

**FAMILY LAW**  
**COMMUNITY LEGAL**  
**EDUCATION CLASS**  
家庭法社区法律教育课程

**ATTENDEE MANUAL**  
参加者手册

**Legal Aid Center of Southern Nevada**  
**William S. Boyd School of Law**  
**(Student Volunteers)**  
南内华达法律援助中心  
**William S. Boyd 法学院**  
**(学生志愿者)**

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**COMMUNITY LEGAL EDUCATION CLASSES**                      **社区法律教育课程**

We are happy you have chosen to attend this legal education class and hope you will gain valuable information. 很高兴您选择本法律教育课程，并希望其能帮助您获得有用信息。

- ❖ This class is provided as a community service by the William S. Boyd School of Law and Legal Aid Center of Southern Nevada. The purpose of the class is to provide legal information to the public about court procedures, court rules and Nevada law, along with tips on how to present a case in court. 本课程为 William S. Boyd 法学院和南内华达法律援助中心所提供的社区服务。本课程的目的是向社会公众提供有关法庭诉讼程序、法庭规则、内华达法律以及如何出庭的相关法律知识。
  
- ❖ This class is taught by law students. Law students are not attorneys and cannot offer legal advice. An attorney from the William S. Boyd School of Law or Legal Aid Center of Southern Nevada will be present during the class to assist the law students. 本课程由法学院学生授课。法学院学生并非律师，因而不能提供法律建议。但在本课程期间，将有一名来自 William S. Boyd 法学院或南内华达法律援助中心的指导律师现场协助法学院学生进行教学。
  
- ❖ Forms are provided to assist you with representing yourself in court. However, the Judge assigned to hear your case may require changes to these forms before he or she will accept them. A Judge is not required to grant any of the relief requested in a form or discussed in this class. The result in any case will be determined by the Judge, based on the facts and law of that case. 本课程将提供若干表单以助您亲自出庭应诉。但是，您案件的主

审法官在最终接受上述表单之前，可能会要求您对该些表单进行相应修改。在现实审判中，法官不一定会支持表单中提出的或本课程中所讨论的诉讼请求及救济措施，而是将依据不同案件的事实和所适用的法律作出判决。

- ❖ ***This class cannot take the place of a private attorney.*** We highly recommend that you consult with a private attorney prior to filing any documents in your case. **本课程不能替代私人律师服务。** 我们强烈建议您在向法院提交有关于您案件的任何文件之前，先咨询您的律师。
  
- ❖ This class is open to all members of the public. It is possible that both sides to a dispute may attend this class. You should not disclose any confidential personal information to the law students or the supervising attorney during class. Any confidential personal information you disclose in class is not privileged and could be discovered by another party in litigation. 本课程对全体社会公众开放，因此某案件的双方当事人有可能同时参加本课程。请勿在本课程期间向法学院学生或指导律师透露任何个人机密信息。任何在课堂上披露的个人机密信息都可能被泄漏，并有可能被另一方当事人在诉讼中举证。

NOTE TO PARTICIPANTS: The William S. Boyd School of Law and Legal Aid Center of Southern Nevada will not provide you with legal advice specific to your case in this class and are not offering or agreeing to represent you in any legal matter by agreeing to your participation in this class. 参加者请注意: 在本课程中，William S. Boyd 法学院和南内华达法律援助中心不会就您的具体案件有针对性地提供法律建议，也并不因接受您参加本课程而提出或同意代理您的法律事务。

## **GENERAL INFORMATION ABOUT THE COURTS AND ASSISTANCE**

### **法院和法律援助概述**

#### **I. FAMILY COURT 家庭法院**

#### **II.**

Family Court is a division of the Eighth Judicial District and the Judges are State District Court Judges. Family Court handles the following matters: 家庭法院是第八司法区的分支机构之一，其法官为州地区法院的法官。家庭法院负责处理下列事项:

- Divorce 离婚
- Child Support 子女抚养费
- Child Custody 子女监护权
- Visitation 探望权
- Property and Debt Division 财产及债务分割
- Spousal Support (i.e. alimony) 配偶扶养费（即配偶赡养费）
- Paternity 亲子关系
- Guardianship 监护人职责
- Protective Orders 保护令
- Juvenile Matters 青少年问题

The Family Court is located at 601 N. Pecos Road (at Bonanza), Las Vegas, Nevada.

The phone number is (702) 455-2385. Please note that there are Family Court Judges housed at the Regional Justice Center, which is located at 200 Lewis Avenue, Las Vegas, Nevada 89155.

The phone number is (702) 671-4528. 家庭法院地址：内华达州拉斯维加斯市 Pecos 北路 601 号 (位于 Bonanza)，联络电话：(702) 455-2385。请注意：地区司法中心也设有家庭法院的法官进行相关案件的审理

。地区司法中心地址：内华达州拉斯维加斯市 Lewis 街 200 号，联络电话：(702) 671-4528。

### **III. CLARK COUNTY FAMILY LAW SELF-HELP CENTER**

#### **克拉克县家庭法律自助中心**

The Family Law Self-Help Center provides legal forms and information on court process and procedures. The Self-Help Center sells forms (joint petitions, complaints, answers, counterclaims, etc.) for a minimal charge. If you have access to the Internet, the packets can be downloaded, free of charge from the Self-Help Center website, **<http://www.clarkcountycourts.us/shc/index.htm>**. The form packets include detailed instructions on how to complete the forms and the filing process. These forms are “fill in the blank” forms that do not need to be retyped. The forms are also “computer interactive” meaning you can now fill them out on the computer and print the completed forms. Most of the sample forms in this book are from the Self-Help Center. We have chosen only samples in order to illustrate a given situation. The Self-Help Center has many variations of each form so make sure you choose the ones that are most applicable to you situation. The Family Law Self-Help Center is located in the Family Court at 601 N. Pecos Road, Las Vegas, Nevada, 89106 on the first floor. The Center is open 8:30 to 5:30 Monday-Thursday and 8:30 to 5:00 on Fridays. The phone number is (702) 455-1500. The Self-Help Center manages the “Ask A Lawyer” program as well where free legal consultations are given on Thursday afternoons.

本家庭法自助中心提供有关法庭审理程序和诉讼过程的法律表格和信息。人们可以较低价格在自助中心购买到各式表格 (如合并申请, 起诉状, 答辩状, 反诉状等)。若您利用互联网连接, 上述文件均可从本自助中心官方网站上免费打包下载, 下载地址为: **<http://www.clarkcountycourts.us/shc/index.htm>**。该打包下载的文件包括如何填写表格和如何申报提交文件的详细说明。这些表格都是填空形式的, 无须重新打字。同时表格为“电脑互动”形式, 即您在电脑上将表格填写完毕后, 可以直接打印已填写完整的表格。本手册中的示例表格大都来自自助中心, 我们从中选取部分示例来进行特定情形的演示。自助中心的每类表格均有多种样式, 因此请您确认并选择最适合您案件的样式。本家庭法自助中心地址: 内华达州拉斯维加斯市 Pecos 北路 601 号一楼(位于Bonanza), 工作时间: 周一至周四上午八点半至下午五点半, 周五上午八点半至下午五点。联络电话: (702) 455-1500。此外, 每周四下午本自助中心还提供律师咨询服务, 免费向公众提供法律咨询服务。

iv. **LEGAL AID CENTER OF SOUTHERN NEVADA PRO BONO PROJECTS**

**南内华达法律援助中心免费法律咨询项目**

The Pro Bono Project coordinates private attorneys willing to volunteer their time to represent low income people with civil legal problems, including uncontested guardianships. Residents of Clark County who meet certain financial guidelines may be eligible for the program. Once you have attended the class, your initial eligibility will be established by a telephone interview. After we have gathered the facts, if the Project believes it can find a volunteer attorney to represent you, you will be notified in writing. If accepted, it may take approximately 30 to 90 days to place your case with an attorney. Additional information may be obtained by calling: (702) 386-1070 or toll free at (800) 522-1070.

免费法律服务项目可以帮助低收入人群找到私人律师作为志愿者代理他们的民事案件，包括协议监护关系案件。只要是克拉克县的居民，且符合一定的收入标准，就有资格获得该免费法律服务。一旦您参加本课程，我们将通过电话访谈的形式以确认您是否具备上述初始资格。依据我们收集到的事实，如果该项目找到适合的志愿者律师来代理您的案件，我们将会以书面形式通知您。若您表示接受，您的案件将于约三十到九十日内委托给一位律师。欲了解更多信息，请致电(702) 386-1070 或免费电话 (800) 522-1070。

**DEFINITIONS AND EXPLANATIONS FOR TERMS USED IN FAMILY COURT**

**家庭法院法律术语定义和解释**

**Alimony or Spousal Support 配偶赡养费或配偶扶养费** - is the amount paid to one spouse by the other for a period of time during the pendency of the divorce action or after the marriage is over. It may be for a limited amount of time, until remarriage or permanent. Either party may receive spousal support. - 指在离婚诉讼期间或婚姻解除之后夫妻一方付给另一方一定数额的资金。其支付期限可能为限定的期限或到其中一方再婚为止，也可能是长期的。任何一方都可能获得配偶扶养费。

**Answer 答辩状** - is the legal document that a person files with the court when the person wants to respond to the Complaint for Divorce. It must be filed and served upon the Plaintiff within 20 days after service. It tells the court what disagreement exists between the parties. It must be filed with the court and a copy must be sent

to the Plaintiff. If the Defendant fails to file an Answer, the Plaintiff can ask the court to enter a default judgment against the Defendant and award the Plaintiff everything he/she asked for in the Complaint because the Defendant did not object by “answering” the complaint. - 指由一方当事人提交给法庭用于答复离婚起诉状的法律文件。在收到起诉状二十天之内答辩状必须提交法院并送达至原告。答辩状告知法庭当事人双方异议所在。答辩状必须提交至法庭并送达其副本至原告。如果被告没有提交答辩状，由于被告未通过答辩状来反对原告的诉讼请求，原告可以请求法院判决被告败诉并满足原告所有诉讼请求。

**Assets (Property) 财产** - Generally, ANYTHING acquired or purchased during the marriage. Nevada is a community property state and the assets belong to both parties. There are some exceptions and those should be discussed with an attorney. - 通常指在婚姻存续期间取得或购买的任何物品。内华达州是财产共有州，即夫妻双方对其共有财产共同享有所有权。其若干例外情况应与律师讨论。

**Complaint for Divorce 离婚起诉状** - The legal document used to begin a divorce case. It tells the court that the Plaintiff wants a divorce and what the Plaintiff wants in terms of child custody, child support and visitation and what assets and debts the parties should divide.- 指用来起诉离婚案件的法律文书。其告知法院原告离婚的请求以及原告就子女监护权，子女抚养费，探望权，和财产债务的分割的诉讼请求。

**Default 未出庭败诉** - A default is a document the Plaintiff can file if the Defendant does not file an Answer within 20 days after being served with the complaint. - 指如果离婚起诉状送达被告二十天之内，被告没有向法庭提交答辩状，原告可以请求法院判决未出庭败诉的法律文件。

**Defendant 被告** - The spouse who is being sued for a divorce and who will have to respond to the Complaint for Divorce. This is the party who answers or “defends” the action brought against himself by the Plaintiff. - 指离婚案件中被起诉并需要答复离婚起诉状的一方配偶。此方当事人为要答复或辩护原告提起的诉讼。

**Divorce 离婚** - The legal action (lawsuit) that terminates a marriage. In a divorce, the court decides which spouse gets custody of the children, pays child support, how the debts and property of the parties are divided and whether or not spousal support (alimony) is awarded. - 指中止婚姻关系的法律诉讼。在离婚中，法院

决定夫妻哪一方当事人获得子女监护权，支付子女抚养费，财产和债务如何分割，当事人是否应支付配偶抚养费。

**Joint Petition for Divorce 共同离婚请求** - The legal document used to begin a divorce case when both parties agree to the divorce and all of the issues in the divorce. - 指提起双方自愿离婚并同意所有离婚条件的离婚案件的法律文件。

**Legal Separation (Separate Maintenance) 法定分居（分居财务安排）** - Alternative to divorce where the parties remain married to each other but live apart. The court can resolve issues of child custody, support, property settlement and/or alimony. - 指夫妻双方分居但保持婚姻关系。法庭可以解决有关子女监护权，抚养费，财产分割以及配偶抚养费的问题。

**Motion for Temporary Orders 临时动议** - A legal procedure used to ask the court for temporary child support, visitation, custody, spousal support and/or other relief while the divorce case is pending. - 指在离婚案审理期间请求法院裁定临时子女抚养费，探望权，监护权，配偶抚养费或其他救济的法律程序。

**Plaintiff 原告** - The person who files the complaint. - 指提交起诉状的当事人

**Prove Up Hearing 无争议听证** - This is a short hearing before the Judge when a case is not contested or the case has settled. - 指当案件无争议或已经解决时，在法官面前的简短听证会。

**Request for Summary Disposition 简易处理请求** - If the case is uncontested or has settled, a party may ask a Judge to sign the Decree of Divorce without a hearing and based upon the papers that have been filed in the case. - 指案件无争议或已经解决时，当事人一方可要求法官依据该案件提交的文件判决双方离婚，而不需要听证。

**Sole and Separate Property 私有财产** - Sole and Separate property are those things that a husband or wife owned prior to the marriage. It can include money or property that was received by gift, or inheritance during the marriage and may also include a personal property settlement. It will remain the property of the husband or wife and will not be divided equally by the court. However, there are exceptions and sometimes separate property can become community property. If there is any question, you are urged to consult with a



private attorney. - 私有财产指丈夫或妻子婚前拥有的财物。其包括在婚姻期间通过接受赠予或者遗产继承的资金或财产，也可能包括个人财产处置。私有财产作为丈夫或妻子的个人财产，不会被法庭判决平分。但是在例外情况下，私有财产可能会转变为共有财产。如果有任何相关疑问，请咨询律师。

**Unbundled Legal Services 非捆绑式的法律服务** - An attorney who provides “unbundled legal services” is one who will represent a party for a portion of the case, as opposed to representing the party in the entire matter. For example, a party may chose to complete and file the paperwork on his or her own but have an attorney appear on his or her behalf in court. A listing of attorneys who will provide unbundled legal services is available at the Family Law Self-Help Center. - 提供非捆绑式的法律服务的律师只代表一方当事人处理案件的一部分而非整个案件。举例说，一方当事人选择自己完成并向法院提交法律文书，但由律师代表出庭。您可以在家庭法律自助中心查找到提供该项服务的律师的名单。

**Wage Assignment 工资分配** - The legal process of having child support payments deducted directly from the paycheck of the one who owes the support. - 指从拖欠抚养费的一方当事人的工资单中直接扣除子女抚养费的法律程序。

## **JURISDICTIONAL OR RESIDENCY REQUIREMENTS**

### **管辖权或居住地要求**

**Parties 当事人:** One of the parties must be a resident of Nevada. That person must have lived in and been physically present in Nevada for at least SIX (6) WEEKS before filing a Complaint for Divorce. 一方当事人必须为内华达州居民。该当事人必须在内华达州居住满至少六（6）个星期方可起诉离婚。

**Children 子女:** The child or children of the parties must be residents of the State of Nevada for at least SIX (6) MONTHS before the filing of the Complaint for Divorce, before the State of Nevada can enter any order regarding child support, custody or visitation. This is State and Federal law. There are exceptions, but those should be discussed with an attorney. 当事人子女必须为内华达州居民，且其必须在起诉离婚之前在内华

达州居住满至少六（6）个月。否则州法院不可裁定子女抚养费，监护权，探望权的问题。上述规定为州法律和联邦法律。有关例外情况，请咨询您的律师。

## **OBTAINING A DIVORCE IN NEVADA**

### **在内华达州离婚**

In order to obtain a divorce in Nevada, one or both of the parties must have resided in Nevada for at least six (6) weeks before the action for divorce is filed. If the parties have minor children, the children must have resided in Nevada for at least six (6) months before the action for divorce is filed. 一方或双方当事人必须在内华达州居住满至少六（6）个星期方可在内华达州起诉离婚。若当事人有未成年子女，其子女必须在起诉离婚之前在内华达州居住满至少六（6）个月。

Nevada is a “**no fault**” divorce state. This means the party seeking to obtain the divorce does not have to prove in court that he or she is entitled to a divorce. 内华达州法律实行“无过错”离婚原则。即离婚案件当事人无须向法庭证明其有权离婚。

Parties must be able to allege one of the following grounds for divorce:双方当事人必须指称下述离婚理由之一：

一：

- Insanity existing for 2 years prior to the commencement of the action; or 当事人一方精神失常，且该状态在离婚起诉之前持续两年，或
- Husband and wife have lived separate and apart for one (1) year without cohabitation, or; 夫妻双方分居一（1）年，或
- Incompatibility. 双方不合

A divorce can proceed in one of two ways; it can be contested (the parties do not agree to all of the terms of the divorce such as child custody or how to divide the debts and property) or uncontested (the parties agree to all of the terms of the divorce.) 离婚有两种，有争议离婚

（双方对离婚条件没有达成共识，如子女监护权和财产分割等）和协议离婚（双方同意所有离婚条件）。

When a married couple gets a divorce, there are four (4) main issues that the court will decide: 夫妻离婚，法院判决四（4）项主要问题：

1. Termination of the marriage 婚姻终结
2. Parent/Child issues (Child Custody, Child Support and Visitation) 亲子关系（子女监护权，子女抚养权和探望权）。
3. Division of community property and debt 共同财产和债务的分割
4. Alimony (spousal support) 配偶赡养费（配偶抚养费）

## **TERMINATION OF THE MARRIAGE**

### **婚姻终结**

As stated above, the parties must allege insanity, separation for one year without cohabitation, or incompatibility. 如上所述，双方当事人必须指称精神失常，分居一年或双方不和。

## **PARENT-CHILD ISSUES**

### **亲子关系**

### **CHILD CUSTODY子女监护权**

There are two (2) types of custody; **LEGAL** and **PHYSICAL**. In every case, the court makes a decision about each type of custody. 有两（2）种监护权，即**法定监护权**和**实际监护权**。法院就每一案件对每一种监护权作出决定。

**LEGAL CUSTODY 法定监护权:** This type of custody involves the major decisions that are made for the child, including education, medical care and religion. The court assumes that both parents have an equal say in making major decisions for the child. There are two types of legal custody: 此监护权涉及到为子女做的重要决定, 包括教育, 医疗和宗教。法庭假定父母具有为子女做重大决定同等权利。法定监护权有如下两种:

1. **Joint Legal Custody 共同法定监护权:** Both parents are entitled to school records, medical records, access to extra-curricular events and activities and to provide influence in the rearing of the child regarding major decisions for the child. 父母双方都有权检阅子女的学校记录, 医疗记录, 子女所参与的课外活动以及作出养育子女过程中的重要决定。

2. **Sole Legal Custody 独有法律监护权:** One parent is responsible for all of the decisions regarding the child. However, if a parent requests sole Legal Custody, that parent will need to prove to the court why the other parent should not be entitled to make decisions regarding the child. 一方父母有责任作出有关于子女的所有决定。但若一方父母请求其具有独有法律监护权, 其必须向法院证明另一方父母无权利作出有关于子女的决定的原因。

**PHYSICAL CUSTODY 实际监护权:** Physical custody determines where the child will live and with which parent. 实际监护权决定子女在何处居住以及与哪一方父母居住。

1. **Primary Physical Custody 主要实际监护权:** The child lives with only one parent (custodial parent) and has visitation with the other parent (non-custodial parent). 子女仅与一方父母同住(有监护权父母), 另一方父母(无监护权父母)拥有探望权。

2. **Joint Physical Custody 共同实际监护权:** The Nevada Supreme Court altered the applicable standard for custody determinations in the case *Rivero v. Rivero*. Based on that decision, joint physical custody can be any timeshare of 50/50 or even a split of 60/40. In addition, courts are to look at “residence” of the child when determining the actual custody arrangement that is in place, disregarding such things as time with

third party care providers. 内华达州高等法院通过Rivero v. Rivero 案例变更了监护权的实施标准。根据判决，实施共同实际监护权的父母双方可以在监护时间上五五平分甚至六四分。此外，法庭将根据子女的“住所”来决定实际监护权安排，且不计与第三方看护人共度的时间。

**3.Sole Physical Custody 独有实际监护权:** The child lives with only one parent. In addition the court may order no visitation or very limited visitation for the other parent. Again, the parent seeking Sole Physical Custody must show the court that the other parent should have limited or no contact with the child in order to be awarded Sole Physical Custody. 子女仅与一方父母同住。且法庭禁止另一方父母探望或仅具有限制探望权。同样，请求其具有独有实际监护权的一方父母，必须向法院证明另一方父母不应跟子女接触或限制接触的原因。

The court looks at a number of factors to determine custody. The most important consideration for the court is what is in the best interest of the child. 法庭考虑多种因素来决定监护权。其中最重要的考虑因素是使子女获得最佳利益。

The court will consider the child's wishes as to which parent he or she want to live with if the child is of suitable age and maturity. 若子女年龄及其成熟程度达到适合的标准，法庭将考虑孩子希望与哪一方父母居住。

Other factors a court might consider in a custody case is whether one party committed domestic violence against another party or child, recent criminal activity, substance or alcohol abuse and mental infirmity of a parent. 其它在监护权案件中法庭考虑的因素包括是否一方父母有对另一方和其子女有家庭暴力行为，父母一方最近的犯罪行为，其吸毒或酗酒及精神状态不稳定的情形。

The court will also look into the history of the relationship to determine which parent is more likely to be the better parent. The court will look at which parent spent time with the child, attended to their needs such as who has taken care of the child by providing food, shelter,

clothing, involvement in education and school activities and seeing that they are provided for medically. 法庭还会从亲子关系历史的角度来考量哪一方父母对孩子更有利。法庭会考量其与子女共度时间多少，是否满足子女的需求，如提供子女食宿和衣物，使其接受教育和参加学校活动以及是否为其提供接受医疗服务的条件。

**PLEASE NOTE:** Nevada law prohibits parents from discussing the issues and proceedings before the Court with minor children and prohibits children from attending hearings unless specifically approved by the Court. **请注意：**内华达州法律禁止父母与未成年子女讨论监护权案件的审理事项，且除非法院特别批准，禁止未成年子女参加听证会。

### **VISITATION 探望权**

As part of child custody, the Court will also determine the times that the child will visit with the non-custodial parent. The visits and terms of how the parties will exchange the child must be specific. The parties should propose a specific agreement such as “the first and third weekends of each month from Friday at 6:00 p.m. through Sunday at 6:00 p.m.” 作为监护权的一部分，法庭也会决定无监护权的父母探望子女的次数。探望条件和探望安排必须具体化。父母双方应协商确定具体协议，如探望时间为“每月第一和第三个周末，从周五下午六点至周日下午六点”。

### **CHILD SUPPORT 子女抚养费**

Child support is money paid by the non-custodial parent to the parent having primary physical custody. Please note that when both parents have joint physical custody of the child, child support is determined under another Nevada Supreme Court case, *Wright v. Osburn*, which requires each parent to provide a minimum level of support for his or her children. 子女抚养费是无监护权父母付给有主要实际监护权的父母的费用。请注意，若父母有共同实际监护权，子女抚养费依据另一个州高等法院案例*Wright v. Osburn*决定，即要求每一方父母均提供一定最低金额的抚养费。

A Court may change the amount of support from the formula, (even lowering it below the minimum or raising it above the maximum) after having made special findings. The Court

will take into consideration the following: 法院经过特别调查后可变更由计算公式确定的抚养费的金  
额，（甚至减少至最低金额以下或增加至最高金额以上）。法院会对下述因素予以考虑：

- The cost of health insurance for the child; 子女医疗保险费用；
- The cost of child care; 子女的照看费用；
- Any special educational needs of the child; 子女的特殊教育费用；
- The age of the child; 子女的年龄；
- Any responsibility of the parents for the support of others; 父母需要抚养或赡养其它人的  
责任；
- The values of services contributed by either parent; 每一方父母所提供服务的价值；
- Any public assistance paid to support the child; 子女所接受的公众援助；
- Any expenses reasonably related to the mother's pregnancy and confinement; 与母亲怀  
孕和行动受限相关的合理开支；
- The cost of transportation of the child to and from visitation if the custodial parent  
moved with the child from the jurisdiction of the Court which ordered the support and the  
noncustodial parent remained; 若有监护权父母带其子女从判决抚养费问题法院的管辖区搬离，  
而无监护权父母留在管辖区，子女去探望其一方父母的来回交通费用；
- The amount of time the child spends with each parent; 子女与每一方父母所相处的时间
- The relative income of both parents; and 双方父母的相关收入；和
- Any other necessary expenses for the benefit of the child. 其它对孩子有利的相关开支。

### **CHILD SUPPORT PERCENTAGE CALCULATION 子女抚养费百分比计算方法**

- ❖ 1 child, 18% of gross monthly income; 1个孩子，每月总收入的18%;
- ❖ 2 children, 25% of gross monthly income; 2个孩子，每月总收入的25%;
- ❖ 3 children, 29% of gross monthly income; 3个孩子，每月总收入的29%;

❖ 4 children, 31% of gross monthly income. 4个孩子，每月总收入的31%。

For each additional child, and additional 2% of the parent's gross monthly income is added. 每增加一个孩子，费用相应提高父母每月总收入的2%。

The minimum amount of support that will be awarded is \$100.00 per month, per child, regardless of income, unless there is a specific order from the Court stating otherwise. The maximum amount of support that will be awarded is subject to a presumptive maximum. 除非有法院特定法令另行规定，无论父母收入多少，子女抚养费的最低金额为每个孩子每月\$100.00。子女抚养费最高金额受推定的金额限制。

At Least最低	Not Greater Than 最高	Maximum Amount/Per Child 最高金额/每个孩子
\$2,830	\$4,235	\$605
\$4,235	\$6,351	\$665
\$6,351	\$8,467	\$727
\$8,467	\$10,585	\$786
\$10,585	\$12,701	\$847
\$12,701	\$14,816	\$907

(Effective from July 1, 2009 to June 30, 2010) If the parent's gross income is greater than \$14,816, the presumptive maximum will be \$969. (2009年7月1日至2010年6月30日有效) 如果父母的总收入高于\$14,816，子女抚养费的最高金额推定为\$969。

## FREQUENTLY ASKED QUESTIONS ABOUT CHILD SUPPORT

### 子女抚养费常见问题

How Long Does the Obligation to Pay Child Support Last? 为子女支付抚养费的义务有多久?

Generally, child support must be paid until the child reaches 18 years of age. However, if the child is still in high school, child support will continue until the child's graduation from high school or the child's 19<sup>th</sup> birthday, whichever occurs first. If the child is disabled, child



support may continue until the child is self-sufficient. If the child becomes emancipated or is adopted by another parent, child support will end at that time. 一般而言，子女抚养费必须支付至孩子年满 18 岁。但如果孩子还在上高中，抚养费须继续支付至孩子高中毕业或 19 岁生日，以哪一上述事件先发生时间为准。如果孩子有残疾，子女抚养费的支付可能会继续直至孩子有能力自给自足。如果孩子自立或由另外的父母抚养，子女抚养费的支付将至此结束。

### Can An Order For Child Support Be Changed? 子女抚养费判令可以变更吗?

Yes, under two situations: 可以，有如下两种情形：

1. The Court must review the child support ordered every 3 years at the request of either parent; and 在父母任何一方的请求下，法院必须每三年审查一次其判决的子女抚养费; 和
2. The Court will review the amount of child support ordered if there has been a change in circumstances. (*Example of “change of circumstances” would be the loss of a job, a new job which pays more or less than the old job.*) 如果情况有变化，法院将审查其判决的子女抚养费金额。（“情况有变化”如失业，因更换工作而导致的薪水增加或减少。）

### How Can An Order For Child Support Be Enforced? 如何强制执行子女抚养费判令?

A valid child support Order containing a provision of wage assignment, may be enforced against a non-custodial parent who is more than thirty (30) days delinquent in any portion of the payments, and working in the State of Nevada, by submitting a Wage Assignment Notification and a copy of the child support order directly to the employer. 一个有效的子女抚养费判令包括有关工资分配的条款，如果无监护权父母在内华达州工作且三十（30）天以上未支付部分或全部抚养费，另一方可以直接向其雇主递交工资分配通知以及子女抚养费判令副本进行强制执行。

Also, a custodial parent may seek to enforce the child support order by filing a *Motion of an Order to Show Cause*. This motion requires a noncustodial parent to explain to the Court

why he or she should not be found in contempt of Court for failing to pay child support. The Court is asked to enforce the child support order by the filing a motion with the Court setting out the facts that demonstrate the other party's failure to obey Court's child support order. This is usually done by filing a schedule of arrearages showing the Court all child support payments paid and missed. 另外，有监护权父母可以通过向法庭提交*陈述理由令的动议*强制执行子女抚养费判令。此动议要求无监护权父母向法庭陈述其不应被认为因不付抚养费而蔑视法庭的原因。法庭通过提交的动议中列明的事实证明一方未支付抚养费而要求强制执行子女抚养费判令。通常会提交一份拖欠时间表以列明已付和未付的抚养费。

Another way to enforce child support is to ask the Court to issue a wage attachment order. If a non-custodial parent is more than 30 days overdue on child support payments, the Court will issue an order garnishing his or her wages, so that payments will be withheld from his or her paycheck and sent directly to the custodial parent. If the non-custodial parent has income from other sources (such as rent, royalty or interest payments) the Court may order an attachment of this income to pay child support. In addition, the Court may grant a lien on the noncustodial parent's real or personal property that requires that the proceeds of the sale of any such property be secured to pay his or her overdue child support obligations. The lien must be recorded. The Court may also order the interception of the non-custodial parent's tax returns. 另外一种强制执行子女抚养费的办法是请求法院签发工资附加令。如果无监护权父母三十（30）天以上没有付抚养费，法庭可以签发工资割让令，即抚养费从工资中直接扣除并转交给有监护权父母。如果无监护权父母有其它收入来源（如租金、特许权使用费或利息收入），法庭也可以附加这些收入用以支付抚养费。法庭还可以在无监护权父母的个人动产或不动产上设留置权，保证用资产出售的收入来补交过期未支付的子女抚养费。留置权必须记录在案。法庭还可以判令截取无监护权父母的反税收入。

The Clark County District Attorney Family Support Division will assist the custodial parent in obtaining child support by these and other methods. They may help locate a missing non-custodial parent and can process out-of-state support payment on behalf of the custodial parent. 克拉克县地区检察官家庭援助司将协助有监护权父母通过上述方法获得子女抚养费。他们可以帮助寻找下落不明的无监护权父母。也能代表有监护权父母处理别州的抚养费支付问题。

## **DIVISION OF COMMUNITY PROPERTY AND DEBT**

### **共同财产和债务的分割**

Nevada is a community property state. This means that the law presumes that all property (assets and debts) acquired or incurred during the marriage is community property, and belongs equally to both parties, except property received by one party as a result of a gift, inheritance or personal injury settlement or judgment. Community property must be divided in a fair and equal manner. 内华达州是一个财产共有州，即法律假定婚姻期间获得的财产和承担的债务，除了一方通过接受赠予，遗产继承或个人伤害案件的调解或判决的资金或财产外，均为夫妻平均共同享有。共有财产必须平等合理分配。

Community property can include bank accounts, personal property, a business run by a spouse, real property (house, commercial buildings, unimproved land), stocks, bonds, retirement plans, 401(k) plans, debts, vehicles and valuable collections. 共有财产可以包括银行账户、个人动产、配偶个人经营、不动产（房屋，商业建筑，未开发的土地）、股票、债券、退休金账户、401(K) 账户、债务、交通工具和高价收藏品。

Generally speaking, property acquired or debt incurred before marriage is separate property and belong solely to one spouse. Separate property can be “transmuted” or transferred to community property in some circumstances. Please see an attorney before

agreeing to any property division. 通常而言，婚前拥有的财物和承担的债务是私有财产且单独归一方所有。在某些情形下，私有财产可能会转变为共有财产。在接受任何资产分配之前，请咨询律师。

### **ALIMONY (also known as “Spousal Support”)**

#### **配偶赡养费（配偶扶养费）**

One party may be entitled to money from the other spouse in certain circumstances. There is no precise formula for awarding alimony, and this is decided on a case by case basis. In deciding whether or not to award alimony the Court will consider and balance the need of the spouse for financial support versus the ability to pay by the other spouse. Additional factors that the Court will consider in determining alimony are:在某些特定情况下，配偶一方有权从另一方获得资金。没有精确的公式可以决定扶养费的数额，每个案例都不尽相同。在决定是否判决配偶扶养费时法庭会考量配偶一方的需求和另一方的负担能力。其它考量因素还包括：

- The receiving spouse’s career prior to marriage; 接受方婚前的职业；
- Length of marriage; 婚姻存续期长度；
- The receiving spouse’s education during the marriage; 接受方婚姻存续期间的教育；
- The receiving spouse’s marketability; 接受方的市场竞争力；
- The receiving spouse’s ability to support him/herself; 接受方自给的能力；
- Whether the receiving spouse stayed at home with the children; 接受方是否在家抚养子女；
- The receiving spouse’s award besides child support and alimony; and 除了子女抚养费 and 配偶扶养费，接受方获得的其它补偿；
- The earning disparity between the parties and future earning disparity. 双方现存的和将来的收入差别。

If some of these factors are present, the Court may award alimony. 若存在上述因素，法庭可能会授予配偶扶养费。

Alimony can be awarded for a percentage of the marriage or until death, remarriage or cohabitation. The Court can also award rehabilitative alimony which is enough money so that the spouse who earns less money can obtain an education or job skills. 支付配偶扶养费的时间可以是婚期长度的一部分时间，或直至配偶去世、再婚或同居。法庭还授予恢复性配偶扶养费来帮助较低收入的一方接受教育或学习工作技能。

### **UNCONTESTED DIVORCE 协议离婚**

If the parties agree to all of the terms of the divorce, then they can file a Joint Petition for Divorce. Uncontested divorce means that both parties are able to reach an agreement concerning every issue in their case, including the desire to get a divorce, custody, visitation, child support, division of community property and whether a party shall receive alimony. 如果双方同意所有离婚条款，可以递交共同离婚请求。协议离婚指双方同意所有离婚有关问题，包括离婚的意愿，子女监护权和探望权，子女抚养费，共同财产的分割和某一方是否应得配偶扶养费。

If this is the case, then the parties can file a JOINT PETITION FOR DIVORCE. To use a Joint Petition both parties must agree to sign the petition. If there are any disagreements over the terms of the divorce, a joint petition cannot be used. The major advantage of using a Joint Petition is that it is less expensive for the parties because the fees are lower and because they are often self-represented and the divorce is obtained by using affidavits. Generally the petitioners do not have to appear in Court unless the Court specifically requires it. There is a filing fee for a Joint Petition. Filing Fees may be waived for low income persons at the discretion of the assigned Judge. A person may request that the fee be waived by filling out a

**Request to Proceed in Forma Pauperis.** 如果事实如此，夫妻双方可以递交共同离婚请求。如果双方对离婚条款有任何异议，则不可以进行共同请求。共同离婚请求的最大优势是费用低，因为当事人自己应诉且利用证词进行离婚。除非法庭特别要求，通常申请人不需出庭。共同离婚请求需要支付申请费。审案法官可以为低收入当事人减免申请费。当事人填写 **Request to Proceed in Forma Pauperis** 来请求减免申请费。

### **“TransParenting Class” – Required by Divorcing Parents with Minor Children.**

#### **“TransParenting 课程” – 有未成年子女的离婚父母必须参加**

If there are minor children of the marriage, the parents must attend a class called “TransParenting” (also known as “COPE”); however, they do not need to go at the same time. The class must be completed by both parents before the Judge will sign the decree of divorce. The class is offered throughout the week by Palo Verde Child & Family Services (243-4357) and by Family Solutions (395-8417). The class is three and one half hours (3 ½) in length and the cost is approximately \$40.00 per parent, payable by cash or money order. Fee waivers are available if requested and granted by the Judge. 如果有未成年子女，父母必须参加“TransParenting” (也叫“COPE”)课程。但是，父母不必同时参加。在法官签署离婚判令之前双方父母都必须已经完成此课程。本课程由 Palo Verde Children and Family Service (243-4357) 和 Family Solution (395-8417) 提供，每周都有课。课程时间为三个半小时 (3 ½)，费用为每人\$40.00，只收现金和汇款单。如果提出请求且被法官批准，费用可以减免。

**NOTE:** By filing a Joint Petition, the parties waive their right to written notice of entry of the Decree of Divorce, the right to appeal, the right to request findings of fact and conclusions of law and the right to move for a new trial. 注意：通过递交共同离婚请求，当事人双方将放弃接收签署离婚协议的书面通知，上诉权，要求事实认证和法律结论的权利和重新审理的权利。

Other Information Needed in a Joint Petition: 共同离婚请求需要的其它信息有：

- The date and the place of the marriage. 结婚的日期和地点。
- The mailing address of both the husband and wife. 丈夫和妻子的邮寄地址。
- Whether the wife elects to have her maiden or former name restored and, if so, the name to be restored. (The wife has the exclusive right to decide whether to keep the married name or to restore a former name.) 妻子是否选择恢复原姓，和应该恢复到什么姓名。（妻子保留已婚姓氏还是恢复原姓是妻子独有的权力。）
- An Affidavit of Resident Witness corroborating that one of the parties has been a resident of the state for at least 6 weeks. 居民身份证词证实一方当事人在本州居住至少6个周。
- Attach and identify any separate marital settlement agreements which the parties want the Court to approve or make a part of the divorce decree. 附加任何双方当事人申请法庭批准或成为离婚判决一部分的实质性终结协议。

Documents Filed For a Joint Petition: 共同离婚请求递交的文件：

- Joint Petition plus all separate agreements (if any). 共同请求和全部协议（如有）
- Affidavit of Resident Witness. 居民身份证词
- Proposed Decree of Divorce 建议性离婚判令
- If minor children, TransParenting Class certificate for each parent. 如果有未成年子女，每一方父母的 TransParenting 课程证书。
- Family Court Cover Sheet 家庭法院封面
- Filing Fee 申请费

All these documents and variations thereof are available from the Clark County Family Law Self-Help Center. 这些文件和变更版本都可以从克拉克县家庭法自助中心获得。

## **CONTESTED DIVORCE 有争议离婚**

### **COMPLAINT AND ANSWER PROCESS 诉讼和答辩过程**

The second way a divorce may be obtained is by the filing of a Complaint of Divorce. A Complaint is filed by only one party. Unlike the Joint Petition, the other party does not need to agree to the terms of the Complaint. 第二种离婚的方式是通过递交离婚起诉状。一方当事人递交起诉状。与共同离婚请求不同的是，另一方不须同意起诉状条款。

The Plaintiff will request specific terms for the divorce, including child custody, support and visitation, spousal support, if applicable, and how the parties' property and debts should be divided.原告会提出离婚的特定条款要求，包括子女监护权、抚养费 and 探望权，配偶抚养费以及财产和债务的分割安排。

The Defendant must be properly "Served" with the Summons (notice that a Complaint has been filed) and Complaint. After the Defendant is served, the Defendant must file an Answer with the Court within twenty (20) days, or, by failing to answer, the Plaintiff can enter a default against the Defendant which cuts off the Defendant's ability to answer and contest the complaint. 被告人必须被“送达”传票（告知起诉状已经提交的通知）和起诉状。被告人必须在送达后二十（20）天之内向法院提交答辩状，或若没有答复，原告会要求法院判决被告败诉，被告再也没有权利答辩该起诉或者提出争议。

### **CONTENTS OF THE COMPLAINT 起诉状的内容**

Any contested action for a divorce begins with the filing of a Complaint. A complaint must be "verified" which means that the Plaintiff must sign under oath swearing that the contents set forth in the document are true and correct as of the date the Complaint is signed. The completed Complaint must also be notarized. It is extremely important that all the facts in the Complaint are accurate. Consult with an attorney concerning the facts of your case



**BEFORE YOU FILE ANY COURT DOCUMENTS.** 任何离婚的有争议的诉讼都是通过提交起诉状提起的。起诉状必须经过“确认”，即原告必须签署誓词并发誓起诉状内容属实。完成的起诉状必须经过公证。保证诉状的事实准确非常重要。**在向法庭提交任何文件之前**，请咨询律师。

A Complaint for divorce should include basic facts about the parties and set forth the terms of the divorce desired by the Plaintiff;离婚起诉状应包括双方当事人的基本事实和原告要求的离婚条款：

- The date and place of the marriage. 结婚的日期和地点
- Paragraph addressing jurisdiction of the Court over the parties and the subject matter. 法院对当事人管辖权和主要事件的陈述
- Whether the couple has any minor children (including adopted children) and whether the wife is pregnant. 是否有未成年子女（包括收养的子女）和妻子是否怀孕

If there are children, or the wife is pregnant, the Complaint must state: 如果有子女或妻子已怀孕，起诉状必须陈述：

- Plaintiff's custody preference; 原告的监护权请求；
- A request for child support if applicable; 如适用，子女抚养费的请求；
- Whether the Court should order wage withholding; 是否需要法庭命令工资扣押；
- A detailed visitation schedule for the children; 探望子女的具体日程安排
- Plaintiff's preference for which parent will provide health insurance coverage for the child(ren); 原告对应提供子女医疗保险方的请求；
- Whether there is any community property or debts which need to be divided by the Court and the proposed division of the community assets and debts; 是否有共有
- Whether there is separate property or debt of one party that the Court needs to confirm; 법원의 승인을 필요로 하는 한쪽의 개별 재산이나 부채 여부;

- Whether the wife wishes her former name to be restored to her; 부인이 이전의 본인의 이름으로의 복원을 원하는지의 여부;
- Whether the Plaintiff is requesting spousal support; and 원고의 배우자부양비 요구 여부; 그리고
- The cause for divorce: 이혼의 원인:
  - Incompatibility of marriage; or 결혼에 있어서의 성격차이; 또는
  - Living separate and apart for one year; or 1 년이상의 별거; 또는
  - Insanity for two years 2 년이상의 정신이상

Once the Complaint is filled out and the verification is signed and notarized, it must be filed at the Family Court Clerk’s Office. The Filing Fee is payable in cash, by check (with a Nevada drivers license) or by money order. If the Plaintiff cannot afford the filing fee, he or she may request that the fee be waived by filling out a Request to Proceed In Forma Pauperis. 고소장을 작성하고 진술이 진실하다는 서명과 공증이 되어지면 반드시 가정법원 사무실에 제출해야한다. 고소장제출에 대한 비용은 현금으로 지불이 가능하며 체크 (네바다 운전면허증 지참) 나 머니오더로도 지불 가능하다. 원고가 고소장 제출에 대한 수수료를 지불할 여유가 되지않는다면, Request to Proceed In Forma Pauperis 를 작성하여 비용면제를 신청할 수 있다

## **DOCUMENTS THAT MUST BE FILED WITH THE COMPLAINT**

고소장과 함께 제출되어야 하는 구비서류

**Summons 소환장:** A Summons is a document that tells the Defendant that he or she is being sued and must answer the Complaint within twenty (20) days of its service or a default judgment will be entered against the Defendant. The Summons is a preprinted form which must be filled out by the Plaintiff and “issued” by the Clerk of the Court. The Summons and Complaint must

be served together upon the Defendant. 소환장은 피고인이 소송당하였고 고소장에 대해 20 일 내에 반드시 답변서를 제출해야하거나 또는 결석판결이 피고인에 대하여 제기될 수 있음을 통보하는 서류이다. 소환장은 원고에 의해서 작성되어야 하고 법원의 서기에 의해서 “발행되어지는” 사전 인쇄된 양식이다. 소환장과 고소장은 반드시 함께 피고인에게 송달되어야한다.

**The Family Court Cover Sheet 가정법원표지:** This is a document that collects data on each case filed in the Court and is available from the clerk’s office. 본 서류는 법원에 제출되어지는 각각의 사건에 대한 자료를 수집하는 서류이며 사기사무실에서 이용가능하다.

**The Joint Preliminary Injunction (Optional) 공동 준비 금지명령서 (선택사항):** A Joint Preliminary Injunction is a Court document directed at the Plaintiff and the Defendant. At the request of either party, the Clerk will issue a preliminary injunction against both parties. This injunction prohibits the parties from transferring, encumbering, concealing, selling or otherwise disposing of property without consent of the Court. It enjoins the parties from harassing or stalking each other; and enjoins them from taking a child from the state in order to deprive the Court of jurisdiction over the child. 공동 준비 금지 명령서는 원고와 피고인을 규제하는 법원서류이다. 소송의 어느쪽 당사자의 요구에도 법원 서기는 공동준비 금지명령서를 양측에게 모두 발급한다. 본 금지명령서는 소송의 당사자들을 법원의 동의 없는 명의변경, 부동산에 대한 저당권, 은폐, 매매나 다른 재산의 처분을양측 모두에게 금하게 된다. 서로간의 괴롭힘이나 스토킹을 금지하고 자녀에 대해 법원의 재판관할권을 박탈하기 위해서 자녀를 현 주에서 데리고 가는 것을 소송당사자들에게 금지한다.

The injunction becomes effective against the party obtaining it upon its issuance and becomes effective against the other party after it has been served on him/her. It will last until a final judgment or divorce decree is entered. Note that this is different from a restraining order or a temporary protection order. 금지명령은 명령을 받은 소송의 당사자에 대하여 유효하게 되고 명령이 집행된 후 상대측이 이에 반하였을 때 유효하게된다. 판사의 최종 판결이나 이혼판결의 순간까지 지속된다. 주의사항은 본 명령은 금지명령이나 접근금지 명령과는 다르다는 것이다.

## **SERVING THE SUMMONS AND COMPLAINT 소환장과 고소장 송달**

A Defendant must be notified that he or she is being sued and given an opportunity to respond. This is done by “service of process.” Statutes governing service of process are strict and must be properly followed. The Judge will not take any action in a case unless there is evidence on file that the Defendant has been properly served. The Nevada rules of service which apply can be found in Nevada Rule of Civil Procedures 4 and NRS 14.065. The Plaintiff is not permitted to personally serve the Defendant, but rather must arrange for service through a disinterested third party, such as a friend or a professional process server who is over 18 years of age. The Sheriff/Constable will serve the Summons and Complaint upon a Defendant in Clark County, Nevada, for approximately \$35.00- \$45.00 plus mileage. There are also numerous private process servers who will serve the documents for a similar fee. 피고인에게 본인이 고소의 상태에 있고 응수의 기회가 주어진다는 것이 반드시 통지되어야한다. 이것은 “소송절차의 송달”에 의해 이루어진다. 소송절차의 송달의 관리 규칙은 엄격하게 그리고 반드시 정확히 수행되어야한다. 판사는 사건에 있어 피고인에게 정확히 송달되었다는 증빙이 제출될 때까지 어떠한 판결도 하지 않을 것이다. 네바다의 송달법칙에 관한 법률은 네바다 법률 Civil Procedures 제 4 항과 NRS 14.065 에 의거한다. 원고가 개인적으로 피고에게 송달을 하는 것은 허가되지 않으며 친구나 18 세이상의 전문 진행송달자와 같은 사건과 관련없는 제 3 자를 통하여 송달해야한다. 행정관/치안관은 네바다의 Clark County 에 있는 피고인에 대하여는 마일리지와 덧붙여 대략 \$35.00 - \$45.00 의 요금으로 소환장이나 고소장을 송달할 것이다. 또한 다수의 개인 송달업자들이 비슷한 수준의 비용으로 서류송달업무를 하고 있다.

## **PERSONAL SERVICE 대인 서비스**

If the Defendant lives in Nevada, personal service of the Summons and Complaint is required. Personal Service is achieved by serving the papers: 피고인이 네바다에 거주한다면,

소환장과 고소장의 대인 (對人, 사람에게 전달) 서비스를 하여야한다. 대인서비스는 문서송달로서 이루어진다.

- On the Defendant personally; or 피고인 본인에게; 또는
- By leaving copies at his or her residence with someone of suitable age and discretion also residing there; or 피고인의 거주지에 거주하는 적정한 나이와 판단력을 가진 자에게 전달
- By delivering to an authorized agent (such as Defendant's attorney) who signs an Acceptance of Service. If the spouse will agree to accept the Summons and Complaint, he or she may sign an Acceptance of Service. 송달의 인수여부를 서명하는 공인된 대리인 (피고인의 변호사와 같은)에게 전달. 배우자가 소환장과 고소장 인수에 동의를 하게되면 그 배우자는 송달의 인수서에 서명을 하게 될 수도 있다.

NOTE: The Summons and Complaint must be served within 120 days after the summons is issued or the Complaint for Divorce can be dismissed. An extension of this time period can be requested under certain circumstances. 주의: 소환장과 고소장은 반드시 소환장 발행일로부터 120 일 이내에 반드시 송달되어야고 이혼 고소장은 기각될 수 있다. 기간연장은 특정 상황아래 요청될 수 있다

### **AFFIDAVIT OF SERVICE 송달진술서**

After the Defendant has been served with the Complaint for Divorce, the person who effected service must complete an Affidavit of Service and file it with the Clerk to prove that the Defendant has been served. The person who effected service must complete the Affidavit and write down the location, a date and time in which the Defendant was served, sign and date the form, and have it notarized. **The Plaintiff cannot fill out the Affidavit of Service for himself.** The Sheriff's Office, Constable or private process servers will complete the Affidavit of Service. 피고인에게 이혼 고소장이 송달된 후, 송달을 수행한 개인은 반드시 송달 진술서를 완성해야하고 피고인에게 송달되었다는 증명을 법원 서기에게 제출해야한다. 송달을 수행한 개인은 반드시 진술서를

작성해야 하고 피고인에게 전달한 위치, 피고인에게 송달한 날짜와 시간, 그리고 양식에 서명과 날짜를 공증해야 한다. 원고는 본인 스스로 송달진술서를 작성할 수 없다. 행정관이나 치안관 또는 개인 송달자는 송달진술서를 작성한다.

### **SERVICE BY PUBLICATION 공표에 의한 송달**

It is possible that the Plaintiff may not be able to locate the Defendant nor have the Defendant personally served. If the Defendant cannot be found in Nevada after “due diligence” (*checking the post office, DMV, Voters Registration, Nevada Power Co., Southwest Gas Corp., local telephone companies, Tax Assessor’s Office, County Recorder’s Office, Defendant’s former employer, family, friends, and neighbors*), the Plaintiff may request permission to serve by “publication.” 원고는 피고인의 위치를 파악할 수 없을 수도 있고 개인적인 송달도 할 수가 없다. 상당한 주의 (통상의 사려분별력을 가진 개인의 할 수 있는 정도의 주의) 후에도 (우체국, 선거인 등록, 네바다 전력사, 남서부가스사, 지역 전화회사, 과세평가원, County 기록원, 피고의 전직직장, 가족, 친구, 이웃에 대한 조사) 피고인을 네바다에서 찾을 수 없다면, 원고는 “공표”에 의한 송달의 허가를 요청할 수 있다.

Generally, service by publication is permitted when the Defendant is living outside the state at an unknown address; the Defendant has left the state; after due diligence the Defendant cannot be found; or the Defendant is concealing himself or herself to avoid service. 일반적으로, 공표에 의한 송달은 피고인이 주소를 알 수 없는 타주에 거주하고 있는 경우, 피고인이 현 주를 떠난 경우, 상당한주의 후 피고를 찾을 수 없는 경우, 피고인이 송달을 피하기 위해 숨어버린 경우 허가되어진다.

When an action is “published” the Summons MUST have a sentence added which states the nature of the action, e.g. “This is an action to dissolve the bonds of matrimony between Plaintiff and Defendant.” “공표된” 소환장은 반드시 소송의 종류를 진술하는 문장이 추가되어야 한다. 예를 들면, “이 소송은 원고와 피고인 사이에 혼인의 인연을 해제하기 위함이다.”

An Affidavit of Due Diligence must be signed by the person (NOT the Plaintiff) who tried to locate the Defendant, setting forth the number of attempts made and what was done to try to find the Defendant. This Affidavit must be filed with an affidavit for service by publication and a proposed Order for Service by Publication. If the Court grants the request, the Court's instructions for service must be strictly followed. Generally this means the Summons and Complaint must be mailed to the last known address of the Defendant and proof of mailing must be filed with the Court. In addition, the Summons and Complaint will need to be published in a newspaper designated by the Court and proof of publication filed with the Court. 상당한 주의에 대한 진술서는 반드시 (원고가 아닌) 피고인의 위치를 파악하고자 하는 사람이 서명을 해야 하고, 시도되어진 횟수와 피고인을 찾기위해 시도된 방법들을 설명해야한다. 진술서는 반드시 공표에 의한 송달진술서와 공표송달명령서를 함께 제출해야한다. 법원이 요청을 승인하면 법원의 송달지침서를 반드시 엄격하게 따라야 한다. 일반적으로 이것은 소환장과 고소장은 최후로 알려진 피고인의 주소로 반드시 우편으로 전달되어야 하고 우편으로 송달되었다는 증빙을 법원에 제출해야함을 의미한다. 또한, 소환장과 고소장은 법원이 지정한 신문에 공표되어야 하고 공표에 대한 증거를 법원에 제출해야한다.

## **FINANCIAL DISCLOSURE FORM 재무명세서**

Nevada Rule of Civil Procedure 16.2 requires that a Financial Disclosure Form be filed and served no later than forty-five (45) days after the service of the summons and complaint in a divorce, annulment or separate maintenance action. The Financial Disclosure Form must also be filed and served by the responding party with any response or answer to such action. Failure to comply with Rule 16.2 may result in Court ordered sanctions. 네바다 법 Civil Procedure 제 16.2 에 의거하여 재무명세서가 제출되어야 하고 이혼이나 혼인 취소 또는 생계부양비 판결을 위한 소환장과 고소장이 송달된 날로부터 45 일 이내에 송달되어야 한다. 또한 재무명세서는 반드시 이러한 명령에

대해 어떠한 대답과 답변을 해야하는 소송의 당사자에 의해 제출되고 송달되어야 한다. 법률 제 16.2 에 대한 불이행과 태만은 법원에 의한 제제명령으로 이어질 수도 있다.

## **FILING THE ANSWER/COUNTERCLAIM** 답변서/반론서 제출

Once a Defendant has been served with a Summons and Complaint for Divorce, he or she has twenty (20) days in which to file and serve an Answer or Answer and Counterclaim. 피고인이 이혼에 대한 소환장과 고소장을 송달받으면, 피고인은 20 일 이내에 답변서나 반론서를 제출하고 동시에 송달해야한다.

**Warning:** If a Defendant does not think that Nevada is the right place for the case to be heard, he should consult with an attorney BEFORE filing any documents. Filing of a document may result in the Defendant being forced to go forward in the Nevada Court. **주의:** 피고인이 네바다가 사건신문을 위한 적절한 장소가 아니라고 판단을 한다면, 피고인은 서류를 제출하기 **전에** 변호사와 상담을 해야한다. 서류의 제출은 피고인이 사건이 네바다 법원에서 진행되는 것에 동의하는 것으로 인정된다.

There is a filing fee to file the Answer to a Divorce Complaint with the Clerk's office. If the Defendant cannot afford the filing fee, he or she may also request that the fee be waived by filling out a Request to Proceed In Forma Pauperis. 이혼고소장에 대한 답변서 제출에 대한 수수료는 법원 서기 사무실에 제출해야한다. 피고인이 수수료 지불에 대한 능력이 없다면, 피고인은 Request to Proceed In Forma Parperis 을 작성함으로써 수수료면제를 요청할 수 있다.

All documents that are filed after the commencement of the lawsuit, such as the Answer, must be served on the opposing party. This may be accomplished by mailing them to the opposing party by first class mail. They do not need to be served in the same manner as the original Complaint. However, proof of service by a Certificate of Mailing must be filed with the Court. 소송이 시작된 후 제출된 답변서와 같은 모든 서류는 반드시 상대측에 송달되어야 한다. 상대측에



first class 우편에 의해 전달되어질 수 있다. 위의 서류가 고소장 원본과 같은 형태로 송달되어야 하는 것은 아니다. 그러나, Certificate Mail 에 의해서 송달되었다는 증거가 법원에 제출되어야 한다.

## **DEFENDANT ANSWERS AND CONTESTS COMPLAINT 피고인 답변서와 소송고소장**

If the Defendant files an Answer disagreeing with some or all of the terms in the Complaint then the matter is “contested.” All parties in contested divorce actions are encouraged to obtain legal representation. A contested divorce involves complicated procedural matters, discovery and a trial. It is not easy for the self-represented person to navigate the system. 피고인이 고소장의 모든 조건이나 일부에 동의를 하지 않는다는 답변서를 제출하면 다음은 “소송”이다. 이혼소송상의 모든 소송의 당사자들은 법적 대리인을 선임할 것을 추천한다. 소송에 의한 이혼은 복잡한 절차와 사실문건의 발표 그리고 재판이 포함된다. 본인스스로가 본인을 대표하여 이러한 절차를 진행하는것은 결코 쉽지가 않다.

If a Defendant wants a different result in the divorce than the terms requested in the Complaint he or she must file an Answer denying those disputed terms. The Defendant should also file a Counterclaim with his/her Answer so that he/she can tell the Court what he/she wants in the divorce. The Court cannot give a party something that he/she has not requested. Therefore, even if the Plaintiff does not ultimately get what he or she requests in the Complaint, if the Defendant has not made his own request for relief (in the form of a Counterclaim), the Court will not know what to grant the Defendant. An Answer and Counterclaim are combined into one document. If a Counterclaim is filed, the Plaintiff must respond by filing a Reply to Counterclaim within twenty (20) days after service of the Counterclaim. There is no filing fee for a Reply. 피고인이 고소장에 요청된 이혼 조건에 대한 다른 결과를 원한다면 피고인은 반드시 반론의 답변서를 제출해야한다. 피고인은 또한 답변서에 반론서를 제출함으로써 피고인이 이혼에 대해서 요구하는 조건을 법원에 표명할 수 있다. 법원은 소송의 당사자가 이 요구하지 않은 것을 줄 수는 없다.

따라서, 원고가 고소장에 요청한 조건을 최종적으로 얻을 수 없다고 하여도 피고인이 경감(반론서의 양식)을 위한 요청을 하지 않는다면, 법원은 피고인에게 승인이나 허가를 해야하는 사항을 인지할 수 없을 것이다. 답변서와 반론서는 하나의 양식에 조합된다. 반론서가 제출되었다면, 원고는 반론서가 송달되어진 날로부터 20 일 이내에 반드시 반론서에 대한 항변서를 제출해야한다. 제출서류에 대한 수수료는 없다.

### **FAILURE TO ANSWER-DEFENDANT DEFAULTS** 답변서 불이행-피고인 결석

If the Defendant was properly served and does not file an Answer within twenty (20) days after service of the Summons and Complaint, the Plaintiff may obtain a Default Judgment against the Defendant. This means the Plaintiff will probably obtain the relief that was requested in the Complaint. 피고인에게 적절하게 송달되어지지 않고 소환장과 고소장이 송달된 후 20 일 이내에 답변서를 제출하지 않은 경우, 원고는 피고인에 대해 결석재판을 신청할 수 있다. 원고는 고소장에 요청된 경감을 부여받음을 의미한다.

The Plaintiff must first request that the clerk's office issue a "Default," indicating that an Answer has not been filed with the Clerk. 원고는 반드시 먼저 해당 서기사무실에서 답변서가 제출되지 않음을 의미하는 "결석재판" 신청한다.

Until the Plaintiff actually submits the Request for Default and obtains a "Default" from the Clerk, the Defendant is permitted to file the Answer even if the 20 days period to respond has passed. Once the Default is obtained, the Plaintiff must then either submit this Default and a proposed Divorce Decree to the Judge along with any other paperwork required for Summary Disposition or schedule a "Prove-Up" hearing. It is important to note that defaults can be set aside by the Court for "good cause" if the Defendant requests it. Defaults are generally disfavored and a Court will set aside a default judgment if the Defendant can show "good cause" for doing so within six (6) months of entry. 원고가 실제로 결석재판신청서를 제출하고

서기로부터 “결석재판” 을 교부받을 때까지, 피고인은 비록 답변서를 제출해야하는 해당 20 일이 지났더라도 답변서를 제출할 수 있다. 결석재판이 교부되면, 원고는 판사에게 Summary Disposition (즉결처분)과 “Prove-Up (입증)” 공판일정을 위한 서면서와 함께 결석재판허가서와 이혼판결제안서를 판사에게 반드시 제출해야 한다. 결석재판은 피고인의 요청이 있다면 “유효한 주장” 에 따라 법원에 의해서 무효화될 수 있다. 결석재판은 일반적으로 선호되어지지 않으며 법원은 피고인이 결석재판의 무효화를 위해 6 개월내에 “유효한 주장” 을 제시한다면 결석재판을 무효화 할것이다.

### **PROVE-UP HEARING 입증공판**

To obtain a prove-up hearing in an uncontested divorce or after the Answer is filed where there is no disagreement with the terms of the divorce, the Plaintiff should go to the Clerk’s office and request a “setting slip.” The Clerk will tell the Plaintiff the days and times available for the hearing, which may vary by Judge/Department. 합의이혼이나 이혼의 조건에 대한 반론이 없다는 답변서를 제출되어진 후 입증공판을 허가받기 위해서 원고는 해당 사무실을 방문하여 “setting slip 지정전표” 을 요청해야한다. 법원의 서기는 원고에게 판사나 담당부서에 따라 다양한 공판의 가능한 날짜와 시간을 알려 줄 것이다.

The Plaintiff needs to bring a resident witness, that is, someone who can testify that the Plaintiff has lived in Clark County for at least six (6) weeks prior to the date of the Complaint. A resident witness can be a family member so long as he/she can testify under oath that the Plaintiff has lived in Clark County for at least 6 weeks prior to filing for divorce. 원고는 본인이 고소장의 날짜에 앞서 최소 6 주이상을 Clark Count 에 거주해 왔다는것을 증명할 주민증인을 대동해야한다. 주민증인은 원고가 이혼소송장을 제출함에 앞서 최소 6 주간을 Clark County 에 거주했다는 것을 법정선서하에 증명할수 있는 가족이 될수도 있다.

The Plaintiff also needs to bring a filed copy of the certificate of attendance from the TransParenting class and a completed Child Support and Welfare Party Identification Sheet for

each parent, if applicable, and a proposed divorce Decree. 원고는 또한 TransParenting 과정을 이수했다는 수료증과 가능하다면 개개의 부모를 위해 완성된 자녀양육비와 복지확인서 그리고 이혼판결제안서를 지참해야한다. At the “prove-up” hearing the Court expects the Plaintiff to state certain information for the Court record including: “입증”공판을 위해 법원은 원고가 법원의 기록을 위해 다음과 같은 확실한 자료를 명시하기를 바란다:

- Plaintiff’s name and address; 원고의 이름과 주소;
- Period of residence; 거주민으로서의 기간;
- Whether the facts in the complaint are true; 고소장의 사실의 진실여부;
- Whether the grounds of divorce alleged are true; 주장한 이혼동기의 진실여부;
- The names and ages of children; 자녀의 이름과 나이;
- Period of residence of the children in the state; 현 주에서 자녀의 거주민으로서의 기간;
- Child Support, health insurance coverage and visitation schedule if there are minor children; 미성년 자녀가 있는 경우 자녀부양비와 건강보험범위 그리고 방문일정;
- Property and debt division; 재산과 부채의 분할;
- Whether the Plaintiff is requesting spousal support; and 원고의 배우자부양비 요청여부; 그리고
- Whether the wife will request a name change 부인의 이름변경 여부

At the end of the prove-up hearing, if everything is in order, the Court will grant an absolute Decree of Divorce and will sign the Decree. The Decree then must be filed with the Clerk’s office. Although the Plaintiff and the resident witness will have to attend Court, the hearing is very quick and the Decree is usually signed right there by the Judge. Once the Decree is signed, the Plaintiff MUST file it with the clerk. 모든 명령이 이루어진경우 입증공판의 마지막에 법원은 확실한 이혼판결을 내릴것이고 판결에 서명할것이다. 판결문은 반드시 해당부서에 제출되어야 한다 .

원고와 주민증인이 법원에 참석을 해야만 하지만 공판은 매우 신속하게 진행이 되고 보통 판결문은 판사에 의해서 그자리에서 서명된다. 판결문이 서명이 되면 원고는 반드시 서기에게 제출해야한다.

## **REQUEST FOR SUMMARY DISPOSITION** 즉결판결신청

If the parties do not want to attend a Prove-Up hearing, the Plaintiff may file with the Clerk a “Request for Summary Disposition of Uncontested Divorce.” The following copies of documents should be left at the Judge’s chambers: 소송의 당사자들이 입증고판을 원하지 않는다면, 원고는 “합의이혼 즉결판결 신청서”를 서기에게 제출할 수 있다. 다음의 서류가 판사실에 제출되어져 있어야 한다:

1. **Complaint** 고소장
2. **Answer** 답변서
3. **Proof of attendance at TransParenting Class (when minor children) for each parent** 각각의 부모가 TransParenting 과정 (미성년의 자녀가 있는 경우)을 이수했다는 증빙서
4. **Child support and Welfare Party Identification Sheet for each parent** 자녀양육비와 각각의 부모의 복지확인서
5. **Affidavit of Resident Witness** 주민증인진술서
6. **Request for Summary Disposition** 즉결심판요청서
7. **Affidavit in Support of Summary Disposition** 즉결심판 지원 진술서
8. **Proposed Divorce Decree** 이혼판결제안서
9. **Copies of any separate agreements regarding child custody, property, division, etc.** 양육권, 재산권, 분할등과 관련된 별거동의 복사본

## **CONTESTED CASES-What Happens Next? 소송사건-다음 순서는 무엇입니까?**

### **MANDATORY MEDIATION 필수중재**

Whenever there is a dispute on child custody, access, or visitation, the parties must participate in mandatory mediation. 양육권, 접근이나 방문에 대해 논쟁이 있을 경우, 소송의 당사자들은 반드시 필수중재에 참석해야한다.

Mediation can begin: 중재는 다음과 같은 경우 개시될 수 있다:

1. Once both parties sign a “Stipulation” for mediation; or 양측이 중재에 대한 “조항”에 서명을 한 경우; 또는
2. If one party submits a “Request” for mediation; or 한쪽편이 중재에 대한 “요청서”를 제출한 경우; 또는
3. When the Judge orders the parties to attend mediation. 판사가 중재에 참석을 명령한 경우.

The parties can select a private mediator or use the Court-affiliated Family Mediation Center which is on the first floor of the family Courthouse on Pecos and Bonanza. If the parties do not do this prior to the first hearing, the Judge will usually send them to mediation at their first hearing and give them a date for a return from mediation hearing. 소송의 당사자들은 개인중재자를 선임하거나 또는 Pecos 와 Bonanza 의 가족법원 1 층에 위치한 Court-affiliated Family Mediation Center(법원 특별 가족중재센터)를 이용할 수 있다. 소송의 당사자가 첫공판이 있기전에 이러한 중재를 하지 않는다면, 판사는 보통 첫공판에서 중재를 명할것이고 중재공판의 회부날짜를 부여할것이다.

In the meantime, the Judge will issue temporary orders regarding custody, visitation and child support. A party may request an exemption from mediation if there are issues of child abuse or domestic violence or if a party is out of state. 동시에 판사는 양육권과 방문이나 자녀양육비에 관한 임시명령을 발급할것이다. 소송의 당사자는 이혼의 소송에 아동학대나 가정폭력이 있거나 또는 한쪽편이 타주에 있다면 중재면제를 요청할 수 있다.

If mediation does not resolve these parent/child issues, the Judge will decide them. The Judge does not generally learn what happened in mediation but will be informed as to whether mediation succeeded or failed and was participated in good faith. The parties will then have a trial or evidentiary hearing to determine who will be awarded custody and visitation. 중재가 위와같은 부모/자녀문제를 해결하지 못하면, 판사는 이와 같은 문제에 대한 결정을 내릴 것이다. 판사는 일반적으로 중재에서 일어난 사항을 알 수 없으나 중재에 대한 성공여부와 참여성실도에 대하여서는 판사에게 전달될 것이다. 그리고, 소송의 당사자들은 양육권과 방문권에 대한 결정을 위한 재판이나 증거공판을 가지게 될 것이다.

## **MOTIONS 명령신청**

Motions are very common in a family law case. Motions may be filed with the Complaint or Answer or at any time thereafter. Motions ask the Court to make temporary orders concerning any matter the Court has jurisdiction to decide at a custody or divorce case. Those matters include child custody, visitation, child support, community property, alimony, exclusive possession of the marital residence, alimony and attorney's fees. You can ask for several forms of relief in one motion. 명령신청은 가족법관련 사건에 있어서 매우 일반적이다. 명령신청은 고소장이나 답변서와 함께 제출되어질 수도 있고 고소장과 답변서 제출후에라도 언제든지 제출을 할 수 있다. 명령신청은 법원이 양육권이나 이혼에 있어서의 사법권을 결정해야하는 사항에 대해서 임시명령을 신청하는 것이다. 고려되는 사항들은 양육권, 방문, 자녀양육비, 공동재산, 이혼수당, 혼인거주지의 독점소유권, 이혼수당과 변호사의 비용이 해당된다. 하나의 명령을 신청하는데 있어 여러종류의 양식을 신청할 수 있다.

- **Motion for Temporary Child Custody and Child Support** – This Motion asks the Court to resolve the issue of legal and physical custody on a temporary basis and to award child support. 임시양육권과 자녀양육비에 대한 명령 – 본 명령은 임시적 자녀부양비를 기본으로 하며 법원에 법적 그리고 물리적 양육권에 대한 해결을 위해 신청한다.

- Motion for Temporary Alimony and Attorney’s Fees – This Motion asks the Court to award a party temporary alimony until the Court finally decides the case (including whether to award alimony on a more permanent basis) and to award attorney’s fees to put the lesser earning spouse on “equal footing” with the greater earning spouse.  
임시이혼수당과 변호사비용에 대한 명령 - 법원이 이혼 소송에 대한 최종결정을 (이혼수당에 대한 영구부여를 포함) 할 때까지 한쪽편에게 임시로 이혼수당의 부여를 위해 법원에 의뢰하는 명령 신청이고, 소득이 많은 배우자와 소득이 적은 배우자와의 변호사비용부담을 “대등” 하게 하기위한 명령신청이다.
- Motion for Exclusive Possession of the Martial Residence – This Motion asks the Court to give one spouse exclusive use of the marital residence pending the divorce action.  
혼인거주지 독점소유권에 대한 명령 - 이혼소송이 진행되고 있는 상황에서 혼인거주지의 독점소유권을 한쪽의 배우자에게 부여하도록 법원에 신청하는 명령이다.
- Miscellaneous Motions – Motion to freeze assets, liquidate assets, or obtain any other appropriate relief. 기타 명령 - 재산동결, 재산청산이나 기타 전유물에 대한 경감이나 삭감에 대한 명령.

### **CASE MANAGEMENT CONFERENCE 사건처리회의**

Under the Nevada Rules of Civil Procedure, the judge will set a Case Management Conference within 30 days of the Answer being filed in most cases. The parties (and their attorneys) most attend this hearing and discuss those issues that are not contested, those issues that are contested and come up with the “discovery” plan. The judge will set a trial date for the contested issues and set the discovery deadlines. 네바다 법 Civil Procedure 에 따라, 판사는 대부분의 사건에 있어 답변서가 제출된 날로부터 30 일 이내에 사건처리회의 지정할 것이다. 소송의 당사자 (그리고 소송당사자들의 변호사)는 대부분 공판에 참석하고 합의되지 않은 문제들, 합의되었거나



사실이나 문서에 대한 “발표”되어질 계획이 있는 문제에 대하여 토론한다. 판사는 합의되지 않은 문제에 대한 재판 날짜와 사실이나 문서의 발표에 대한 최종기간을 지정할 것이다.

## **DISCOVERY 사실이나 문서에 대한 발표**

Discovery is the name for the process where one party gets information from or about the other party. For example, if a person suspects his or her spouse is hiding money, “interrogatories” can be sent to the opposing spouse asking him or her to state the names and the account numbers of all bank accounts. The other side must answer these Interrogatories, under oath. 발표는 한쪽편의 소송당사자가 상대측으로부터나 또는 상대측에 대한 정보를 얻는 과정을 일컫는 명칭이다. 예를 들면, 한쪽편의 소송당사자가 금전적인 은폐가 있다고 의심이된다면, 상대방의 이름으로 된 모든 은행의 계좌번호를 묻는 “심문조서 (또는 질문서)”를 상대방에게 보낼 수 있다. 상대방측은 반드시 이러한 심문조서에 진실되게 답해야한다.

“Requests for Production” can be served on the opposing party requesting copies of documents. Subpoenas can be served upon third parties for documents, and “depositions” (oral questioning before a Court reporter, under oath) of the parties or other witnesses with relevant information can be taken. Discovery can be complicated and it is recommended that parties consult with an attorney. “생산에 대한 질의서”는 상대측에 복사본의 요청서류가 송달된다. 위의 서류에 대한 소환장은 제 3 자에 의해 송달될 수 있고 관련된 정보와 함께 소송의 당사자나 기타 증인의 “선서증언” (법원 의사기록원앞에서의 선서아래 구두 심문) 이 이루어질 수 있다. 발표는 복잡해질 수도 있으며 소송의 당사자들은 변호사와 상의할것을 추천한다.

## **TRIAL 재판**

If the case cannot be settled, ultimately the case goes to trial. Child custody issues must be decide prior to trial by proper Motion, and if necessary, evidentiary hearing. The trial will be in

front of a Judge and the Judge will decide the remaining contested issues such as the division and value of community property and debt and alimony. 사건이 조정이 되지않으면, 최종적으로 사건은 재판으로 가게된다. 양육권의 문제는 반드시 적정한 명령에 의해 재판에 앞서 결정이 되어야 하고 필요하다면 증거공판이 이루어진다. 재판은 판사앞에서 이루어지고 판사는 공동재산과 부채에 대한 분할과이혼수당과 같은 기타의 합의되지 않은 사항에 대해 결정한다.

Once the case is finished, the Judge will state the terms of the Divorce. One of the parties will be asked by the Court to prepare the Decree of Divorce for the Judge to sign. When the Decree of Divorce is signed and filed by the Court, the party who prepared the Decree of Divorce will then file a Notice of Entry of Decree and mail it to the opposing party. 사건이 종결이 되면, 판사는 이혼의 조건을 기술할 것이다. 법원은 한쪽편 소송의 당사자에게 판사가 서명을 할 이혼판결문을 준비하도록 명할 것이다. 이혼판결문에 서명이 되고 법원에 이것을 제출하게되면 이혼판결문을 준비한 소송의 당사자는 판결문 제출 통지서를 제출하게 되고 이것을 상대측에게 우송한다.

## **YOUR FAMILY COURT HEARING 가정법원 공판**

If you have a hearing in the Family Court and are representing yourself, you will have a better chance of success if you prepare as much as possible. 가정법원에 공판이 있거나 출두해야 한다면, 가능한한 많은 것을 준비해야 유리할 것이다.

One of the best methods to prepare yourself for a family Court hearing is to observe the Judge and how people behave in the Courtroom before your hearing date. Courtroom proceedings are generally open to the public so attend a hearing prior to your own Court hearing. By attending this open hearing in advance of your hearing, you will be able to observe the Judge's reaction to certain arguments and to the behavior of lawyers and witness how other individuals represent themselves. 가정법원공판 준비를 위해 가장 좋은 방법은 본인의 공판에 앞서 다른 사람의 공판 법정에 가서 판사와 다른 사람의 공판을 직접 보는 것이다. 법정은 일반적으로 공개를

원칙으로 하기 때문에 본인의 공판날짜에 앞서 타인의 공판에 참석을 할 수 있다. 본인의 공판에 앞서 공개공판에 참석함으로써 논쟁에 대한 판사의 반응과 변호사와 증인의 태도, 그리고 기타 개인들의 본인 표현 방법들을 관찰할 수 있을것이다.

- Dress appropriately. Many people do not realize that Court is formal. Wear a suit or dress slacks. 적절한 복장. 많은 사람들이 법원이 공식적 장소라는 것을 인지하지 못한다. 정장을 착용하십시오
- Be on time. People who are late often lose because they are not there and the Judge assumes they do not wish to contest the case. 정시 출두. 판사는 소송의 당사자들이 법정에서 나타나지 않으면 사건에 대해 논하기를 원하지 않는 것으로 간주하기 때문에 지정된 시간에 늦게되면 재판을 놓치거나 지게될것이다.
- Order of speaking. The party who filed the Complaint or Motion begins. The person should present his or her case in five minutes or less. The party should always start with the most important issues. When the party has finished explaining the reasons why he or she should be granted the relief requested, the Judge will then allow the other party to speak. Always address the Judge; do not address the other side. This is not the time to argue with the opposing side. This is the time to impress the Judge with your logic and you will not do this by showing the Judge how easily you lose your temper. 발언명령. 고소장이나 명령서를 제출한 소송의 당사자들이 시작한다. 당사자는 본인의 사건에 대해 5 분이내로 발표해야한다. 당사자는 항상 가장 중요한 문제를 먼저 언급해야한다. 소송의 당사자가 경감요청을 한 이유와 그것이 발하여져야 하는 이유를 설명하고 끝맺음하게 되면, 판사는 상대측에게 발언의 기회를 허락할 것이다. 항상 판사를 명명하십시오. 그리고 다른측은 언급하지 마십시오. 이것은 상대측과의 논쟁을 위한 시간이 아니다. 본 시간은 판사에게 본인의 정당성을 인지시키는 시간이므로 본인이 쉽게 평정성을 잃는 모습을 판사에게 보이지 않게 유의해야한다.

- Protocol. If you are going to give the Judge copies of something, you must give a copy to the other party as well. Never leave the table. If you want to give the Judge a copy of a document, give it to the Marshal and he will give it to the Judge. **조서.** 판사에게 복사본을 제출하려고 한다면, 반드시 상대방에게도 또한 복사본을 제공해야 한다. 테이블에 두지는 마십시오. 판사에게 복사본의 서류를 제출하고자 한다면, 집행관에게 주면 집행관이 판사에게 전달한다.
- Concluding. All parties should clearly state what they want at the end of their argument. For example, a party who wants custody of a minor child could say: “In conclusion, Your Honor, I would like custody of the child until our divorce is final, with my husband having visitation every weekend and paying child support as the law requires.” Clearly stating what you want helps the Judge make a decision. **종결.** 모든 당사자들은 논쟁의 마지막에 본인들이 원하는 것을 분명하게 기술해야 한다. 예를들면, 미성년의 자녀에 대한 양육권을 원하는 소송 당사자의 최후발언은: “존경하는 재판장님, 마지막으로, 본인은 본인의 이혼이 종결될 때까지 매주 주말 남편의 방문을 허락하는 양육권을 원하며 법이 허락하는 자녀양육비의 수급에 대한 권리를 요청합니다.” 본인이 원하는 바를 판사가 결정을 하는데 도움이 되게끔 확실하게 그리고 분명하게 발언하십시오.
- Obey all Court orders. A Judge’s Orders, unless reversed on appeal, are lawful and must be followed even if you don’t agree with them. If you ignore a Court order the Judge could hold you in contempt of Court. **모든 법원명령에 대한 복종.** 항소에 의해서 번복이 될때까지, 판사의 명령은 합법적이며 명령에 동의하지 않는다고 해도 반드시 따라야 한다. 법원의 명령을 무시하게 되면 판사는 법정모독죄를 부여하게 될 것이다.

### **GETTING STARTED 착수/시작**

- The forms in this book are only samples. You can buy the forms you need from the Self-Help Center or download them at no cost from the Self-Help Center website; **본**

책자의 양식은 견본입니다. 필요한 양식은 자립센터에서 구입이 가능하며 자립센터 웹사이트를 통해 다운받으십시오;

- **When you fill out the forms to be filed, make sure you use black ink only or type it;** 제출할 양식을 작성은 검정색으로 하시거나 타이핑 하십시오;
- **Your forms must be able to be read, so write neatly;** 양식은 반드시 판독이 가능해야하기 때문에 깨끗하게 적으십시오;
- **Answer EVERY question on your forms;** 양식의 모든 질문에 답하십시오;
- **If a question does not apply to your case, the write “N/A” (not applicable) in the blank;** 본인의 사건이 질문에 적합하지 않을 경우에는 빈칸에 “N/A” (적용되지않음) 이라고 기입 하십시오;
- **Do not sign the Complaint or Answer and Counterclaim until your are in front of a notary public; if required** 서류가 공증의 절차에 가지 전까지는 고소장이나 답변서에 서명하지 마십시오; 만약 요구되어진다면
- **You MUST know the following information: where and when you were married, whether you are still married to that person (if you are not sure, consult an attorney), the names and dates of birth of all children you and your spouse have together if the children are under age 18; a reasonable estimate of your spouse’s last known income; a list of all items brought during your marriage, no matter whose name is on the title; the VIN numbers for all motorized vehicles; any debts that were acquired during your marriage, regardless of which of you acquired the debt;** 아래의 사항을 반드시 인지해야 합니다: 언제 어디서 결혼을 하였는지, 혼인이 아직 유효한지 (불확실하다면, 변호사와 상의하십시오), 본인과 배우자 사이에 18 세 이하의 자녀가 있다면 모든 자녀의 이름과 생년월일. 또한, 타당성있게 추정되는 배우자의 최후 소득, 어느쪽의 명의로되어 있는지에

상관없이 혼인기간중 구입한 모든 구매품의 목록, 자동차의 VIN 번호, 어느편의 부채든지

혼인기간중 발생한 모든 부채에 대해 인지하십시오;

- **Be as specific and descriptive as you can be;** 자세하게 그리고 기술하십시오;
- **If you have any questions or problems, you should consult an attorney.** 질문사항이나 문제점이 있다면, 변호사와 상담하십시오.

## RELEVANT STATUTES

### PROPERTY

NRS 123.130 Separate property of wife; separate property of husband.

1. All property of the wife owned by her before marriage, and that acquired by her afterwards by gift, bequest, devise, descent or by an award for personal injury damages, with the rests, issues and profits thereof, is her separate property.
2. All property of the husband owned by him before marriage, and that acquired by him afterwards by gift, bequest, devise, descent or by an award for personal injury damages, with the rents, issues and profits thereof, is his separate property.

NRS 123.220 Community property defined. All property, other than that stated in NRS 123.130, acquired after marriage by either husband or wife, or both, is community property unless otherwise provided by:

1. An agreement in writing between the spouses, which is effective only as between them.
2. A decree of separate maintenance issued by a court of competent jurisdiction.
3. NRS 123.190.
4. A decree issued or agreement in writing entered pursuant to NRS 123.259.

### CUSTODY

NRS 125.480 Best interest of child; preferences; considerations of court; presumption when court determines that parent or person residing with child is perpetrator of domestic violence.

1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is the best interest of the child. If it appears to the court that joint custody would be in the best interest of the child, the court may grant custody to the parties jointly.
2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly pursuant to NRS 125.490 or to either parent. If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent's application.

(b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.

(c) To any person related within the third degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

(d) To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

4. In determining the best interest of the child, the court shall consider and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his custody.

(b) Any nomination by a parent or a guardian for the child.

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(d) The level of conflict between the parents.

(e) The ability of the parents to cooperate to meet the needs of the child.

(f) The mental and physical health of the parents.

(g) The physical, developmental and emotional needs of the child.

(h) The nature of the relationship of the child with each parent.

(i) The ability of the child to maintain a relationship with any sibling.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

(k) Whether either party or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody has engaged in one or more acts of domestic violence against the child, apparent of the child or any

other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

- (a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and
- (b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

- (a) All prior acts of domestic violence involving either party;
- (b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;
- (c) The likelihood of future injury;
- (d) Whether, during the prior acts, one of the parties acted in self-defense; and
- (e) Any other factors which the court deems relevant to the determination.

In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. As used in this section, “domestic violence” means the commission of any act described in NRS 33.018.

#### CHILD SUPPORT

NRS 125B.030 Recovery by parent with physical custody from other parent. Where the parents of a child do not reside together, the physical custodian of the child may recover from the parent without physical custody a reasonable portion of the cost of care, support, education and maintenance provided by the physical custodian. In the absence of a court order for the support of a child, the parent who has physical custody may recover not more than 4 years’ support furnished before the bringing of the action to establish an obligation for the support of the child.

[2:87:1923; NCL § 3406]—(NRS A 1969, 95; 1979, 1279; 1983, 1873; 2007, 1228)

NRS 125B.070 Amount of payment: Definitions; adjustment of presumptive maximum amount based on change in Consumer Price Index.



1. As used in this section and NRS 125B.080, unless the context otherwise requires:

(a) "Gross monthly income" means the total amount of income received each month from any source of a person who is not self-employed or the gross income from any source of a self-employed person, after deduction of all legitimate business expenses, but without deduction for personal income taxes, contributions for retirement benefits, contributions to a pension or for any other personal expenses.

(b) "Obligation for support" means the sum certain dollar amount determined according to the following schedule:

(1) For one child, 18 percent;

(2) For two children, 25 percent;

(3) For three children, 29 percent;

(4) For four children, 31 percent; and

(5) For each additional child, an additional 2 percent,

Ê of a parent's gross monthly income, but not more than the presumptive maximum amount per month per child set forth for the parent in subsection 2 for an obligation for support determined pursuant to subparagraphs (1) to (4), inclusive, unless the court sets forth findings of fact as to the basis for a different amount pursuant to subsection 6 of NRS 125B.080.

2. For the purposes of paragraph (b) of subsection 1, the presumptive maximum amount per month per child for an obligation for support, as adjusted pursuant to subsection 3, is:

**PRESUMPTIVE MAXIMUM AMOUNT**

The Presumptive Maximum Amount the

**INCOME RANGE** Parent May Be Required to Pay

If the Parent's Gross But per Month per Child Pursuant to

Monthly Income Is at Least Less Than Paragraph (b) of Subsection 1 Is

\$0 - \$4,168 \$500

4,168 - 6,251 550

6,251 - 8,334 600

8,334 - 10,418 650

10,418 - 12,501 700

12,501 - 14,583 750

If a parent's gross monthly income is equal to or greater than \$14,583, the presumptive maximum amount the parent may be required to pay pursuant to paragraph (b) of subsection 1 is \$800.

3. The presumptive maximum amounts set forth in subsection 2 for the obligation for support must be adjusted on July 1 of each year for the fiscal year beginning that day and ending June 30 in a rounded dollar amount corresponding to the percentage of increase or decrease in the Consumer Price Index (All Items) published by the United States Department of Labor for the preceding calendar year. On April 1 of each year, the Office of Court Administrator shall determine the amount of the increase or decrease required by this subsection, establish the adjusted amounts to take effect on July 1 of that year and notify each district court of the adjusted amounts.

4. As used in this section, "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320.

(Added to NRS by 1987, 2267; A 1991, 1334; 2001, 1865; 2003, 101, 342)

NRS 125B.080 Amount of payment: Determination. Except as otherwise provided in NRS 425.450:

1. A court of this State shall apply the appropriate formula set forth in NRS 125B.070 to:

(a) Determine the required support in any case involving the support of children.

(b) Any request filed after July 1, 1987, to change the amount of the required support of children.

2. If the parties agree as to the amount of support required, the parties shall certify that the amount of support is consistent with the appropriate formula set forth in NRS 125B.070. If the amount of support deviates from the formula, the parties must stipulate sufficient facts in accordance with subsection 9 which justify the deviation to the court, and the court shall make a written finding thereon. Any inaccuracy or falsification of financial information which results in an inappropriate award of support is grounds for a motion to modify or adjust the award.

3. If the parties disagree as to the amount of the gross monthly income of either party, the court shall determine the amount and may direct either party to furnish financial information or other records, including income tax returns for the preceding 3 years. Once a court has established an obligation for support by reference to a formula set forth in NRS 125B.070, any subsequent modification or adjustment of that support, except for any modification or adjustment made pursuant to subsection 3 of NRS 125B.070 or NRS 425.450 or as a result of a review conducted pursuant to subsection 1 of NRS 125B.145, must be based upon changed circumstances.

4. Notwithstanding the formulas set forth in NRS 125B.070, the minimum amount of support that may be awarded by a court in any case is \$100 per month per child, unless the court makes a written finding that the

obligor is unable to pay the minimum amount. Willful underemployment or unemployment is not a sufficient cause to deviate from the awarding of at least the minimum amount.

5. It is presumed that the basic needs of a child are met by the formulas set forth in NRS 125B.070. This presumption may be rebutted by evidence proving that the needs of a particular child are not met by the applicable formula.

6. If the amount of the awarded support for a child is greater or less than the amount which would be established under the applicable formula, the court shall:

(a) Set forth findings of fact as to the basis for the deviation from the formula; and

(b) Provide in the findings of fact the amount of support that would have been established under the applicable formula.

7. Expenses for health care which are not reimbursed, including expenses for medical, surgical, dental, orthodontic and optical expenses, must be borne equally by both parents in the absence of extraordinary circumstances.

8. If a parent who has an obligation for support is willfully underemployed or unemployed to avoid an obligation for support of a child, that obligation must be based upon the parent's true potential earning capacity.

9. The court shall consider the following factors when adjusting the amount of support of a child upon specific findings of fact:

(a) The cost of health insurance;

(b) The cost of child care;

(c) Any special educational needs of the child;

(d) The age of the child;

(e) The legal responsibility of the parents for the support of others;

(f) The value of services contributed by either parent;

(g) Any public assistance paid to support the child;

(h) Any expenses reasonably related to the mother's pregnancy and confinement;

(i) The cost of transportation of the child to and from visitation if the custodial parent moved with the child from the jurisdiction of the court which ordered the support and the noncustodial parent remained;

(j) The amount of time the child spends with each parent;

(k) Any other necessary expenses for the benefit of the child; and

(l) The relative income of both parents.

(Added to NRS by 1987, 2267; A 1989, 859; 1991, 1334; 1993, 486; 1997, 2295; 2001, 1866)

NRS 125B.145 Review and modification of order for support: Request for review; jurisdiction; notification of right to request review.

1. An order for the support of a child must, upon the filing of a request for review by:

(a) The Division of Welfare and Supportive Services of the Department of Health and Human Services, its designated representative or the district attorney, if the Division of Welfare and Supportive Services or the district attorney has jurisdiction in the case; or

(b) A parent or legal guardian of the child,

be reviewed by the court at least every 3 years pursuant to this section to determine whether the order should be modified or adjusted. Each review conducted pursuant to this section must be in response to a separate request.

2. If the court:

(a) Does not have jurisdiction to modify the order, the court may forward the request to any court with appropriate jurisdiction.

(b) Has jurisdiction to modify the order and, taking into account the best interests of the child, determines that modification or adjustment of the order is appropriate, the court shall enter an order modifying or adjusting the previous order for support in accordance with the requirements of NRS 125B.070 and 125B.080.

3. The court shall ensure that:

(a) Each person who is subject to an order for the support of a child is notified, not less than once every 3 years, that he may request a review of the order pursuant to this section; or

(b) An order for the support of a child includes notification that each person who is subject to the order may request a review of the order pursuant to this section.

4. An order for the support of a child may be reviewed at any time on the basis of changed circumstances. For the purposes of this subsection, a change of 20 percent or more in the gross monthly income of a person who is subject to an order for the support of a child shall be deemed to constitute changed circumstances requiring a review for modification of the order for the support of a child.

5. As used in this section:

(a) "Gross monthly income" has the meaning ascribed to it in NRS 125B.070.

(b) "Order for the support of a child" means such an order that was issued or is being enforced by a court of this State.

(Added to NRS by 1989, 859; A 1991, 1337; 1993, 2626; 1997, 2299; 2003, 546)