soon, but I am in a serious relationship. Are there any consequences for living together in Texas?**

Great question. "This is a question I often get from my friends since many of us are getting married later in life," says Buck McClure, 32, family law attorney at McClure Law Group. Texas is one of the few states that still have common law (informal) marriage. Although sometimes it's difficult to prove, if you live together, hold yourself out as husband and wife, and intend to be married, then the court can determine that you are legally married in Texas. "Intent is subjective right, so you end up with this "he said/she said" fight in court, which can be costly both emotionally and financially" Buck explains. This is why having what's called a

Cohabitation Agreement is extremely important to establish that "yes," you will be living together, but you do not intend to be informally married until a formal marriage certificate is signed and filed with the county clerk. That's why it is crucial to hire an experienced lawyer to protect yourself before moving in with a significant other.

**Can I sue my spouse's mistress in Texas?**

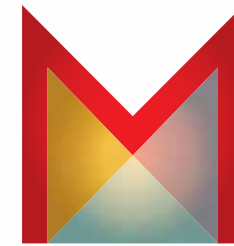
The short answer is "yes." While spouses have always had the option of suing each other for adultery, wasting money on paramours, and the emotional distress suffered due to their affair(s), it hasn't necessarily been customary for spouses to sue paramours. "A new case from the Thirteenth District Court of Appeals just came out which rules 'yes,' you can sue your husband's paramour for cheating, and the money you are awarded is off limits for division in your divorce suit. Those funds are your separate property," says Kelly McClure, CEO and managing partner of McClure Law Group. "This really changes the game because before, you would sue your husband for wasting money on a paramour, and the court would say for example, 'OK, you spent \$100,000 on your paramour, well then you owe your spouse \$50,000.' In this new case, the wife sued her husband's mistress for colluding with her husband to hide finances. The husband tried to claim that any money awarded to her in her civil suit should be part of the community estate subject to division in their divorce, but the court disagreed. They confirmed that any funds from her civil suit against the paramour would be her separate property (instead of the 50% she would get back in her divorce suit)." The law is ever-changing, so it is important to hire an experienced attorney like Kelly McClure to ensure that you know all your options when you are considering divorce.

## About the Experts

The McClure Law Group family is dedicated to protecting yours. The dynamic family team of Kelly McClure, managing partner, and CEO, Buck McClure, attorney, and Brody McClure, attorney, handle the simplest to the most complex divorces, custody matters, division of assets, and pre-and post-marital agreements. Kelly is thrilled to have the unique opportunity to work alongside her sons, combining their talents to achieve the best outcomes for every McClure Law Group client. With decades of exclusive experience in family law, the seasoned attorneys at McClure Law Group are compassionate, yet relentless advocates who fight for what matters most—your fortune and your family.

Kelly McClure is Family Law Board Certified by the Texas Board of Legal Specialization and has been continually named as a Best Lawyer in Dallas by *D Magazine* and Texas Super Lawyers by Thomson Reuters. Buck McClure has been named a Super Lawyers Rising Star by Thomson Reuters, and One to Watch by Best Lawyers and Leaders in Law by *D Magazine*. Brody McClure has been named One to Watch by Best Lawyers and Leaders in Law by *D Magazine*.

McClure Law Group has been recognized as Best Law Firm by BL Rankings, Best Law Firm by *U.S. News & World Report*, Top 10 Law Firm by America's Best Advocates, Best of the Best by Top 10 Dallas, and Leaders in Law by *D Magazine* and is your go-to team for all divorce and family law needs.



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