



LAW OFFICE OF  
**BRYAN FAGAN**  
— PLLC —



# MEDIATION IN HOUSTON, TX

WORK WITH A HOUSTON ATTORNEY

CALL US FOR ALL YOUR FAMILY LAW NEEDS (281) 810-9760

## INTRODUCTION

Thank you for downloading our special report: about Mediation, with information that will help you protect your assets and secure your future. For more insider divorce tips, please download our other special reports about Dirty Divorce Tricks, How to Plan and Prepare for Divorce, and Divorce after 50. We understand that you have a lot of questions and concerns about your divorce and we want to help you feel as comfortable with the process as we can. If you would like to speak to one of our highly skilled Law Office of Bryan Fagan, PLLC attorneys, we encourage you to contact us to schedule a free confidential consultation. We're here for you, always. Sincerely, Bryan Fagan, Law Office of Bryan Fagan

## HOUSTON DIVORCE MEDIATOR

### PEACEFULLY DISSOLVING YOUR MARRIAGE

There are two ways to handle a divorce in Texas: the contested way and the uncontested way. If you can avoid contested divorce, it will save you time and money in the long run. Also, an uncontested divorce can be beneficial for your children because they won't have to go to court and may not detect as much animosity in your family.

In order to accomplish an uncontested divorce, you may need some help. This where the Law Office of Bryan Fagan, PLLC comes in. The attorney at this firm can guide you through the many decisions involved in the divorce process. You and your spouse can sit down together to discuss the different options while creating a satisfactory divorce decree.

### WHAT IS DIVORCE MEDIATION?

Mediation is a legal process that allows participants to develop a resolution outside of the traditional courtroom setting.

Mediation usually involves the two divorcing parties, their lawyers, and a neutral third party who serves as the mediator. The mediator's job is not to act as a Judge, but to facilitate help the parties come to an agreement themselves.

### WHAT A DIVORCE MEDIATOR CAN DO FOR YOU

A divorce mediator can meet with both you and your spouse and guide the conversation while helping you make collaborative decisions for your divorce. Mediation is only helpful if the spouses are on speaking terms and are willing to decide upon the terms of their divorce on their own. If one spouse is very opposed to the divorce, this method may not be the best choice for you.

#### A mediator can help you arrive at decisions concerning:

- Child custody
- Spousal support and alimony
- Child support
- Visitation
- Property division
- What is mediation?
- 5 Things to Do to Prepare your Texas Divorce Case for Mediation
- Mediation Essentials for Divorce and Child Custody cases in Texas

### WHAT ARE THE BENEFITS OF DIVORCE MEDIATION?

Mediation is a great way to work through a divorce if it is feasible in your situation. With mediation, you can carefully discuss all of your preferences and a divorce professional can advise you as to whether or not you are making a wise decision.

#### Some of the benefits of mediation include:



- ☑ Shorter time awaiting the divorce
- ☑ Less time in the courts
- ☑ Cheaper divorce
- ☑ The kids won't have to deal with the tension of a court battle
- ☑ You and your spouse can arrive at decisions that are best for your family without deferring to a judge
- ☑ More comfortable and less formal environment
- ☑ High chance of success (90%-95% mediation cases will settle through mediation)
- ☑ Increase control
- ☑ Creative solutions
- ☑ Confidential and more private

It is important to note that mediation is not for everyone or every case. In cases involving issues of abuse and do not believe that they can develop an amicable resolution may not benefit from this process. In such cases, it may be possible to request that the case skip mediation and go straight to court.

### WHY CHOOSE MEDIATION?

Couples and families wishing to resolve their family law and divorce-related issues have many legal options. If they want to resolve these issues outside of a courtroom, family law or divorce mediation is often the best choice.

Why choose divorce mediation? In Texas, family law mediation usually concludes with an amicable resolution to even the most complicated family problems—making it one of the fastest-growing alternative dispute resolution methods in the state

### POSITIVE RELATIONSHIPS

During the Texas divorce mediation process, both parties meet with a neutral third-party professional (also known as a mediator) to reach an agreement. During this meeting, Texas couples may choose to enter mediation with or without their lawyer's present.

These confidential sessions allow for both parties to discuss their differences in a safe and controlled environment. Unlike a judge, the mediator does not make any decisions; instead, the mediator facilitates appropriate conversation between the disagreeable parties to reach a mutually beneficial agreement.

Nothing discussed in the Texas mediation sessions is formally agreed to or enforceable unless there is an executed agreement that has been signed by both parties. In other words, mediation is non-binding.

### THE BENEFITS OF FAMILY LAW MEDIATION

Many litigants or potential litigants are gravitating towards Texas mediation due to the following benefits that TX mediation has to offer:

- ☑ Voluntary—in private Texas mediation, both parties are willing participants who want to be engaged in the process towards a potential resolution.
- ☑ Confidential—all Texas mediation, whether private or court-mandated, takes place in a confidential setting. This ensures that the settlement discussions and negotiated positions revealed by each party never reach the judge, courtroom, or court papers. Therefore, both parties are free to openly offer reasonable settlement terms without the concern that a judge might learn about their "over-generosity" or "under-generosity" should a settlement not occur in mediation.
- ☑ Neutral—in both the private mediation process and in court-mandated Texas mediation, the professional mediator's role is to remain impartial with no vested interest in either party's position. After understanding both parties' positions, the TX mediator will facilitate a reasonable agreement between the parties.
- ☑ Non-binding—no agreement reached during the mediation session is initially subject to enforcement until both parties sign the final settlement contract.



- ☑ Collaborative - During a mediation session, the mediator's goal is to assist the parties in working together to reach an amicable resolution. The plan is that the solution will suit their needs and their family's needs. When couples settle their conflict during mediation, it tends to reduce the tension between the parties. Mediation helps to preserve the relationships, strengthen co-parenting, and provides a greater likelihood of compliance with the agreement(s).

## MEDIATION PREPARATION

It is not uncommon for some of the people who consult with me regarding a divorce to ask why do we need to go to mediation? Is mediation required to get a Texas divorce? The answer is no mediation is not mandatory to divorce in Texas.

I have found though in most cases mediation is a very good way to settle divorce cases in manner that allows for certainty of the outcome and a way to control cost. In today's blog to we will discuss why mediating your Texas Divorce Case is a good idea and 5 ways you can prepare your case for mediation.

### WHY MEDIATION?

In Harris County and Montgomery County mediation has become almost universal accepted as well are required in family law cases. When there are two attorneys on both sides of family law case in these counties there rarely question why we do it. However, for individual who does not practice family and divorce law and who this may be their first experience with a lawsuit the why is not quite so clear.

As I mentioned earlier mediation is not required to settle a divorce case in most cases when the parties are agreed. However, many courts in Harris and Montgomery counties require the parties attempt mediation before asking for a hearing on:

- ☑ Temporary Orders or
- ☑ Final Trial

This means that if you need a hearing mediations may not only be a requirement in many cases, but a stepping-stone before you can progress to the next step in your divorce. I sometimes get the questions can we ask the court to waive the mediation requirement because I know we will never settle?

Yes, we can ask the court to waive the mediation requirement. However, that involves filing a motion and setting that motion for a hearing. Unless there is a good reason like family violence then there is a good chance the judge will say no. This means in most cases it is probably easier and cheaper just to check the box and go to mediation.

If you think of mediation as a stepping-stone, you may be tempted to prepare for the mediation in a casual manner.

However, a better way to prepare for mediation even if the mediation may be unsuccessful is as if you are getting ready for trial. This is because if you settle in mediation then the case is done and costs are minimized. If you do not settle then you are ready for a court hearing.

Other benefits to mediation than "the judge made us do it" include:

- ☑ Creativity
- ☑ Cost savings
- ☑ Relationship Preservation
- ☑ Greater Privacy and confidentiality
- ☑ Lawyers to be an advocate
- ☑ Successful resolution and Finality



## MEDIATION ALLOWS CREATIVITY

One benefit of mediation it allows for greater creativity and customization then going to court. In court a Judge is limited to what is in the Texas Family Code to deciding the outcome of a case. Parties often want a judge to give them a customized and creative solution to their problems. Unfortunately, because of time and the tools available to a judge in the Texas Family Code this is just not possible.

However, through mediation, the possibilities available to parties are much greater because "tools" are much more exhaustive and are for the most part only limited by their imagination and what they can agree on. Parties can agree to almost anything that is not illegal. Texas case law also says that judges are extremely limited in their ability to refuse to enter a decree based on the agreement of the parties in a mediated settlement agreement.

This means that things would be harder to get a judge to order such as:

- ☑ 50/50 time with the children
- ☑ No Child support
- ☑ Split custody
- ☑ Paying certain bills as child support and more

Are possible through mediation where they would be very unlikely if the case when in front of a judge.

## MEDIATION ALLOWS COST SAVINGS

One of the most frequently cited reason for attending mediation is the that it can save you a lot of money, versus going to trial. This is likely true, and has been my experience in most cases. However, mediation does not necessarily save money in all cases. If as my clients sometimes tell me this case will never settle turns out to be true it may an additional expense.

However, even when that turns out to be the case I do not believe mediation is a waste of money and effort. I would say over 90% of time I learn more about a case from mediation then I did before. This is generally because I only have my client's perspective about a case and get to learn more about the facts the other side deems important which allows me to greater prepare for their case.

One way to maximize the chances of settling the case in mediation and reduce the cost of divorce is by being careful not to cut corners leading into the mediation. This means preparing for the mediation and having:

- ☑ Financials ready
- ☑ Inventory and Appraisement done
- ☑ Proposed Property Division
- ☑ Proposed Visitation order, etc.

## MEDIATION ALLOWS YOU TO PRESERVE YOUR RELATIONSHIP

Another reason that is often given for mediating a case versus going to court, is that it can help save the relationship. The idea behind this is if the case goes into a public courtroom often the parties will be saying hurtful, embarrassing, and possibly untrue bad things about the other party. This behavior can damage or worsen the party's relationship.

Something the parties should consider is that they will be co-parent their children for nearly two decades after their divorce. If the case goes to trial, you can expect to spend tens of thousands of dollars on the trial.

Generally, afterwards one of the parties will be unhappy and you can expect they will be looking for a chance to take the case back to trial. One philosophy is that by discussing, compromising information, and reaching agreements out of court in mediation can be a much better way the handle disputes.





LAW OFFICE OF  
**BRYAN FAGAN**  
— PLLC —

## **WE'RE HERE FOR YOU**

When it comes to your financial future, your peace of mind matters. No matter where you are in the divorce process, we are always available to help you protect your assets and safeguard your future. As a Texas law firm exclusively devoted to divorce and family law, our experienced divorce attorneys will explain your options and support you throughout the process. Please contact us at (281) 810-9760 if you would like to schedule a free confidential consultation

**CALL US FOR ALL YOUR FAMILY LAW NEEDS**

**(281) 810-9760**