

Informational Brochure



DIVORCE

Who can get divorced in Nevada?

Any married person who has been a resident and physically present in Nevada for a period of six weeks and has the intention of remaining in Nevada indefinitely. "Indefinitely" means that at the time of filing for divorce, the person filing for divorce has no immediate plans to move out of Nevada. You must also provide a witness who lives in Nevada who can testify in person or sign an affidavit that, based upon his or her personal knowledge, states you have lived in Nevada for at least six weeks. For child custody issues to be decided, the child must have lived in Nevada for six months prior to the filing of the divorce case.

What are the grounds for divorce in Nevada?

- The parties are "incompatible;" or
- Insanity for two years prior to the action; or
- Spouses living separate and apart for more than one year.

Note: it is not necessary to make or prove allegations of adultery, mental cruelty, etc. to obtain a divorce in Nevada.

What kinds of things will the court decide as part of the divorce case?

- Temporary issues and orders during the divorce process for custody and money;
- Division of property, both separate and community;
- Division of debts, both separate and community;
- Child custody, both legal custody and time-sharing (physical custody);
- Child support;
- Alimony;
- Attorney's fees to the financially-disadvantaged side.

Note: If the spouse you are divorcing does not (1) live in Nevada, (2) make a legal "appearance" in the action, and (3) if that spouse does not have significant contacts with Nevada, the court will only be able to address marital status, and such property and children located in Nevada.

Can a husband and wife agree on how to divide their property and debts?

Yes, the court prefers that the parties negotiate a division of property and debts. The agreement should be in writing and notarized, and is then normally approved by the court. If community property is not equal, then you need to explain why.

How does the court divide the property?

If the parties do not agree on how to divide the property, the court will normally divide the "community property" equally. In rare instances, the court may find compelling reasons to divide the community property unequally. Each party normally gets to keep their own "separate property." Separate property is the property that a party (1) owned prior to the marriage, (2) obtained by gift or inheritance, or (3) received as a result of an award or settlement for personal injury damages. All other property is normally community property. The court may give back to one party his or her separate property that had been invested in community property, such as a down-payment, as long as it can be clearly identified.

Can a husband and wife agree on child custody issues?

Yes, the court prefers that the parties negotiate child custody issues, including specific times for weekly time sharing, holidays, summer vacations, etc. The agreement should be in writing and notarized, and is then normally approved by the court.

Are prenuptial agreements enforceable in Nevada?

A prenuptial agreement for support and division of property may or may not be upheld in Nevada, depending upon the circumstances of its creation. There are fairly strict requirements in Nevada law regarding prenuptial agreements. Both prospective spouses should seek legal counsel before signing such an agreement. However, anything you sign is presumed to be valid until a judge sets it aside.

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What provisions does Nevada make for child support payments?

There are two basic categories regarding the award of child support. If a parent has more than 60 percent of the time with a child, that parent will often be described as having "primary physical custody" of the child. The award of child support to that parent will be guided by percentage factors stated in Nevada law multiplied times the "gross monthly income" of the parent with the lesser amount of time with the child. If a parent has between a 40 and 60 percent timeshare with a child, that parent will be determined to have "joint physical custody" with the child and a separate calculation is accomplished to acknowledge the near-equal time sharing with the child. This is not taxable.

Income Range (up to)	Presumptive Maximum per child	Income Range (up to)	Presumptive Maximum per child
\$0 to \$4,235	\$696	\$10,585 to \$12,701	\$975
\$4,235 to \$6,351	\$765	\$12,701 to \$14,816	\$1,043
\$6,351 to \$8,467	\$837	\$14,816 to No limit	\$1,115
\$8,467 to \$10,585	\$905	(Modifies every July for cost of living adjustments)	

In Nevada, with rare exceptions, the minimum per child is \$100 per month. The court may "deviate" up or down from the resulting amount to compensate for such things as day care costs, the cost of medical insurance, visitation expenses, the non-custodial spouse's responsibility for support of other children and other factors identified in the statute. These factors are supposed to be identified by the court in its order.

What is the basis for an award of alimony?

Unlike child support, in Nevada there is no percentage guidance for the award of alimony. Nevada law indicates the court should consider 11 factors when deciding on the amount and length of alimony, including the length of the marriage, the financial condition of each spouse, the property owned by and awarded to each spouse, the relative earning capacity of each spouse, the possibility of education or training to increase the earning capacity of a spouse, whether a spouse has been out of the workforce for a long time, and other factors. Temporary spousal support may be ordered while a divorce case is pending. Alimony is taxable to the receiver and deductible to the payor.

Can the amount of child support payment be modified?

You may have your Nevada child support order reviewed and adjusted up or down, if warranted, at least every three years. You may seek modification sooner if circumstances have changed significantly since your last order. The court looks to 20 percent upward or downward swings in income at any time for modifications.

How do I find an attorney with experience in divorce matters?

You can contact the State Bar of Nevada's [Lawyer Referral & Information Service](#) at (702) 382-0504 (toll-free in Nevada at 1-800-789-5747) or look in the yellow pages of your telephone directory. The State Bar of Nevada's main office (see numbers listed below) can tell you whether or not an attorney is licensed in Nevada and in good standing.

CONTACT INFORMATION

Las Vegas Office

3100 W. Charleston Blvd., Suite 100
Las Vegas, NV 89104
Ph: 702-382-2200 or toll-free 1-800-254-2797
Fax: 702-385-2878 or toll-free 1-888-660-6767

Reno Office

9456 Double R Blvd., Suite B
Reno, NV 89521
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