

Divorce

Who can get divorced in Nevada?

Any married person who is incompatible with their spouse and has been physically residing in Nevada for a period of six weeks prior to the filing of a Complaint. You must provide a witness to your residency, and that is usually accomplished by the filing of an Affidavit of Resident Witness.

Who can get custody orders?

For the Court to have authority to issue orders, the children must be physically present in Nevada for a period of six months prior to the filing of a Complaint. There are some exceptions, but it is best not to rely on these exceptions.

What are the grounds for a divorce?

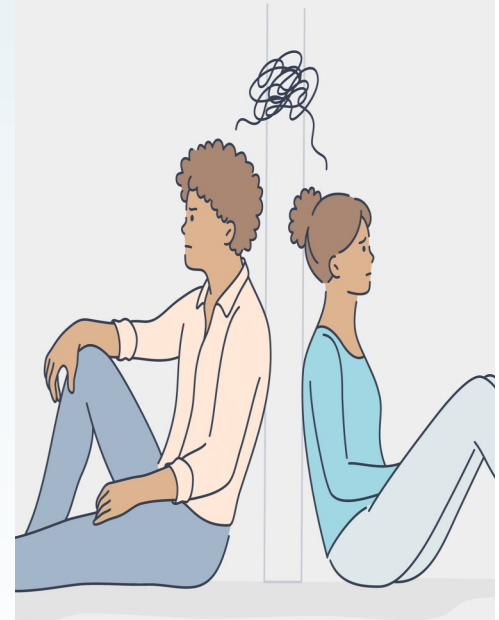
You must prove any of the following: incompatibility; your spouse having been declared insane for two years; or a physical separation of one year. Just one of these three things. You do not have to prove adultery, mental cruelty, or anything else.

What are the topics the Court can decide?

During the case, the Court can set temporary orders on sharing money, who has exclusive possession of the home, how to share the children, etc. At the end of the case, the Court will issue final orders on: confirming separate property like gifts, inheritances, and disability awards; divide community property and debts, which are those things accrued during the marriage; custody orders; who pays child support; alimony; and reimbursement for attorney's fees. The Court can also reimburse you if the other side has spent marriage income and savings on wasteful actions such as addictions and gambling.

Does the other side have to live in Nevada?

Yes and no. If the other side has no connections to Nevada, then the divorce can be granted, but only those items within Nevada can be considered. But if both sides have a connection to, or live in Nevada, then all property and debts can be considered.



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DIVORCE BROCHURE

Can we settle out of Court if we want?

Yes. All settlements must be in writing, signed and notarized to be effective. More detail is better, so include VINs, the last few digits of the bank accounts and credit cards, the address of the home, specific time share details for the children, etc.

If we cannot agree on everything, what will the Court do on property and debts?

Nevada is an equal division state for the assets and debts accrued during the marriage. That means the overall divorce settlement or the decision at trial must be close to equal, unless there is a compelling reason to do something different (meaning you must explain why things are not equal).

What goes into a custody order?

Usually referred to as a parenting order or parenting plan, the main parts include: defining legal custody (the shared decision making for the children); physical custody (how to share where the children live); how to share holidays and vacation times; providing medical insurance coverage for the children and how to share unreimbursed costs; how to share the child dependency exemption; and any specific things needed for the care and safety of the children. All settlements must be in writing, signed and notarized to be effective.

How much is child support?

Child support is set considering the pretax income of each parent. If one parent is the primary physical custodian, then only the other parent's income is considered. Otherwise, the calculation measures both parents' incomes.

It is set by percentages against the first \$6,000 per month, then another percentage up to \$10,000 per month, and then another percentage for any sums above \$10,000 per month. For one child, the percentages are 16%, then 8%, and then 4%. For two children, the percentages are 22%, then 11%, and then 6%. For three children, the percentages are 26%, then 13%, and then 6%. For four children, the percentages are 28%, then 14%, and then 7%. For each additional child, the percentages are 2%, then 1%, and then 0.5%.

The Court will consider other factors to modify the sum up or down: any special educational needs of the child; the legal responsibility of the parties for the support of others; the value of services contributed by either party; any public assistance paid to support the child; the cost of transportation of the child to and from visitation; the relative income of both households, so long as the adjustment does not exceed the total obligation of the other party; any other necessary expenses for the benefit of the child; and the obligor's ability to pay.

What is alimony?

There is no calculator for this and each case is handled on an individual basis. When there is a disparity of incomes, the threshold question is if one side has a financial need and if the other side has the ability to pay. It has two main components: how long, usually set in months; and how much each month. Currently, alimony is not

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DIVORCE BROCHURE

taxable by the receiver, and it is not deductible by the payor. The Court considers the following factors: the financial condition of each spouse; the nature and value of the respective property of each spouse; the contribution of each spouse to any property held by the spouses pursuant to NRS 123.030; the duration of the marriage; the income, earning capacity, age and health of each spouse; the standard of living during the marriage; the career before the marriage of the spouse who would receive the alimony; the existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage; the contribution of either spouse as homemaker; the award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and, the physical and mental condition of each party as it relates to the financial condition, health and ability to work of that spouse.

What is a prenuptial agreement and are they enforceable in Nevada?

A valid prenuptial agreement from any state is enforceable in Nevada. It must be in writing, signed and notarized. There is no specific format, however all must provide a disclosure of one's assets, debts and income. There are fairly strict requirements in the creation and execution of the agreement, and those two topics are usually what is fought over in a divorce case. Both sides should seek an attorney to assist if you intend to use a prenuptial agreement, but it is not required.

How do I find an attorney to help me?

You can contact the State Bar of Nevada's Lawyer Referral Service at 702-382-0504 (toll-free in Nevada at 1-800-789-5747) or comparison shop search online.



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