

# Protecting Your Crypto Assets in a Divorce

Splitting up money and financial assets during a divorce can be a bad dream for anyone. Throw on hard-to-understand crypto assets, and you've got a full-blown nightmare. In the world of digital assets, cryptocurrency generally falls into the "Electronic Property with Monetary Value" category. That means that the assets have a quantifiable economic value. Outside of crypto assets, these can include websites and other online properties.

Many cryptocurrencies, large and small, have exploded in value over the past decade. What may have been a chunk of change investment six years ago could be a sizable amount today. Certain crypto assets' high-risk, high-reward nature makes them a trickier asset to consider during a divorce. Because of the rapidly rising popularity of crypto, especially among millennials, these holdings are increasingly popular in divorce proceedings.

If mere talk of crypto makes you want to run out of the building, you may want to get ahead of not having to own this digital asset because of a divorce. On the other hand, if you're a crypto savant, you may want to protect your crypto holdings from state law rulings during divorce proceedings.

As with any division of financial assets during a divorce, it's better to do it ahead of time using a prenup. You don't want to get caught up in the ins and outs of managing digital assets like crypto when you're balancing so many other emotions during the divorce process.

## How Does Ownership of Crypto Assets Work?

Crypto may sound like this concept that's way out there and difficult to understand, but it doesn't have to be. You've probably heard of Bitcoin, which is the most well-known cryptocurrency out there. Other cryptocurrencies like Ethereum and Solana are some of the most traded coins on the market today.

These crypto assets are exchanged on platforms like Coinbase and Gemini, where users can exchange dollars for ownership of a cryptocurrency or coin. Like many other investments in the stock market, the hope here is that these currencies will appreciate; getting in early can only multiply the returns.

Cryptocurrencies are generally validated using a technology called the blockchain. This sequence of transactions is open for anyone to see, unlike private banking institutions that operate on a highly confidential basis. Whenever you trade on bitcoin or other crypto assets, the blockchain will record the transaction and add it to the long chain of existing transactions. Only

transactions validated using a concept called proof of work can be added to the blockchain. The sequence can only add transactions, not remove them.

If you dabble in crypto, one of the most reliable ways to prove your ownership of Bitcoin or another crypto asset is to sign a message with [your private key](#). By doing so, you are confirming your ownership of the digital assets without revealing your private key, which can leave you vulnerable from a security standpoint. There are other ways to prove ownership of cryptocurrencies, but signing a message with your private key is the most secure and efficient method.

## Why Are Crypto Assets Important In a Divorce?

The bottom line is crypto has exploded over the last decade. So it was only a matter of time before we started to see this digital asset in many divorce proceedings. Moreover, the rise in cryptocurrency holdings is especially prominent among millennials.

Because of their ability to yield higher returns in shorter periods, millennials have flocked to make [investments in crypto assets](#). Additionally, with a younger generation entering into married life and [over 8% of the US population owning cryptocurrency](#), it's no wonder crypto assets are increasingly factoring into divorce proceedings.

While they're still not a mainstream asset to have like a 401(k) or Roth IRA, cryptocurrencies are essential to take care of throughout a divorce. In the coming years, divorce law is likely to continue to evolve to better capture the intricacies of crypto assets and how they play out in a divorce.

## How Do Crypto Assets Get Split Up In a Divorce?

During divorce proceedings, lawyers gather crypto assets through the discovery process. Discovery is the same information-gathering procedure that also identifies other investments. For example, attorneys would review crypto transactions, tax records, and sworn depositions from spouses to understand their cryptocurrency positions.

Then, the legal team separates the crypto assets into either "Separate Property" or "Community Property." Cryptocurrency purchased before the marriage date would classify as "Separate Property." Digital assets purchased after the couple's marriage date would constitute "Community Property" and can be split up according to the court's ruling.

While it's easy to identify the dates of transactions on the blockchain, sometimes this can get tricky for people that trade at a high frequency. In certain situations, it may be best to enlist the help of a forensic accountant to identify the ownership of crypto assets successfully.

Once the crypto assets are identified and separated, they can either be transferred to the appropriate spouse on an exchange or sold. One advantage of the transfer process is that the spouses don't incur any fees. On the flip side, if you're the spouse who's entirely not into crypto, you may want to avoid getting into this volatile market you know barely anything about.

Do you know how to access the crypto assets on an exchange? Do you understand the potential tax implications in selling off your holdings? If these questions make your head spin, selling the crypto assets for cash after a divorce might make sense despite the potential fees.

## How Prenups Can Protect Your Crypto Assets

Your crypto investments don't have to get complicated when handling an already stressful divorce. A prenup can [clearly define the management of crypto assets](#) during and after a divorce. This means you won't be subject to your state's legal system to determine who gets what, which can lead to unexpected results.

This decision is critical when you're in the middle of a heated battle that can complicate your emotions and affect negotiations. Sometimes if you think you're entitled to a crypto asset, the court may believe otherwise and strip you of certain positions. On the other hand, if you have a [solid plan in place with a prenup](#), you won't have to go through the burdensome process of allocating your digital assets throughout the divorce.

### They Increase Transparency

The financial disclosure portion of a prenup is essential for divulging crypto assets. In drafting up this document, some states require a "full and fair" disclosure, which means that you must report all of your assets on this statement. In this case, you won't have the option of not disclosing investments because whatever you don't include won't hold up in court.

Other states aren't as strict, so you can technically withhold some money and assets disclosures. However, you should still try to always [include absolutely everything in your financial disclosure](#). We recommend doing so to avoid any of your investments being called into question during a divorce. The vital thing to take away here is that a prenup is more enforceable when both parties are aware of the extent of each other's financial assets.

If a judge determines that the spouses didn't fully understand each other's financial investments while creating a prenup, they may not enforce the prenup to its full extent.

Because there's no centralized way to prove bitcoin or other crypto ownership, many spouses that own crypto hide it from each other during divorce proceedings. If crypto asset ownership becomes challenging to track, legal teams will often scan bank statements to see if any transactions correspond with crypto investments.

In some cases, this process can get especially ugly when you have to get subpoenas involved to reveal the full extent of crypto assets. If you're using a prenup with a fully transparent financial disclosure, you can avoid this hiding since you should be disclosing all of your assets. There's also less incentive to hide your crypto assets when you're signing a prenup, as the state of your relationship isn't as rocky. We recommend working with an expert to determine how a prenup will impact your future crypto holdings.

## They Protect The Value Of Your Holdings

A good prenup will limit the growth in earnings and [protect the value of your cryptocurrency holdings](#). Because of the volatile nature of most crypto assets, what may have been valued at \$10 two years ago may have exploded in value to unprecedented returns today. Do those proceeds belong to both spouses when only one of them has been managing the accounts?

Today, many prenups allow the option to ring-fence crypto assets so that they don't become part of the spouses' community property. With this option, a crypto-loving spouse can protect the incredible upside of their investment. However, if you don't ring-fence your crypto assets while creating a prenup, your partner may end up with a sizable amount of the money. This result can be great if that's what you're looking for as a couple! But it can also spell trouble for a couple who's out of balance when it comes to their crypto assets.

For example, someone who is a crypto enthusiast can end up having to split and sell the positions during a divorce based on the judge's ruling. Now, more likely than not, a judge may reward the spouse who manages the investment, even without a prenup. But had this spouse had a prenup in place to protect their crypto assets, they are more certainly going to avoid the state's determination and hold on to the digital assets that were agreed upon during a prenup.

## They Save You Time And Money

Leaving it up to the courts to determine how to split up crypto assets can create many gray areas that you don't necessarily want to navigate. However, by having a plan in place, you can save a lot of time in your divorce proceedings. That's because your lawyers won't have to go back and forth on the value and ownership of crypto assets to define what a fair split is.

There are so many small details that can factor into how investments are split. With a prenup, you can control how these assets are divided. In addition, having a prenup can save you a lot of money in legal fees because of this efficiency.

Perhaps the most indispensable benefit of having a prenup is avoiding the heartache that comes with splitting up assets. With all the emotions around a failed marriage, divorce is stressful enough.

You don't need to be going back and forth with your spouse and your lawyers on how exactly to split up your crypto assets, which can mean different things to each spouse. Having a prenup in place can honor your commitment to each other's wellbeing as a couple, without the nastiness that can sometimes come out of a divorce.