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Family court for gambling problems: A Judge's Perspective

## Family court for gambling problems: A Judge's Perspective



[The Shannon Bybee Working Group](#) Published: February 20, 2016



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**By Judge Cheryl Moss**

What does one expect when they land themselves in family court because of a gambling addiction issue? This article describes how a family court judge navigates through court cases involving [problem gambling](#). Your questions are welcomed at the end.

## Evaluating The Impact Of Gambling On The Family

How does a family court judge address the issue of [gambling addiction](#) when it is brought up in the courtroom? First, one must understand that gambling addiction can exist within a marriage or family and it is never brought up in court until and unless one party makes the allegation. If it is an issue, then the judge must figure out what impact the addiction has on the family or marital community. What is marital waste?

As between spouses, the claim can be relevant to the division of assets and debts. In simple terms, the term “marital waste” involves the spending or dissipation of assets or monies for personal use that did not benefit the marriage and/or caused adverse economic consequences. The most obvious fallout is substantial debts being incurred through ATM withdrawals, credit card charges, payday loans, and cashing out of retirement accounts, among other things.

## Child Custody Cases

In the context of child custody cases, the judge must always consider the best interest of the children, including their safety and well-being. There have been instances where the gambling parent forgets and leaves the children in their car while inside the casino. A parent will likely claim that the other parent spends too much time away from home and has not been caring for the children due to gambling.

## Gambling Assessments For Parents

Some courts, including Nevada, have referred spouses or parents for gambling assessments to determine if there is a problem with gambling. Certified problem gambling counselors do the assessments and report back to the judge. The outcome can be:

1. No finding of a gambling problem
2. Some signs of gambling but not severe enough
3. At the extreme end, [problem gambling requiring inpatient treatment](#) and aftercare

If the gambling problem is not severe, the judge may order the gambler to attend education classes on the effects of problem gambling on the marriage and the family.

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## The Debate About The Distribution Of Assets

There is debate in the legal community if a gambling addiction means that the gambler's conduct was intentional or deliberate. Some lawyers would argue that the gambler acted with deliberation and knew what he or she was doing when they gambled away marital funds. Other lawyers would argue that gambling addiction is a disease and therefore the gambler is unable to control his gambling until he or she gets help. This is relevant to the extent that the judge must decide whether there should be an equal or unequal distribution of the parties' assets.

## Posing A Danger To Self Or Children

In the custody context, the judge would monitor the gambler-parent as it relates to his or her care, custody, and control of the minor children. The judge must ensure the gambler-parent does not pose a risk or danger to himself or herself and to the children.

## Judges Need To Recognize And Understand The Problem





Denise

10:53 pm February 22nd, 2016

Thank you, Judge Moss. As ever, you represent a concerned judicial representative who really cares about families affected by gambling problems! I salute you and am grateful for your work.



### About [The Shannon Bybee Working Group](#)

Authors contributing to this blog on Disordered Gambling are all recipients of the Shannon L. Bybee Award, presented by [the Nevada Council on Problem Gambling](#) in recognition of proactive commitment to problem gambling advocacy, education, and research. If you believe that you or a loved one may have a gambling problem, please call the 24-hour national Problem Gamblers Helpline at (800) 522-4700 FREE for confidential assistance.

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