



NEVADA DIVORCE LAW

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The procedure and requirements for divorce vary by jurisdiction. In other words, each state may have different rules governing the process to get divorced and the requirements that must be met in order for the state to grant one. If you do not reside in Nevada, look at the law of the state you reside in.

DIVORCE IN NEVADA

To get a divorce in Nevada, one or both of the spouses must have resided in Nevada for at least six (6) weeks before the action is filed. Nevada is a “no fault” divorce state, which means the person asking for a divorce does not have to prove that anybody did anything wrong to cause the divorce. A person asking for divorce only needs to claim that the parties are “incompatible,” meaning you just don’t get along.

There are other grounds for divorce that are not used very often. Usually, claiming that you cannot live together as husband and wife and that there is no chance of reconciliation is enough for a judge to grant a divorce.

There are two ways to file for divorce in Nevada. If both spouses agree on everything in their case, they can file a Joint Petition for Divorce as it is considered an uncontested divorce. This situation is one in which both parties are able to agree on every issue of their case, including the divorce itself, child custody & child support, visitation, division of community property, and whether spousal support will be given. These divorces are typically approved quickly, and the parties usually do not have to appear in front of a judge.

If the spouses cannot agree on all the terms of the divorce, one spouse generally files a Complaint for Divorce with the Court, which is served on the other spouse. The person who files for divorce is the "plaintiff" and the other spouse is the "defendant." The plaintiff's complaint for divorce will say what the plaintiff seeks from the divorce, and the defendant can respond with an "answer and counterclaim" stating what he or she seeks from the divorce. The judge may or may not hold several hearings to help the parties come to an understanding, or, if need be a trial. Either avenue ultimately will lead to a divorce Decree.

For divorce forms that are free of charge, visit the Family Law Self-Help Center at <https://www.familylawselfhelpcenter.org/self-help/divorce/filing-for-divorce-together>.

Note, while the forms are free to use, there will still be a fee to file the forms with the court.

LEGAL SEPARATION IN NEVADA

Sometimes a legal separation is preferred over a divorce for any number of reasons. In Nevada, legal separation is called “Separate Maintenance.” The procedures are similar to divorce procedures with one primary difference – the marriage will not be severed at the end of the case. It is important to know that if an action for separate maintenance is filed and the other party counterclaims for divorce, the Court will grant the divorce.

THINGS TO CONSIDER

There are many things to consider if parties are proceeding with a divorce. For instance, a few issues to be determined during the divorce proceedings are usually custody, child support, spousal support, and the division of community property/debts.

CHILD CUSTODY:

When parents cannot agree on the paternity of a child or how to share custody of a child, either parent can ask the court to issue court orders. For a Nevada court to make any child custody and visitation orders, Nevada must be the “home state” of any child in question. This means that the child usually must have lived in Nevada for 6 months (or since birth if the child is younger than 6 months old) before the case is filed. If the child left Nevada less than 6 months ago and a parent still lives in Nevada, Nevada may still be the “home state.” Of course, there are exceptions to this general rule.

CHILD SUPPORT:

Child support is set based on percentages of the parents’ “gross monthly income.” This includes pre-tax income from all sources, including employment, tips, overtime, unemployment, and retirement. Each parent will have to provide the judge and the other parent with a financial statement, paystubs, and possibly prior tax returns so that each parent’s income can be determined.

SPOUSAL SUPPORT:

Spousal support is also known as “alimony.” In some cases, one spouse may receive ongoing financial support from the other after a divorce. There is no exact formula to figure out whether someone should receive alimony or how much money they should get. Instead, alimony is decided on a case-by-case basis, but is usually only considered in longer term marriages where there is a large difference in income. Some considered factors include:

- Length of marriage and the lifestyle shared by the parties during the marriage.
- Each spouse’s age, health, education, career, and earning ability.
- One spouse’s need for financial support versus the other spouse’s ability to pay.

A judge may order “rehabilitative alimony” from one spouse to help the other obtain job-related education or training. This is meant to increase that spouse’s job skills and earning power so that he/she will be sufficiently able to support him/herself after the divorce.

DIVISION OF COMMUNITY PROPERTY/DEBTS:

Nevada is a “community property” state. This means that while two spouses are married, all property and debts acquired are presumed to belong equally to both spouses. During divorce, community property and debt are equally divided. Some items that typically get divided are: bank accounts, houses and mortgages, household items and furniture, cars and car loans, credit card balances/debt, tax debts, pensions and retirement accounts, businesses owned by a spouse.

On the other hand, property or debt owned before the marriage is that spouse's "separate property" and belongs solely to that spouse. Inheritances, personal injury awards, and gifts are also usually considered separate property and are not divided during a divorce. Of course, there are exceptions to these general rules.

For more information on any of these topics, visit the Family Law Self-Help Center at <http://www.familylawselfhelpcenter.org>.

CUSTODY/PATERNITY CLASSES

The Legal Aid Center of Southern Nevada and the UNLV William S. Boyd School of Law together run a program to help provide legal information to the community, through classes. The Custody class will teach you how to establish custody and paternity, what the court looks for in visitation and relocation issues, and how to represent yourself in court.

FOR INFORMATION AND RESERVATIONS TO ATTEND A CLASS,

CALL (702) 386-1070 or visit <https://www.lacsn.org/what-we-do/free-classes>

THE FOLLOWING INFORMATION IS FROM THE LEGAL AID CENTER OF SOUTHERN NEVADA’S WEBSITE AND CAN BE ACCESSED AT <https://www.lacsn.org/practice-areas/family-justice-project/divorce>

HOW DO YOU END A MARRIAGE IN NEVADA?

Various procedures may be used to end a marriage that breaks down, including annulment, separation, and divorce.

Annulment: This is a court-ordered dissolution of an invalid marriage. The Decree of Annulment nullifies a marriage from its beginning and is granted in situations where no valid marriage exists because of a legal defect. In Nevada, the grounds for annulment are: a void marriage (because

the parties are too closely related to one another or one of the parties already has a husband or wife); the lack of consent of the parent or guardian of any party to the marriage who has not reached the age of 18; consent of a party to the marriage obtained by fraud; or because a "want of understanding" of a party made him or her incapable of consenting to the marriage.

Separate Maintenance: Sometimes, for religious, economic, or other reasons, the parties may prefer a legal separation to a divorce. A Decree of Separate Maintenance, like a divorce, determines the terms for custody and visitation schedules (if applicable) of any children, divides your property and debts, determines how much child support a parent without primary physical custody should pay and how much spousal support (alimony) one party should pay the other, if it is requested and granted.

Divorce: The main difference between an action for separate maintenance and a divorce is that divorce ends the marriage while a separate maintenance action does not; at the end of a separate maintenance action, the parties remain married, although living apart. In Nevada, a spouse does not have to prove wrongdoing to obtain a divorce. This no-fault system is intended to help spouses settle matters without unnecessary bitterness or resentment. A person may ask the court to end his or her marriage because it is not working (that is, the parties are incompatible).

Since the majority of time, people will choose to file for divorce rather than annulment or separate maintenance, the remainder of this manual will deal with divorce.

IF I WANT TO DO THE CASE MYSELF, IS THERE ANYBODY WHO CAN HELP ME?

Many attorneys in Clark County offer what are called "unbundled services." This means that you may hire the attorney for limited assistance only (such as, to appear with you at a hearing or to review your documents) and he/she agrees to charge you only for that limited service). Legal Aid Center of Southern Nevada and the William S. Boyd School of Law provide free legal information classes on Divorce, Paternity and Custody law. The classes are taught by law students, with a supervising attorney available to answer questions regarding do-it-yourself divorce or custody/paternity/child support cases. For more information, call (702) 386-1070 in order to register or find information on the class schedule for the current semester. If your case qualifies, LACSN may be able to represent you directly or refer your case out to a volunteer attorney who will take your case and not charge you for his/her time. Many domestic violence shelters have advocates who understand the basic procedures involved in getting a divorce or paternity/custody/child support case, to get you started.

DO I HAVE TO HAVE LIVED IN NEVADA FOR A PARTICULAR AMOUNT OF TIME BEFORE I CAN FILE FOR DIVORCE?

Yes. You must have lived in Nevada (that is, be physically present in the State with an intent to remain for an indefinite period) for at least six weeks before you may file for Divorce.

WHAT IS THE PROCEDURE FOR GETTING A DIVORCE? DO I HAVE TO HAVE A LAWYER?

You do not need to have a lawyer to get a divorce, but a lawyer's specialized knowledge can be very helpful to a person considering legal separation or divorce. A lawyer's advice is especially helpful in cases that are contested (that is, the parties cannot agree upon the division of community property/debts or the custody and support of minor children).

Summons and Complaint: To start a Divorce, you (called the "plaintiff") must file with the court a Summons and Complaint for Divorce.

Service: These documents are then "served" on your spouse (called the "defendant") within 120 days after filing the Complaint. Service is a legal concept; a Summons and Complaint are usually served by having copies personally delivered to the defendant. There are also other ways to serve documents if the defendant cannot be personally served, including "substitute service," which is when the documents are left with a person of suitable age and maturity who lives in the defendant's residence, and "service by publication" which is when a notice of the action is published in a newspaper of general circulation. There is no major legal significance as to which spouse files the Complaint, but there may be emotional or procedural advantages.

The purpose of the Summons is to advise the defendant that he or she is being sued and to command the defendant to reply to the Complaint. Basic facts about the marriage are contained in the Complaint, which also specifies what the plaintiff wants in the way of a parenting agreement (custody, support and visitation), division of property and debt and spousal support.

Answer and Counterclaim: Once served with the Summons and Complaint, the defendant has 2 days to reply in writing to the Complaint. This reply, called an "Answer," may include a "Counterclaim." The Counterclaim sets out the defendant's position on the parenting agreement (custody, support and visitation), division of property and debt and spousal support. The plaintiff has 21 days to file and serve a Reply to the Counterclaim.

Temporary Orders: In many situations, the next step is to ask the judge to make temporary orders to guide the conduct of the parties. Either spouse may ask for and get temporary orders. Typically, the requests cover such subjects as the primary custody of the minor children (that is, specifying which parent the children will live with the majority of the time), visitation with the children for the parent who does not have primary custody, child support, spousal support, occupancy of the family home, payment of bills, and other concerns for protecting people or preserving property.

Joint Preliminary Injunction: To prevent any immediate problems in a divorce, a Joint Preliminary Injunction may be requested by either spouse. This injunction restrains both parties from harassing one another, taking the children out of state, disposing of property, or incurring any unusual debts.

TransParenting Class: When the divorcing couple has minor children, Nevada law requires that both parents attend a TransParenting Class within 45 days after service of the Answer. This class informs parents about the effects of divorce on children and encourages them to come to a

mutually acceptable agreement on a parenting plan. If the parents cannot agree after attending the class, the court usually will order them to mediation.

Mediation: The parties can choose between mediation using the Family Mediation Center or a private mediator (paid by the party requesting a private mediator). The Family Mediation Center (FMC) is located on the first floor of Family Court. FMC charges a fee for its services; the amount of the fee is determined on a sliding scale, based on household income, and ranges from \$50 to \$200. Private mediator fees vary considerably. The mediator will try to negotiate a parenting plan that is acceptable to both parties. If successful, the mediator will draft a written parenting plan agreement, for each party to sign.

If you are a victim of domestic violence, you should ask the judge to order the mediator to use the Domestic Violence protocol. This means that you will not have to be in the same room as your abuser. Rather, each of you will be seated in separate room and the mediator will negotiate with each of you separately. Otherwise, the Family Mediation Center also does its own screening for domestic violence, so that the mediator can be alert to these issues.

You do not have to agree to any parenting plan suggested by the mediator. If you have good reasons for refusing to accept any proposed custody and visitation plan, you are entitled to ask for an evidentiary hearing before the judge on these issues. Even if you agree with the mediator's suggested plan, you do not have to sign the parenting plan that day: you are entitled to take a copy of the proposed plan home with you, to have it reviewed by an attorney or whoever else you rely on for advice.

Completing the Case: All issues must be settled in order to finish a case. If the parties cannot agree on a permanent plan for custody, support, visitation, or property division, a trial will be held to decide any disputes. If spouses agree on a settlement and no part of the divorce is contested, the case does not have to go to trial. The final stage occurs when the court signs a "Decree of Divorce." Settlements negotiated between spouses are presented in writing for approval by the court and signed by the judge. If the case requires a trial, the judge's decision is recorded in writing and signed by the judge who conducts the trial. A marriage is not dissolved until the judge signs the Decree of Divorce, you file the Decree with the Clerk of the Court and you file and serve a Notice of Entry of Decree of Divorce.

WHEN IS MY DIVORCE EFFECTIVE?

Once the Decree of Divorce is signed by the judge and filed with the Clerk of the Court, the parties are legally divorced and free to re-marry. Nevada does not have a waiting period for a Divorce to become final.

CAN I GET BACK MY MAIDEN NAME IN THE DIVORCE?

At your request, your maiden name or a former name can be restored to you in the Divorce Decree. The request to do this should be set out in your Complaint or Counterclaim.

HOW DOES THE COURT DECIDE CHILD CUSTODY AND VISITATION ISSUES?

Nevada law requires that in any proceeding for annulment, legal separation, or divorce where minor children are involved, child custody and visitation for the parent that does not have physical custody of the children must be set forth, in detail, in the Complaint, the Counterclaim (if any) and the Decree of Divorce; “reasonable visitation” is not a sufficient statement of the visitation rights of the non-custodial parent. The parents may agree upon custody and visitation or each parent may propose opposing plans. The court will make a decision on custody and visitation, based upon the best interests of the child:

- Responsibility for parental decision making on material matters on the upbringing of a child (also referred to as “legal custody”), such as religion, healthcare and education
- A schedule for residential care (who will have actual physical possession and control of the children – “physical custody” of the children) and
- A schedule for visitation for the parent who does not have primary physical custody of the children (the noncustodial parent).

There is a strong preference for giving parents joint legal custody over their children. However, a court may order joint legal custody while awarding primary physical custody to one parent. Both parents have a legal duty to support their children (that is, provide for the necessary maintenance, health care, education and support for the child and to pay for the funeral expenses in the event of the child’s death). NRS 125B.020. The general formula set by Nevada law (NAC 425.140) for the child support paid by the noncustodial parent is set out in the table below. Nevada law uses a tiered approach in the child support formula, where the first \$6,000 of the noncustodial parent’s monthly gross income (MGI) is taxed at a percentage based on the number of children, and amounts earned over \$6,000 will be taxed at different percentages based on the number of children.

Child Support Obligation Schedule (NAC 425.140)

	First \$6,000 of MGI	\$6,001 - \$10,000 of MGI	\$10,000 and greater
1 Child	16%	8%	4%
2 Children	22%	11%	6%
3 Children	26%	13%	6%
4 Children	28%	14%	7%
Each Additional Child	Additional 2%	Additional 1%	Additional 0.5%

If the court determines that the economic circumstance of the noncustodial parent limits his or her ability to pay the child support obligation amount pursuant to NAC 425.140 (outlined in the table above), the child support obligation will be established in accordance with the low-income schedule published annually by the Administrative Office of the Courts. The 2024 Low-Income schedule is as follows:

**Child Support Obligation of Low-Income Payers
at 75% to 150% of the 2024 Federal Poverty Guidelines**

Monthly Income Up To	One Child		Two Children		Three Children		Four Children		Five Children		Six Children		Seven Children		Eight Children		Nine Children		Ten Children	
	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount	Percent	Child Support Amount
\$941	10.56%	\$99	14.52%	\$137	17.16%	\$162	18.48%	\$174	19.80%	\$186	21.12%	\$199	22.44%	\$211	23.76%	\$224	25.08%	\$236	26.40%	\$248
\$975	10.75%	\$105	14.79%	\$144	17.48%	\$170	18.82%	\$183	20.16%	\$197	21.51%	\$210	22.85%	\$223	24.20%	\$236	25.54%	\$249	26.89%	\$262
\$1,008	10.95%	\$110	15.05%	\$152	17.79%	\$179	19.16%	\$193	20.53%	\$207	21.90%	\$221	23.27%	\$235	24.63%	\$248	26.00%	\$262	27.37%	\$276
\$1,042	11.14%	\$116	15.32%	\$160	18.11%	\$189	19.50%	\$203	20.89%	\$218	22.29%	\$232	23.68%	\$247	25.07%	\$261	26.46%	\$276	27.86%	\$290
\$1,076	11.34%	\$122	15.59%	\$168	18.42%	\$198	19.84%	\$213	21.26%	\$229	22.67%	\$244	24.09%	\$259	25.51%	\$274	26.93%	\$290	28.34%	\$305
\$1,109	11.53%	\$128	15.86%	\$176	18.74%	\$208	20.18%	\$224	21.62%	\$240	23.06%	\$256	24.50%	\$272	25.95%	\$288	27.39%	\$304	28.83%	\$320
\$1,143	11.73%	\$134	16.12%	\$184	19.05%	\$218	20.52%	\$235	21.99%	\$251	23.45%	\$268	24.92%	\$285	26.38%	\$302	27.85%	\$318	29.31%	\$335
\$1,177	11.92%	\$140	16.39%	\$193	19.37%	\$228	20.86%	\$245	22.35%	\$263	23.84%	\$280	25.33%	\$298	26.82%	\$316	28.31%	\$333	29.80%	\$351
\$1,210	12.11%	\$147	16.66%	\$202	19.69%	\$238	21.20%	\$257	22.71%	\$275	24.23%	\$293	25.74%	\$312	27.26%	\$330	28.77%	\$348	30.29%	\$367
\$1,244	12.31%	\$153	16.92%	\$211	20.00%	\$249	21.54%	\$268	23.08%	\$287	24.62%	\$306	26.16%	\$325	27.69%	\$344	29.23%	\$364	30.77%	\$383
\$1,277	12.50%	\$160	17.19%	\$220	20.32%	\$260	21.88%	\$279	23.44%	\$299	25.01%	\$319	26.57%	\$339	28.13%	\$359	29.69%	\$379	31.26%	\$399
\$1,311	12.70%	\$166	17.46%	\$229	20.63%	\$271	22.22%	\$291	23.81%	\$312	25.39%	\$333	26.98%	\$354	28.57%	\$375	30.16%	\$395	31.74%	\$416
\$1,345	12.89%	\$173	17.73%	\$238	20.95%	\$282	22.56%	\$303	24.17%	\$325	25.78%	\$347	27.39%	\$368	29.01%	\$390	30.62%	\$412	32.23%	\$433
\$1,378	13.09%	\$180	17.99%	\$248	21.26%	\$293	22.90%	\$316	24.54%	\$338	26.17%	\$361	27.81%	\$383	29.44%	\$406	31.08%	\$428	32.71%	\$451
\$1,412	13.28%	\$187	18.26%	\$258	21.58%	\$305	23.24%	\$328	24.90%	\$352	26.56%	\$375	28.22%	\$398	29.88%	\$422	31.54%	\$445	33.20%	\$469
\$1,445	13.47%	\$195	18.53%	\$268	21.90%	\$317	23.58%	\$341	25.26%	\$365	26.95%	\$390	28.63%	\$414	30.32%	\$438	32.00%	\$463	33.69%	\$487
\$1,479	13.67%	\$202	18.79%	\$278	22.21%	\$329	23.92%	\$354	25.63%	\$379	27.34%	\$404	29.05%	\$430	30.75%	\$455	32.46%	\$480	34.17%	\$505
\$1,513	13.86%	\$210	19.06%	\$288	22.53%	\$341	24.26%	\$367	25.99%	\$393	27.73%	\$419	29.46%	\$446	31.19%	\$472	32.92%	\$498	34.66%	\$524
\$1,546	14.06%	\$217	19.33%	\$299	22.84%	\$353	24.60%	\$380	26.36%	\$408	28.11%	\$435	29.87%	\$462	31.63%	\$489	33.39%	\$516	35.14%	\$543
\$1,580	14.25%	\$225	19.60%	\$310	23.16%	\$366	24.94%	\$394	26.72%	\$422	28.50%	\$450	30.28%	\$478	32.07%	\$507	33.85%	\$535	35.63%	\$563
\$1,614	14.45%	\$233	19.86%	\$321	23.47%	\$379	25.28%	\$408	27.09%	\$437	28.89%	\$466	30.70%	\$495	32.50%	\$524	34.31%	\$554	36.11%	\$583
\$1,647	14.64%	\$241	20.13%	\$332	23.79%	\$392	25.62%	\$422	27.45%	\$452	29.28%	\$482	31.11%	\$512	32.94%	\$543	34.77%	\$573	36.60%	\$603
\$1,681	14.83%	\$249	20.40%	\$343	24.11%	\$405	25.96%	\$436	27.81%	\$468	29.67%	\$499	31.52%	\$530	33.38%	\$561	35.23%	\$592	37.09%	\$623
\$1,714	15.03%	\$258	20.66%	\$354	24.42%	\$419	26.30%	\$451	28.18%	\$483	30.06%	\$515	31.94%	\$548	33.81%	\$580	35.69%	\$612	37.57%	\$644
\$1,748	15.22%	\$266	20.93%	\$366	24.74%	\$432	26.64%	\$466	28.54%	\$499	30.45%	\$532	32.35%	\$565	34.25%	\$599	36.15%	\$632	38.06%	\$665
\$1,782	15.42%	\$275	21.20%	\$378	25.05%	\$446	26.98%	\$481	28.91%	\$515	30.83%	\$549	32.76%	\$584	34.69%	\$618	36.62%	\$652	38.54%	\$687
\$1,815	15.61%	\$283	21.47%	\$390	25.37%	\$461	27.32%	\$496	29.27%	\$531	31.22%	\$567	33.17%	\$602	35.13%	\$638	37.08%	\$673	39.03%	\$708
\$1,849	15.81%	\$292	21.73%	\$402	25.68%	\$475	27.66%	\$511	29.64%	\$548	31.61%	\$584	33.59%	\$621	35.56%	\$658	37.54%	\$694	39.51%	\$731
\$1,883	16.00%	\$301	22.00%	\$414	26.00%	\$489	28.00%	\$527	30.00%	\$565	32.00%	\$602	34.00%	\$640	36.00%	\$678	38.00%	\$715	40.00%	\$753

Calculations:

The income in the first row is 75% of the monthly poverty level income for a one person household.

Child support amount in the first row is 66% of the amount calculated by applying the Nevada rate to the monthly income.

The income amount for the last row is 150% of the monthly poverty level income for a one person household.

2024 Federal Poverty Guidelines

Household Size	Annual Income	Monthly Income
1	\$15,060	\$1,255
2	\$20,440	\$1,703
3	\$25,820	\$2,152
4	\$31,200	\$2,600
5	\$36,580	\$3,048
6	\$41,960	\$3,497
7	\$47,340	\$3,945
8	\$52,720	\$4,393

Nevada Rates

One Child	16%
Two Children	22%
Three Children	26%
Four Children	28%
Five Children	30%

For families/households with more than 8 persons, add \$5,380 for each additional person.

However, the law allows a court to review and modify the amount of support specified every three years or at any time due to a change in circumstances (NAC 425.170; NRS 125B.145). A change of 20% or more in the monthly gross income of the noncustodial parent is deemed a changed circumstance that requires a review for modification to a child support order.

[Note that this is only a general discussion on the subject of child support. If you are unsure whether you should be entitled to or obligated to pay child support, or you are unsure how the amount of support should be calculated, you should consult an attorney.]

THE AMOUNT I WAS GIVEN AS CHILD SUPPORT IS TOO LOW – I KNOW MY EX IS MAKING MORE MONEY NOW THAN HE DID WHEN WE WERE DIVORCED. WHAT CAN I DO?

Child support orders are subject to periodic modification to meet changes in the needs of the children (every three years), as well as material changes in each parent's ability to pay. You can bring your own motion to modify child support (the Self-Help Center at Family Court has a form packet that you can purchase for this purpose for \$3.00 or you may download the forms free from the internet: Family Court) or you can ask the Clark County District Attorney to help you.

HOW LONG DOES MY EX HAVE TO KEEP PAYING CHILD SUPPORT?

Child support payments are made until a child is 18 years old, or graduates from high school, whichever occurs last. However, certain circumstances may affect how long child support must be paid. For example, if a child under 18 gets married or otherwise becomes emancipated or self-supporting, the court may terminate the noncustodial parent's obligation to pay support. Similarly, if a child is over 18 but still in high school, the noncustodial parent will have to pay child support until that child is 19 or graduates from high school, whichever occurs first. In addition, if a child is disabled before his/her 18th birthday, the duty to support the child may continue until the child becomes self-sufficient.

WHAT IS SPOUSAL SUPPORT?

Spousal support or alimony may be awarded where there is need on the part of one spouse and ability to pay by the other. Spousal support is not awarded or withheld as punishment for marital misconduct. The duration and amount depend upon the facts and circumstances of each case. A court may grant one spouse the right to receive spousal support as appears just and equitable.

Spousal support may be granted for the purpose of allowing a spouse to obtain training or education relating to a job, career or profession. In determining the need for spousal support, and the appropriate duration and amount, the court will consider:

- the financial resources of each party
- the work experience and earning prospects of each spouse, including the time needed for one spouse to obtain vocational training to become employed or self-supporting
- the age and physical and emotional conditions of each party
- the duration of the marriage and the standard of living established during the marriage.

In addition, in deciding whether to award such support, Nevada law (NRS125.150) allows a court to consider:

- Whether the spouse who pays alimony has obtained greater job skills or education during the marriage, and
- Whether the spouse receiving such alimony provided financial support the other spouse obtained job skills or education.

[Note that this is only a general discussion on the subject of spousal support. If you are unsure whether you should be entitled to or obligated to pay spousal support, you should consult an attorney.]

Community Property is generally defined as any property acquired by a husband or wife after marriage, unless it is separate property. NRS 123.220

Separate Property is generally defined as any property acquired before a marriage, or any property acquired by a husband or wife during the marriage that is the result of a personal inheritance or bequest to either party, a personal gift to either party, or an award for personal injury to either party. In addition, any income or profits (i.e. rent, dividends, interest, etc.) earned by the separate property during the marriage is the separate property of the party who owns it. NRS 123.130

[Note that these are only general definitions and there are notable exceptions that may apply in your case (for example, if a spouse's salary or other community property is used to maintain separate property, the other spouse may acquire a community interest in such separate property). If you have any doubts or concerns about whether an item of property is community property or separate property, you should consult a lawyer.]

HOW DOES THE JUDGE DIVIDE COMMUNITY PROPERTY?

There is no fixed method for determining how property should be divided. In Nevada, all community assets — real and personal, tangible and intangible — are available for distribution. As a community-property state, Nevada laws provide for the “just and equitable” division of property acquired during a marriage; however, this does not necessarily require equal division (although the Court must make specific findings of fact that justify the unequal division of property). Under some circumstances, the court may also divide separate property.

If you and your spouse are able to agree upon the division of property, the court will probably approve it. Property settlement agreements are binding and generally cannot be modified. If you and he cannot agree, the court will decide how to divide community property.

In making the decision, the judge will not consider any allegations of marital misconduct, including domestic violence. Instead, the court will look at the following:

- the nature and extent of community property
- the nature and extent of separate property
- how long the parties were married
- the financial position of each party
- whether each spouse is employed and self-supporting
- each party's entitlements to social security and profit-sharing plans and
- special circumstances.

Community Debt is generally defined as any debt or obligation of the husband or wife arising during the marriage, unless it falls within the definition of a separate debt. Even if you are living apart, so long as the debt arises while you are married, it may be considered community debt.

Separate Debt is generally defined as any debt or obligation of the husband or wife arising before the marriage or any debt acquired during the marriage that is used solely for the purpose of maintaining separate property.

[Note that these are only general definitions and there are notable exceptions that may apply in your case. If you have any doubt or concerns about whether a particular debt is community debt or separate debt, you should consult a lawyer.]

HOW DOES THE COURT DIVIDE THE COMMUNITY DEBTS?

All community debts must also be divided when dissolving a marriage. Consideration is given to the type of debt and the circumstances under which it arose. The factors that a court considers when dividing property are also applied when dividing community debt.

THE DEBTS WERE DIVIDED IN THE DIVORCE DECREE. WHAT SHOULD I DO?

Once the community debt has been divided in the Divorce Decree, it is important that creditors are notified that you will not be responsible any longer for debts allocated to your spouse. Most credit and charge account agreements provide for joint liability for any charges made on joint accounts. Therefore, you should instruct all creditors, in writing, to remove your name from a joint account or, alternatively, to close all joint accounts. If you wish to maintain credit with certain creditors, you should open a new, separate account. However, as to community debts that arose before your divorce, the creditor does not have to release you from liability for that debt, regardless of the divorce decree. You should contact the creditor and explain that the debt is to be paid by your ex-spouse, but you may end up paying the debt and then trying to get reimbursement from your former spouse.

WHAT CAN I DO IF S/HE IS NOT COMPLYING WITH THE DIVORCE DECREE?

The Family Court will enforce your Divorce Decree. If your ex-spouse fails or refuses to comply with the terms of the Decree s/he may be held in contempt by the judge and jailed or fined. Orders for the payment of money, including child support orders, may be enforced by mandatory payroll deduction using either a wage assignment or wage garnishment. The Self-Help Center at Family Court has form packets that may assist you in getting before the judge again, to order your former spouse to comply with the Decree. If you are forced to pay a creditor on a debt that the court assigned to your former spouse, you can ask the court to order reimbursement by a wage garnishment or wage assignment.

Unless the court finds there is good cause to believe that child support will be voluntarily paid on a timely basis, wage assignment or garnishment will be ordered in the Decree. If your Decree contains a wage garnishment, you should send a copy of the decree to his/her employer, along with a "Notice to Employer" letter that directs the employer to begin withholding child support from his/her paycheck (also send copies of the relevant Nevada statutes authorizing the employer to make the deduction and stating the penalties if the employer fails to withhold).

Even if the original order did not contain a wage assignment, if s/he is 30 days or more behind in support payments, you can obtain a wage garnishment.

- Get an Affidavit of Arrearage form from the Clerk's office at Family Court (or you may download the form from the internet: [Clark County Courts](#))
- Complete the Affidavit, signing it before a Notary Public (Notaries at the Self-Help Center at Family Court will notarize your signature free of charge).
- Get a Writ of Attachment and Notice of Attachment form from the Clerk's office at Family Court (or you may download the form from the internet: [Clark County Courts](#))
- Complete the Wage Garnishment form, signing it before a Notary Public (Notaries at the Self-Help Center at Family Court will notarize your signature free of charge).
- Take the completed Affidavit and Wage Garnishment forms, along with a copy of your child support order, to the Clerk's office at Family Court.
- The Clerk will reduce the outstanding arrearages to a judgment and then "issue" the Attachment.
- You must then have the wage attachment form "served" upon his/her employer (the Clark County Sheriff Civil Process Section, 601 E. Fremont, 2nd floor, Las Vegas, NV, (702) 455-4237, will do this for a fee of approximately \$35. Otherwise, a commercial process server will do this for a fee).

You should start receiving payments the next payroll period.

As an alternative, a parent who is not receiving court-ordered support can contact the Clark County District Attorney Family Support Division or a private attorney.

Property settlements and family support arrangements can have serious tax consequences to one or both spouses: if nothing else, your tax-filing status will be affected. This is a complex area that is beyond the scope of this manual and you should consult a CPA or an attorney. Legal or accountant's fees paid for tax planning and advice in connection with a divorce may be partially deductible on your income tax form – again, consult a CPA or an attorney.

I AM AFRAID OF DOING A DIVORCE ENTIRELY ON MY OWN. IS THERE ANY WAY I CAN GET HELP? WHAT SHOULD I EXPECT, WHEN HIRING A LAWYER?

Each party has the right to be represented by an attorney, so if one person elects not to, the other still can. Lawyers set their own fees, so costs and payment arrangements may vary. An important factor in controlling costs is whether or not the parties can agree to a settlement. If matters are contested, the divorce is likely to be more expensive, since many attorneys base their fees on an hourly rate. The amount of time a lawyer must spend on a case will increase with the number of issues in dispute and the complexity of the issues. It is appropriate to discuss fees with a lawyer at the outset of a case. Your lawyer will be willing to explain the charges involved, including retainers and hourly rates, court costs, and payment or credit arrangements.

Nevada allows people to represent themselves in a Divorce action. However, ending a marriage involves serious and complex legal and financial considerations. Along with serving as your advocate and negotiator, a lawyer knows the process to follow and which papers to file. Your

attorney can advise you of your legal rights and obligations, can help reach settlement on disputes, and can represent you in enforcing your rights.

Among alternatives to hiring a lawyer to get your divorce are:

- The Eighth District Court Family Division Self-Help Center, that offers instructions and form documents.
- The Family Mediation Center, for affordable mediation of issues relating to custody, visitation and support.
- The Community Legal Education classes on Divorce and Paternity/Custody taught by the Legal Aid Center of Southern Nevada and the William S. Boyd School of Law (this class teaches basic procedure and Nevada law on Divorce and Paternity/Custody.)

MILITARY RETIREMENT PAY AND BENEFITS

See the legal brief titled “Military Entitlements Upon Separation or Divorce” for detailed information on how divorce will affect these items.

MODIFICATION OF DECREES AND ORDERS

If you need a change to your divorce decree or support order, you must ask a court to make the modification. Any agreements you make without the court's approval could be ignored by the court in a later modification hearing.

Child support orders may be reviewed and modified by a court any time there is a significant change in circumstances. Any new court order only changes future payments; orders will not be retroactively modified. If there is no court order for support, the custodial parent may recover up to four years back support. There is no time limit on a parent recovering arrearages or on the government seeking reimbursement for money paid as public assistance for a child.

A Nevada court may modify a Nevada child custody order any time the modification is in the best interests of the child. A Nevada court may modify the child custody order from another state if it determines Nevada is the best state to decide custody. In making this determination, Nevada courts consider whether the child lives or lived in Nevada, where the parents live, whether the parents or child have significant connections with Nevada, where the best evidence regarding custody is located, and whether any other state would be a better place to decide custody.

Courts can only modify property division decrees in accordance with the terms of a written stipulation (agreement) signed by both parties. Spousal support can be modified based on a showing of changed circumstances. Modifications to spousal support orders apply only to future payments.

TAXES

Spousal support is treated as income for the receiving spouse and as a deduction for the paying spouse. Property settlements and child support are not treated as income or deductions for either spouse. The IRS will not allow anyone to disguise child support or property settlements as spousal support to shift the tax burden.

The federal tax exemption for a child is presumed to go to the primary custodian, regardless of how much support the secondary custodian pays. The exemption can be taken by the secondary custodian if the custodial parent signs an IRS Form 8332 or a similar statement releasing the exemption, or if a decree executed after 1984 unconditionally entitles the secondary custodian to the exemption, or if the decree is pre-1985 and entitles the secondary custodian to the exemption. See IRS Publication 17 for more information.

FOR MORE HELP

If this is an amicable divorce, then it is possible to not hire an attorney and fill out and file the necessary forms on your own. To access all divorce and family law forms available for Clark County, visit the following web sites:

<http://www.familylawselfhelpcenter.org/forms/83-divorce-forms>
<http://www.clarkcountycourts.us/clerk/family-library.html>

HAVE MORE QUESTIONS?

Please see the Nellis Legal Assistance Handout on Lawyer Referral and Legal Resources in Las Vegas. The handout lists agencies' locations and phone numbers, and describes the services they provide. Many of the agencies provide low cost or no cost mediation or legal services.

You may also make an appointment with the Nellis AFB Legal Office to speak with an attorney. Legal assistance attorneys cannot represent you in court or fill out divorce forms for you. They can, however, provide you with basic information on divorce and answer specific questions you may have.

References:

Legal Aid Center Southern Nevada
Family Law Self-Help Center

THE INFORMATION CONTAINED IN THIS PAMPHLET IS OF A GENERAL NATURE AND IS PROVIDED FOR YOUR ASSISTANCE AND CONVENIENCE. IT IS NOT INTENDED AS LEGAL ADVICE AND IS NOT A SUBSTITUTE FOR LEGAL COUNSEL. IF YOU HAVE ANY QUESTIONS AS TO HOW THE LAW IN THIS AREA AFFECTS YOU OR YOUR LEGAL RIGHTS, CONTACT YOUR CIVILIAN ATTORNEY OR THE NELLIS AIR BASE LEGAL OFFICE FOR AN APPOINTMENT WITH A LICENSED ATTORNEY.