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Prenups aren't just for married couples anymore

By Jessica Dickler

Prenuptial agreements aren't just for married folks anymore.

A growing number of unmarried couples are seeking similar legal protections through cohabitation agreements. These legally-binding contracts, which are drawn up by an attorney, protect each person's assets, address child custody issues and determine support obligations, much like prenuptial agreements do.

"We've seen a real dramatic increase," said Ken Altshuler, president of the American Academy of Matrimonial Lawyers, or AAML. "A lot more people are delaying, or forgoing, marriage and people are realizing as you get older, you have more things to protect."

In a poll conducted by the AAML last year, 39% of the divorce attorneys that were surveyed saw a rise in co-habitation agreements between live-in couples over the previous five years. Of the attorneys surveyed, 70% said the majority of the agreements they drew up were for heterosexual couples as opposed to same-sex couples.

Almost half of the 1,600 divorce attorneys polled by the AAML said they had seen an increase in the number of court battles between unmarried couples who had lived together.

If one person chooses to stay home to care for children "a cohabitation agreement would specify the rights and support for each party in the case of a break up," said Silvana Raso, matrimonial attorney with Schepisi & McLaughlin in Englewood Cliffs, N.J.

With consumer debt now at \$2.5 trillion (and growing), these protections can also prove important when it comes to safeguarding against an ex's debt.

"One party can have a lot of credit card debt or student loans and the other party may want to make sure they are not liable for that," Raso said.

With just 51% of all adults tying the knot these days, a record low, according to the Pew Research Center, co-habitation agreements are particularly valuable when a couple intends to buy a house together and raise a family -- all without a marriage license.

Those types of investments are particularly important to specify, Altshuler added. "States don't have cohabitation laws, so if you buy a house together with someone you are not married to, a cohabitation agreement can define how those assets and debts are divided and that can save years of litigation," he said.

Ironically, couples in the honeymoon phase of their relationship are best suited to map out these types of difficult situations, advised Daniel Clement, a divorce lawyer in New York. "It's a happy time, when you don't have the bitterness that you experience at the time of a break up."