



FAMILY LAW BASICS

with

**NASSAU SUFFOLK LAW SERVICES COMMITTEE, INC.
Victoria Davies, Esq., Kayla Schunk, Esq, and Larry Tuthill, Esq.**



Housekeeping



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Possible to Create a Just
World Since 1966.*



Please keep your microphone muted.

Please put any questions in chat and we will address throughout presentation.

There will be polls throughout the presentation and a survey to complete at the end.

Thank you!

Who we are and what we do...



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- Over 6,000 legal cases each year
- Direct representation, phone consultations
- Brief service or referrals
- Offices in Hempstead, Islandia, Riverhead
- Case handling staff includes attorneys, paralegals and social workers
- Partnerships with Community Agencies



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Office Locations

Hempstead:

1 Helen Keller Way 5th Fl
Hempstead NY 11550

(516) 292-8100

Islandia (Western Suffolk) :

1757 Veterans Hwy Ste 50
Islandia NY 11749

(631) 232-2400

Riverhead (Eastern Suffolk) :

400 W. Main St Suite 200
Riverhead, NY 11901

(631) 369-1112

Nassau Suffolk Law Services

Programs



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Family

- Domestic Violence Family Court Project (Suffolk)
- Child Support Project

Disability & Health-Related Projects

- HIV Unit
- PLAN Cancer Project (Nassau)
- Mental Health
- ICAN - Advocates in Managed Long-Term Care
- Education and Disability Rights (Special Education and Rights of Developmentally Disabled)
- Disability Advocacy Project (SSD/SSI Appeals)

Nassau Suffolk Law Services

Programs ctd.



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Housing

- Civil Unit (Eviction Prevention)
- Adult Home Project
- Foreclosure Project

Other

- Consumer Debt
- Veterans Rights
- Re-Entry Project
- Public Benefits
- Senior Citizen Project (Nassau)
- Pro Bono Project (Suffolk)
- Volunteer Lawyers Project (Nassau)
- Community Legal Help Project (Suffolk)



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Legal Support Center for Advocates

Advocates call (631) 232-2400 for assistance:

Sharon Campo - x3368 Cathy Lucidi - x3324

- Provide Technical Support to Advocates
- “Advocates” include legislative staff, social workers, outreach workers, medical personnel, and guidance counselors
- Host Community Trainings
- Publish Newsletters



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Just a Note...

Nassau/Suffolk Law Services makes every effort to keep legal educational materials up to date. However, the situation is rapidly evolving. The information contained in this material is not legal advice. Legal Advice depends upon the specific facts of each situation. These materials cannot replace the advice of competent legal counsel.



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Child Support Basics

Victoria Davies, Esq.

Family Court Operations

Check court websites for the latest information:

Suffolk: <http://ww2.nycourts.gov/courts/10jd/suffolk/index.shtml>

NYCOURTS.GOV NEW YORK STATE UNIFIED COURT SYSTEM

10th JD - SUFFOLK COUNTY

Nassau: <http://ww2.nycourts.gov/COURTS/10JD/nassau/index.shtml>

NYCOURTS.GOV NEW YORK STATE UNIFIED COURT SYSTEM

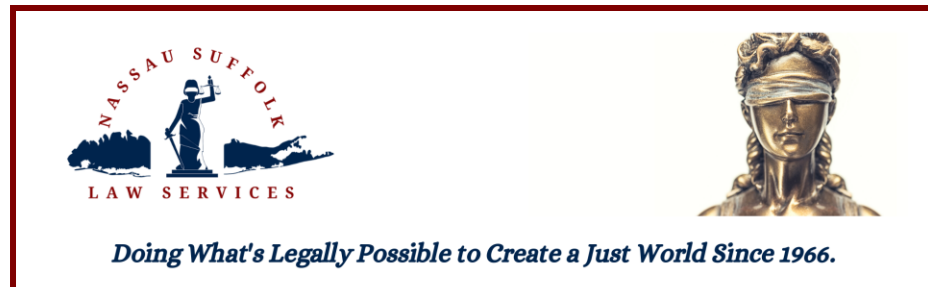
10th JD - NASSAU County



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Child Support: Initial Petitions

- Filed by parent or non-parent caregiver
- Department of Social Services (DSS) may file if parents/guardians are receiving family assistance or safety net, or Medicaid for child



Child Support: Getting Help

- **Probation/Intake- May be assisting in person, will assist by phone**
 - **Riverhead:** (east of 112): (631) 852-1939
 - **Central Islip:** (west of 112): 631-740-3750
- **NYCourts.gov:**
 - <http://nycourts.gov/courthelp/>
- **Child Support Enforcement Bureau (CSEB)**
 - Only if you are receiving payment through Support Collection Unit (SCU)
 - Location of non-custodial parent or putative father
 - Address, employment, income, assets and health care coverage
- Income execution
- (631) 854-3183
- **Helpline:** (888) 208-4485



Child Support Standards Act (CSSA)

Basic Child Support Obligation (BCSO) is percentage of income based on number of children.

How is income calculated?

- Gross less
 - Medicare and Social Security (FICA) contributions
 - Child support or maintenance paid to another person pursuant to court order
 - New York City and Yonkers tax



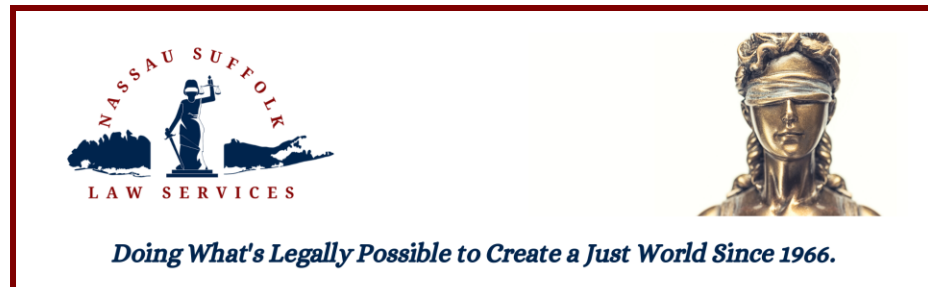
Child Support Standards Act (CSSA)

Income can be

- Veteran's benefits
- Unemployment benefits
- Social Security benefits
- Workers compensation
- **NOT** SSI or public assistance

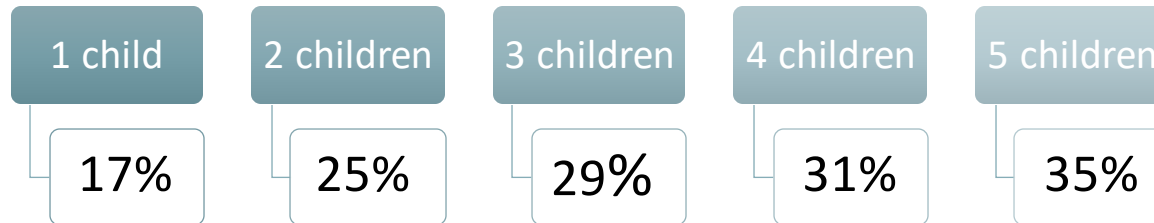
Imputed income

- Court suspects that income was artificially reduced
- Current income below earning potential
- Insufficient financial documentation provided

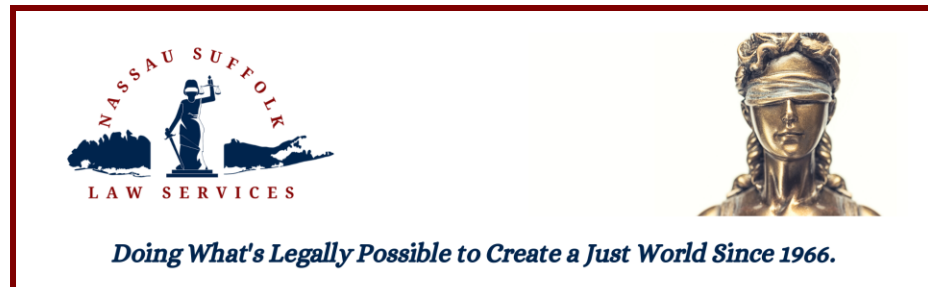


BCSO Standards

- For combined parental income under \$154,000/ year:



- Variation from the standards fact specific



Additional Child Support

Reasonable education

Health expenses not covered under health insurance

Health insurance premiums

Reasonable childcare

College Tuition



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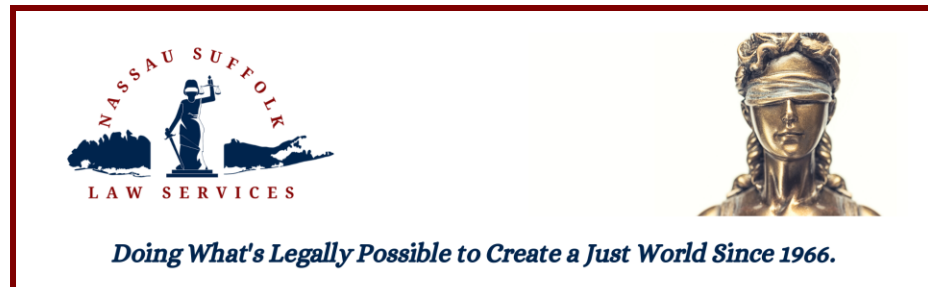
Paternity Petition

Establish paternity with

- Acknowledgment of paternity form by unmarried parents, usually at birth
- Parents married at time of birth = presumption husband is father
- Paternity petition
 - Court determines father by Order of Filiation
 - DNA testing

Paternity Petition DIY Program

- <http://nycourts.gov/courthelp/DIY/paternity.shtml>



Child Support Modifications

Automatic adjustments

- Cost of Living Adjustment (COLA) every 2 years
- If increase in Consumer Price Index (CPI) over 10%

Child Support Modification Petitions

- Attach prior child support order/modifications
- **Upward Modification:** Increase existing child support
 - Show expenses have increased
- **Downward Modification:** Decrease existing child support
 - Show substantial change in circumstances since the last child support order or modification
 - Unemployment, disability, decreases in salary
 - Child turns 21
 - Arrears Satisfied



Downward Modification Based on Change in Income

SSI/SSD Recipients

- Must prove can't work because of disability
- Evidence must be from medical records and medical provider testimony
- Court is not bound by SSA determination
- Permanent disability

Unemployment/decrease in salary

- Provide list of employment websites used
- Recruiters contacted
- List of employer applications
- Complete Odd Job Diary
- Show diligent efforts to find comparable work



Self-Support Reserve and Low-Income Parents

Self-Support Reserve (SSR) may limit child support award

- If standard child support would reduce parent's income below Federal Poverty, child support could be limited to difference between income and SSR, but not less than \$25/month
- Not automatic
- SSR is 200% of Federal Poverty. For 2022: SSR: \$18,347.
- For 2022, Federal Poverty = \$27,180 for individuals
- Federal Poverty Levels for larger families: <https://www.healthcare.gov/glossary/federal-poverty-level-FPL/>

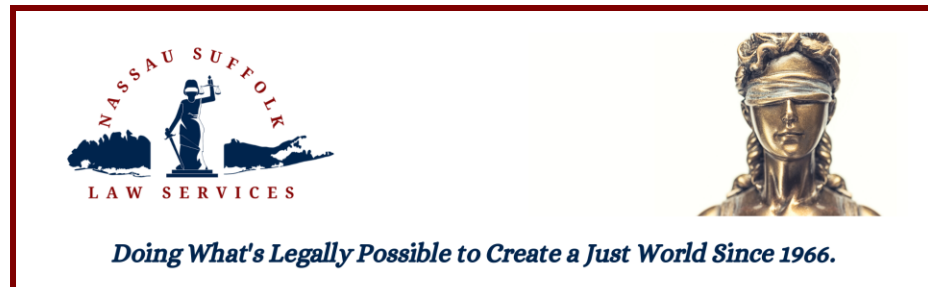


Getting Help

NSLS helps low-income non-custodial parents with modification petitions.

Eligibility:

- Income <200 % of poverty based on household size
- Further screens to determine eligibility



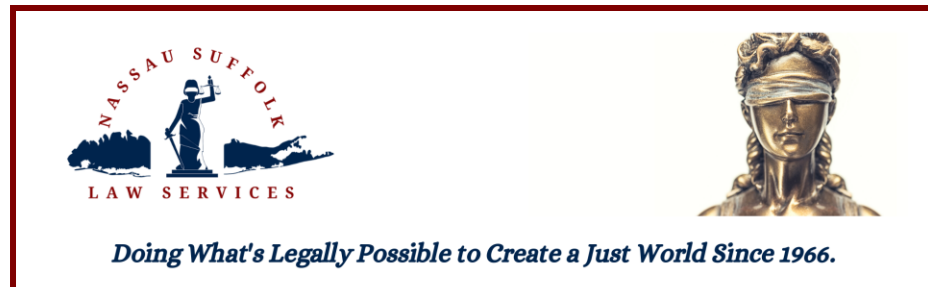
Arrears

- Child support arrears accumulate until date modification is filed
- CSEB provides monthly statement
 - If most recent CS Order requires payment towards arrears, must modify Order once arrears are satisfied
- CSEB can take an "Add-On" of up to 65% to pay arrears
 - The add-ons are reduced or terminated administratively through CSEB. NSLS can assist on a case-by-case basis.



Enforcement/Violation Petitions

- Need to look at agreement to determine whether to go to Family Court or Supreme Court to Enforce.
- Non-payment of court ordered child support is assumed to be “willful”
 - Subject to jail time (max 6 months) if found willful
 - Any payment, even if below CS Order, could result in a finding of non-willful
 - Show attempt to comply
- Parent at risk of incarceration entitled to court appointed attorney
- Arrears will likely be judgment, which carries 9% interest





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Custody Basics

Larry Tuthill, Esq.

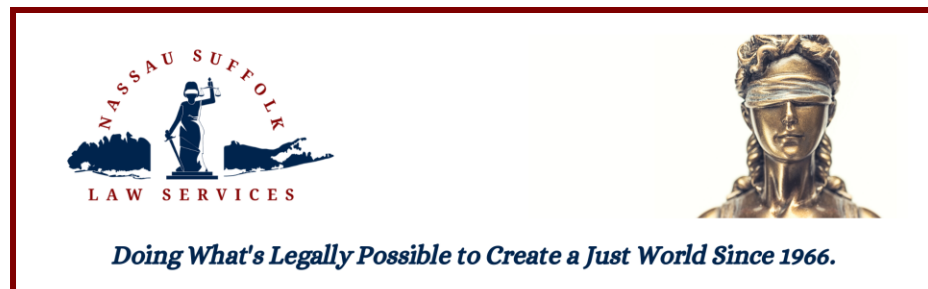
Joint Versus Sole Custody: Definitions

- **Joint legal custody (more common)**
 - Both parents must agree on important decisions about their children (medical, education, religious upbringing).
- **Sole legal custody**
 - Only one parent has the right to make major decisions for the child



Joint Versus Sole Custody: Definitions

- **Joint Physical Custody (rare)**
 - Child lives with each parent exactly 50% of the time
- **Sole Physical Custody (more common)**
 - Child lives primarily with one parent (more than 50% of the time)
 - This parent has physical custody (also known as residential custody)
 - Other parent has visitation
 - Visitation = shared parenting time



Custody Decision Making: Factors

Best Interest of the Child Factors

- Financial status of the parties
- Quality of home environment
- Child's desires (not determinative)
- Ability of parent to provide for child's emotional and intellectual development
- Health of the parents
- Family relationships
 - Keeping siblings together is preference
- Domestic violence



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Custody: Getting Started

File a petition or request mediation in Family Court

- File in county where child lives
- In general, child must have lived in NYS for at least 6 months



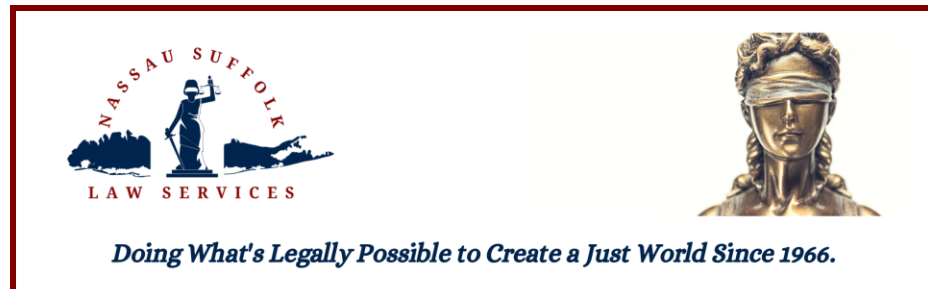
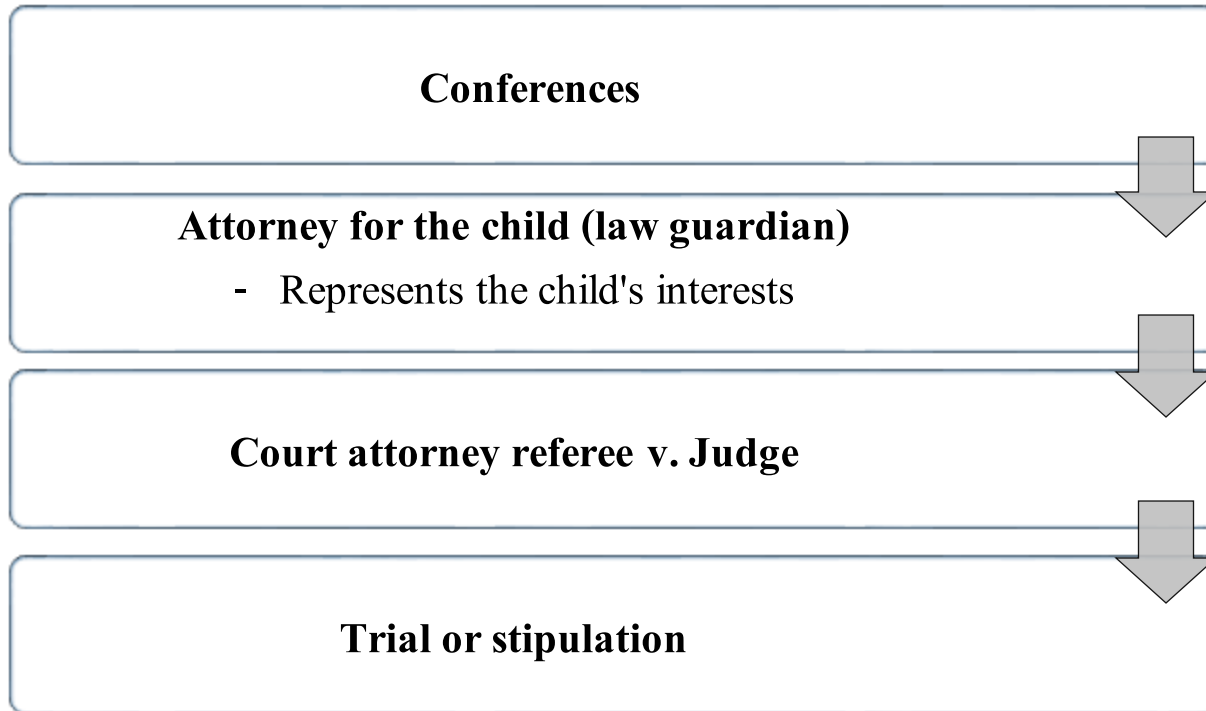
Custody: Getting Help

Legal Help

- Appointed attorneys available for low-income parents **starting at first court appearance**
 - Legal Aid Society of Suffolk or Legal Aid Society of Nassau
 - Ask LAS in Suffolk to pre-screen for eligibility as soon as the first court date has been scheduled
 - 18(b) panel
- DV survivors may be able to get support from DV agencies
- Family Legal Care
 - Legal hotline and virtual consultations. May help prepare initial petition.
 - <https://familylegalcare.org/>
 - (212) 343-1122



Custody Decision Making: Process



Custody: DIY Forms Modifications and Enforcement



Modification Form:

<https://nycourts.gov/courthelp/DIY/custodyModification.shtml>

Enforcement Form:

<https://nycourts.gov/courthelp/DIY/custodyEnforcement.shtml>



Custody and COVID

- Social distancing and visitation
- Parents who are essential workers
- Disruption in childcare arrangements
- Family relocation





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Domestic Violence Basics

by Kayla Schunk, Esq

Getting Help

The Retreat

(631) 329-2200



Brighter Tomorrows

(631) 395-1800



VIBS

(631) 360-3606



LI Against DV

(631) 666-8833



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Orders of Protection

Refrain From (or Limited) OP

Order to stop abusing, harassing or threatening the person

You can still live in the same home

Stay Away (or Full) OP

Must stay away from the person entirely

Must move out if you live together (eviction moratoria don't apply)

May be limits on communication



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Where to go for OP?

Family Court v. Criminal Court

- **Family Court**
 - Must be a family relationship
 - Must be related through blood or marriage, have a child together, or have an intimate relationship
- **Criminal Court**
 - There must be a criminal case
 - Prosecutor or victim may ask for OP
 - No family relationship needed



Family Offense Petition

- Address confidentiality affidavit
- Tell the court what the petitioner wants and why
 - Explain how you are related
 - Describe what happened
 - First event
 - Worst event
 - Most recent event
 - Explain what you want



What Comes Next?

Conference

Temporary OP issued same day without respondent present



Trial and disposition

Respondent's chance to consent to OP or object and present his side of the story



Enforcement

Call the police

Violation petition



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Thank you for attending!

If you have any questions,
please contact the Legal Support
Center for Advocates:
(631) 232-2400
ext. 3368 (Sharon Campo)
or 3324 (Cathy Lucidi).



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