



Since 1958  
**LEGAL AID CENTER**  
of Southern Nevada

## KNOW YOUR RIGHTS

What every victim of domestic violence needs to know

Legal Aid Center of Southern Nevada is a private, nonprofit, public interest law firm dedicated to providing free legal advice, advocacy, and representation to residents of Clark County. It is our mission to ensure that individual rights are protected regardless of a client's ability to pay for an attorney. Eligibility for our services depends on the type of legal assistance a client needs and their income level. This is determined during an initial intake session, at which time we also review the range of public and/or private services that may be of assistance.

This brochure is intended to provide a general overview of some of the more common issues encountered in family law and their interrelationship with domestic violence. Domestic violence includes physical and sexual abuse.

## CUSTODY

Custody refers to both "legal" and "physical" custody of the parties' minor children.

**Legal Custody** refers to the right to be involved in making major decisions in the child's life such as religious training, schooling, and medical decisions. A parent may have "joint" legal custody with the other parent, where both parents have a right to make major decisions for the child, or "sole" legal custody, where only one parent makes all of the major decisions. Although one might have sole legal custody, one cannot relocate the child out of state without permission from the other parent or the court.

**Physical Custody** refers to where the child lives and which parent the child lives with. Physical custody of the parties' minor child can be granted to one parent (called primary or sole physical custody) or to both parents (called joint physical custody).

The court's primary consideration when determining custody is the best interest of the child. The court will consider domestic violence in determining physical custody, but a domestic violence victim will not automatically be granted custody of the minor child. Under Nevada law, if there has been domestic violence and it can be shown by clear and convincing evidence, the abuser should not be awarded either primary or joint physical custody of the minor child.

Custody laws are evolving with respect to LGBT parents.

## VISITATION

Visitation is the right of a noncustodial parent to have frequent association with his or her child on a regular, prearranged schedule. The court will look to see whether visitation with the noncustodial parent is in the best interest of the child.

Where one parent is granted primary physical custody over child, that parent is the “custodial parent”; the other, the “noncustodial parent,” is usually granted visitation rights. This may be true even in situations where there has been domestic violence.

There is no correlation between child support and visitation. A custodial parent may not withhold visitation because the noncustodial parent is delinquent on child support.

## CHILD SUPPORT

Every child has the right to support from both parents – that includes financial support for their care, medical needs, and education. This support continues until the child reaches 18 years of age or 19 if still enrolled in school.

A custodial parent of a minor child can obtain a court order for child support from the noncustodial parent in several ways: by an order from the court through either a divorce, legal separation, or custody and/or paternity case; through an order of Temporary and/or Extended Protection; or through a child support case brought by the District Attorney, Family Support Division.

Child support is set based on the number of children, which parent has physical custody, and the parent’s incomes. You can estimate the amount of child support that would be ordered with an interactive online calculator at <https://nvchildsupportguidelinescalculator.azurewebsites.net/>

Generally, if one parent has primary physical custody, the noncustodial parent pays child support based on a percentage of their gross monthly income. If the noncustodial parent earns \$6000 or less per month, the parent typically pays:

- 16% of income for 1 child
- 22% of income for 2 children
- 26% of income for 3 children
- For each additional child, an extra 2%

If the noncustodial parent’s income is 150% or less of federal poverty guidelines, the court can set child support at a lower percentage.

If the noncustodial parent earns more than \$6000 per month, there are additional percentages added to the child support amounts above.

For parents who share joint physical custody, the court calculates both parent’s incomes based on the guidelines above, then subtracts the lower amount from the higher amount. The parent with the higher income pays the difference.

The court can also adjust child support up or down based on the specific needs of the child and the economic circumstances of the parties.

## TEMPORARY PROTECTION ORDERS (TPO)

A TPO can be obtained to protect you and your children against violence or threats of violence from a person with whom you have (or had) a close relationship: that is, a present or former spouse, a person you date or used to date, the parent of your child, someone related to you by blood, marriage or adoption, or a person who regularly lives or used to live in your home.

In situations involving domestic violence, a victim can obtain an TPO from the family court that will prohibit the abuser from having any contact with the victim and/or the minor children. The TPO may also award child custody, visitation and child support, among other things.

The Family Law Self-Help Center can assist you with the TPO application forms. The office is open M-F from 8-4, and is located at 601 North Pecos Rd. For more information call 702-455-1500, option 2 or email [tpo@lacs.org](mailto:tpo@lacs.org). Forms are also available online. Visit <https://www.familylawselfhelpcenter.org/forms/dv>.

SafeNest also provides services for TPO applications and with remote hearings in Family Court. For more information, contact SafeNest at 702-877-0133.

A TPO may last for 30 days or until the date of the court hearing on your request for an extended protection order, generally three to four weeks. At the time of filing your application, you may request that your TPO be extended for up to one year. In order to extend the order, you must appear at a hearing before a hearing master. The other side will also be required to appear at the hearing. The hearing master will determine whether there is sufficient evidence of domestic violence to extend your order for protection for up to one year.

If the TPO is extended and the abuser violates the provisions of the protection order by contacting you, harassing, or abusing you, you may request that he/she be incarcerated or fined by the court.

## IMMIGRATION RELIEF

### VAWA Self-Petition

Certain immigrants may obtain lawful permanent resident status (a green card) without the participation or cooperation of their United States citizen or legal permanent resident, abusive spouse, parent or over-21-year-old U.S. citizen child by filing a VAWA self-petition.

The requirements to establish eligibility for a VAWA self-petition as an abused spouse are:

- The marital relationship was with an abusive spouse (includes widowed or divorced within past two years).
- The abusive spouse is a U.S. citizen or a legal permanent resident (LPR).
- The marriage was a good faith marriage.
- The abused spouse has a good moral character.
- There is any credible evidence demonstrating battery or extreme cruelty caused by the abusive spouse.
- There is evidence that the abused spouse has resided with the abuser (does not have to continue to reside with the abusive spouse, but at one time resided with the abuser).
- The abuse occurred in the U.S. or, if overseas, abusive spouse is an employee of the U.S. government or member of the U.S. Military, or was subjected to abuse while previously physically present in the U.S.

## U-Visa

The U-visa is a crime-victim visa designed to provide lawful status to noncitizen crime victims who are assisting or are willing to assist law enforcement agencies in investigating and prosecuting crimes. Domestic violence and sexual assault are included in the list of qualifying criminal activities eligible to apply for U-visas. Victims of domestic violence may be eligible to apply for a U-visa if:

- The victim has experienced at least one of the qualifying criminal activities.
- The victim suffered substantial physical or mental abuse as a result of having been a victim of the criminal activity.
- The victim has information about the criminal activity.
- The victim was helpful, is helpful or is likely to be helpful to law enforcement in the investigation or prosecution of the crime.
- The crime occurred in the U.S. or violated U.S. law.

Immigration law is complex; therefore, it is important to speak to a qualified immigration attorney or accredited immigration advocate to learn more about the options for battered immigrants.

### SUMMARY OF AVAILABLE LEGAL SERVICES

- Custody
- Divorce
- Dissolution of Domestic Partnership
- Name Change Order of New Birth Certificate
- Guardianship
- Restraining Orders
- U-Visa
- VAWA

This project was supported by Grant No. 2014-WLAX-0016 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusion and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.



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