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CONSULTATION
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NEXT ISSUE:

5 COMMON MYTHS
ABOUT THE
DIVORCE
PROCESS



DISCLAIMER:

This newsletter is for general information only and should not be construed to be legal advice or the formation of a lawyer-client relationship. Each family law case should be analyzed for specifics and should be handled by a competent attorney.

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WHAT HAPPENS TO THE CHILDREN NOW?

An article to share with friends and family considering divorce or separation

By Maricar Andrade, Esq.

When couples are deciding to separate or get a divorce, they will have many important decisions to make. Married couples will have to make financial preparations for dividing community assets and debts. One such asset or debt often has to do with the marital residence. Questions arise: What will we do with the house when we are upside down on the mortgage? Will one person remain in the house with the children? Will we both move out?

And often, the most pressing questions deal with **custody of the children, visitation, and child support**. These same concerns about the children are faced by couples who never married but decide to permanently break up.

Married or not, when litigation ensues and children are involved, a Judge will have to make a determination regarding two kinds of custody—legal custody and physical custody. **Legal custody** generally means the legal right to make major decisions in the child's life. These decisions might be about religion, education, or medical treatment. On the other hand, **physical custody** has to do with where the child will actually and physically be staying or residing for a significant amount of time. The time share distinctions between joint physical custody and primary physical custody are defined by Nevada case law.

When defining physical custody, a good **parenting plan or agreement** should specifically state the visitation days each parent has with the child, and it should state actual times and locations for child exchanges. For example, each parent should know who is responsible for picking up the child(ren), which parent will drop off the child(ren), and where exchanges will take place. If parents end up in

litigation, they will be referred to a **mediator** to work out a visitation and holiday schedule. When there are domestic violence issues, the Family Mediation Center is able to provide a protocol to create some safety measures.

If a couple cannot come to an agreement regarding custody, the Court will have to make those determinations based on the law. If you intend to file in Clark County (Las Vegas, Henderson, North Las Vegas, Laughlin, Lake Las Vegas, etc.), it is important to speak to a licensed, Nevada attorney when seeking legal advice. An attorney can provide important information about what constitutes **joint legal custody** versus **sole legal custody**, as well as help you to understand the difference between **joint physical custody** and **primary physical custody**. These custody designations have a variety of consequences including, but not limited to, child support amounts and the ability to move outside the state.

Keep in mind that although there are many **paralegal** and **self-help services** out there, those services can only disseminate legal information. Paralegals are *not* authorized to practice law and *cannot* give legal advice. These services may type up your paperwork, but they are not able offer advice or insight as to how your custody agreement may affect your day-to-day life.

Before signing a Complaint, pleading, or other document which will be submitted to the Court, you may want to seek the advice of an attorney to be sure you understand the custody terms which will impact both you and your children. Become knowledgeable about your divorce or custody matter. An incomplete or poorly written Decree or Order can have negative consequences and can be costly to try to fix or amend.