



LAW OFFICE OF
BRYAN FAGAN
— PLLC —



MILITARY DIVORCE IN HOUSTON, TX

WORK WITH A HOUSTON ATTORNEY

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INTRODUCTION

Thank you for downloading our special report: about Military Divorce, 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 MILITARY DIVORCE

THE LAW OFFICE OF BRYAN FAGAN, PLLC CAN ASSIST YOU

Are you a military servicemember facing a divorce? Or the spouse of a servicemember ready to dissolve your marriage? Military divorce can be considerably different than civilian divorce and it is always recommended that both spouses seek counsel familiar with the unique protocols and concerns inherent to this legal process.

At the Law Office of Bryan Fagan, PLLC, our experienced team of Houston attorneys is well-versed in the challenges of military divorce. For both the servicemember and their spouse, it is critical that their interests are spoken for and that the future well-being of them and their family is protected both in and outside the courtroom.

WHY MILITARY DIVORCE IS DIFFERENT

All of the factors that need to be parsed in a civilian divorce also need to be addressed in a military divorce. However, because one or both spouses serve in the military, there are added considerations to this process that must be confronted in order to fairly dissolve the marriage.

THESE CONSIDERATIONS INCLUDE:

- ☑ Where to file: If the spouses are separated due to military service, they must usually file for divorce in the state where the servicemember lives.
- ☑ Child Custody: For members of the military, reassignments and deployments could be a significant part of their service. This can make child custody and visitation particularly challenging.
- ☑ Military Benefits: Medical and pension benefits provided by the military can be divided during the divorce process. While state laws often address this division, there are some considerations that must be made on a case-by-case basis.
- ☑ Alimony and Child Support: Military servicemembers are held to high standards when it comes to post-divorce financial responsibilities—but many of them also face unique challenges, such as deployment. Calculating income and living expenses is also substantially different for military personnel.
- ☑ Military Divorces in Texas
- ☑ How to Divorce a Spouse in the Military
- ☑ Texas Statute Aids Military Personnel and Their Spouses in Filing for Divorce

No matter what side of the aisle you're on when it comes to a military divorce, capable, vigilant counsel is always highly advised. For more information on your military divorce and how our firm can assist you, contact us today.

HOUSTON CHILD CUSTODY ATTORNEY

Your children are the most important people in your life. If you are currently facing a child custody battle, it may benefit you to contact the educated and experienced team at the Law Office of Bryan Fagan, PLLC. Whether your case must be handled through the use of litigation or can be resolved amicably with the use of mediation, you can count on the firm's Houston child custody lawyers to assist you.



When it comes to the well-being of your children, you would not want to place your child custody case in the hands of just any lawyer, would you? At the Law Office of Bryan Fagan, PLLC, our child custody attorneys in Houston, Texas understands how emotionally draining and overwhelming child custody cases can be—especially if they involve having to go to court. The team possesses a great deal of experience handling custody cases and they are prepared to assist clients no matter how complicated the situation may be.

The team is passionate about maintaining an in-depth familiarity of the Texas family law system, and founding Attorney Fagan does so by choosing to continue his legal education. Attorney Fagan attends the College of the State Bar of Texas, making him part of the 10% of Texan lawyers that are qualified to do so. In addition, with an A+ Rating by the Better Business Bureau, the team has truly demonstrated their high level of professionalism and legal ability.

HOW DO YOU GET A CONSERVATORSHIP IN TEXAS?

Texas uses the term “conservatorship” while most states simply use “custody”. As a result, the parent that has custody of the child is known as the “conservator”. A few terms that stem from this are:

TYPES OF CHILD CUSTODY IN TEXAS

Child custody can be arranged in several different ways. Both parents can have equal custody of the children post-divorce, or one parent may have majority or sole custody. Normally, the court arranges this after evaluating the parents and their relationship with their children. Also, the court will need to evaluate whether or not parents could work together in a joint custody relationship.

- ☑ Joint Custody: When both parents have some degree of custody over the children
- ☑ Sole Custody: When one parent has primary custody over the child
- ☑ Legal Custody: Designated for the parent who makes decisions education, medical care, religion, etc.
- ☑ Physical Custody: Designated for the parent that owns the residence where the child lives

The courts can award joint legal or physical custody and may require ex-spouses to split their time with the child equally or in a percentage that is most convenient.

HOW DO I PROVE MY CHILD'S BEST INTEREST?

If the court is responsible for determining child custody in your case, then they will decide the matter in what they conclude to be the best interests of the child.

In order to act in the best interests of the child, the court evaluates:

- ☑ The child's relationship with both parents
- ☑ The parents' willingness to allow the child to have a relationship with the other parent
- ☑ The parents' location
- ☑ The parents' history with alcohol, drugs or smoking
- ☑ The parents' ability to work together
- ☑ The health, age, employment and well-being of both parents
- ☑ Child Custody Basics for Texas Parents Revisited
- ☑ High Conflict Child Custody Cases in Texas
- ☑ 11 Things You Must Know About Texas Child Custody

WHY MEDIATION BENEFITS BOTH PARTIES

The courts in Texas encourage spouses to work through child custody plans together using a mediator. At the Law Office of Bryan Fagan, PLLC, the firm can provide you with a trustworthy and helpful mediator. In mediation, you and your spouse will sit down and calmly work out a custody plan that works best for both of you and one that helps the children. The judge normally adopts the parents' plan unless it is not in the best interests of the child. This can help keep your children out of court and maintain a calm atmosphere in the home.



Regardless of how complicated matters may seem, the team does everything in their power to help clients reach favorable results. Clients always work directly with our Houston child custody attorneys, and the team always strives to go above and beyond what is expected of them.

For more information about child custody including custody modifications, or to schedule your free case evaluation, be sure to contact the firm!

MILITARY DIVORCES IN TEXAS

Life for the men and women who serve in our country's military is both extremely rewarding but also full of challenges and hardships. As an attorney with the Law Office of Bryan Fagan, PLLC, I have had the opportunity and the honor to represent active duty members of the military as well as veterans in their child custody and divorce cases.

As citizens of the United States, we owe a debt of gratitude to these folks who sacrifice their personal comforts and peace of mind so that we as a nation may retain ours. That is something that is not lost on the divorce attorneys and staff at our office.

What is also sacrificed, I have learned through my representation of military personnel and their spouses, is that family life is probably the first area that begins to suffer when hardships start to occur.

When a divorce is on the horizon it is essential to have representation that understands the special circumstances that a military family lives under and how best to tailor their divorce to those circumstances. This blog post will discuss some of those issues for divorcing military members and their spouses.

HOW DOES A DIVORCE DIFFER FOR MILITARY FAMILIES VS. CIVILIAN FAMILIES?

To begin, active duty members of the United States Armed Forces are protected from litigation matters while deployed by the Servicemembers' Civil Relief Act. As mentioned prior, active duty military personnel as well as activated reservists and deployed members of the National Guard are covered and protected from the initiation of continuation of any legal process while serving their country either domestically or abroad.

This means that new cases (divorce included) cannot be filed against you while you are an active duty member of the military (without your consent, that is) and cases that are proceeding currently cannot go into default judgment until more than sixty days has elapsed since your leaving active duty status.

Child support arrearages, for example, will continue to mount while you are serving the country but the court cases associated with the arrearage (if any) will be stayed as discussed in the prior paragraph.

MILITARY RESIDENCY IS DETERMINED IN A DIFFERENT FASHION THAN CIVILIAN RESIDENCY

Another area where a military divorce is different than a civilian divorce is in determining which state has jurisdiction in the divorce case itself. Military families are notorious for having to move all over the country and world in order to comply with the military member's orders.

In some instances a father in the military will be staying on a military base for a little under a year prior to shipping off overseas. Meanwhile, his family will have never even been to the member's temporary home base.

Determining the "domicile" of the soldier is key. Whether a divorce can be filed in the soldier's home state or the state where his or her family resides is a determination for the court in which the divorce is filed as well as the court in which their spouse would prefer the divorce to occur, if any. For the most part in Texas, if a military member lists Texas as his or her residence it does not matter if she or she has not been back here in a decade or more- it is still possible to file for divorce here. It just has to be shown that the military member's intent is to return to Texas after their active duty status ends.



MILITARY RETIREMENT- JUST HOW MUCH IS AT STAKE?

Other than children, perhaps the most commonly asked question that an attorney with the Law Office of Bryan Fagan, PLLC receives in a consultation on divorce is regarding retirement benefits. The law that controls military retirement benefits in the context of a divorce is the Uniformed Services Former Spouses' Protection Act (FPSA).

This law does not state specific terms by which a military divorce must proceed as to military retirement benefits and allows each state to develop its own law in regard to distributing military benefits in the event of a divorce.

Texas is a community property state. In theory, this means that a civilian spouse is entitled to one half of any military member's retirement benefits from the date the parties were married until their divorce.

This doesn't always mean that a straight one half cut of the retirement benefits will go to each spouse. Frequently the valuation of the benefits is not taken into consideration fully and is therefore an issue when it comes to attempting to settle a military divorce. Having an attorney with some experience in deciphering the paperwork you or your spouse has received in regard to this benefits can be absolutely crucial.

Finally, military spouses do not need to be married for a certain length of time to have retirement benefits become available for a divorcing spouse, but in order to receive direct payments after a divorce a couple must have been married for at least ten years.

If a couple has been married for more than twenty years the nonmilitary spouse can continue to receive health insurance benefits. In addition, former spouses can still be designated as beneficiaries under the Survivor Benefit Plan if the military member dies.

STRONG, EFFECTIVE ADVOCATES FOR MILITARY FAMILIES- THE LAW OFFICE OF BRYAN FAGAN, PLLC

If you are an active duty member of the U.S. Armed Forces, or if you are married to a member of our military, having an experienced family law attorney at your side is essential if a divorce is going to become a reality for you and your family.

The Law Office of Bryan Fagan, PLLC represents clients across Southeast Texas and we are proud to county many military families among those clients. Our knowledge of the law is coupled with a down to earth understanding of people, families and the importance of their individual circumstances and challenges. Please contact our office today with any questions you may have. Consultations are free of charge and a licensed family law attorney is available to meet with you six days a week.

HOW TO DIVORCE A SPOUSE IN THE MILITARY

At The Law Office of Bryan Fagan, PLLC, we recently received a phone call from the spouse of an active duty member of our armed services. She, her husband and their children are stationed in Europe currently and unfortunately the phone call pertained to her and her husband seeking a military divorce. While the process of divorcing a spouse who is in the military is nearly the same as a civilian divorce, the difference merit further examination.

MILITARY DIVORCE V. CIVILIAN DIVORCE

To begin, a military divorce should be filed where a party considers their domicile to be. Meaning, if either spouse considers Texas to be their permanent home that they intend to return to upon completion of their deployment, then either spouse may file in Texas. The standard jurisdictional law still is relevant, however: the party must have lived in Texas for at least six months prior to deployment and in the specific county of filing for at least 90 days to be under Texas jurisdiction.



Once a Petition for Divorce has been filed, it must be personally served on the non filing party so that they have an opportunity to enter an Answer. An exception exists for the non filing spouse if they sign a "waiver" of personal service and have it filed with the court. An important law to keep in mind is a federal statute known as the Soldiers and Sailors Civil Relief Act which protects active duty soldiers from having a default judgment placed against them for failure to respond in time to a Petition for Divorce. Active duty soldiers and sailors can have divorce proceedings postponed for the entire length of their deployment as well as an additional 60 days. This right afforded to service members can be waived.

Military retirement benefits is essentially the other area of property division that differs for military divorces when compared to civilian divorces. For a dependent spouse to receive any portion or distribution of military retirement benefits the couple has to have been married for at least 10 years while the service member was on active duty. The division of military retirement funds are determined by another federal statute- the Uniformed Services Former Spouses' Protection Act.

Finally, when children are at issue in a divorce, child support judgments in Texas are decided according to statutory guidelines with a cap at 60 percent of the service member's pay. It is important to have an experienced Texas family law attorney assisting a party to a military divorce in this area specifically, as a Texas court must have jurisdiction over the children to enter child support orders.

The nature of military divorces, while not completely different that those for civilian citizens, is unique. It would be to the benefit of any person whose spouse is in the military to consider the advice and counsel of an attorney whose practice deals in military divorces and the laws that encompass them. The Law Office of Bryan Fagan, PLLC is available to consult with you on your particular situation and to guide you through this process in order so that your rights, and those of your family, are protected.

TEXAS STATUTE AIDS MILITARY PERSONNEL AND THEIR SPOUSES IN FILING FOR DIVORCE

When a person either serves in the military or is married to a person serving in the military, moving from place to place is a fairly common occurrence. If either spouse is from Texas and would like to file for divorce in Texas, this can cause a problem regarding the residency requirement as stated in the Texas Family Code. Generally speaking, in order to file for divorce in Texas at least one party must have been living in Texas for six months and the county where the suit has been filed for 90 days prior to filing suit. However, the Texas Family Code Section 6.303 provides an exception for these public servants and their spouses. The remainder of this blog explains the details of this statute as well as its effects on divorce cases in Texas.

If Texas is the domicile of a military member or Federal Employee serving outside of Texas, that person is still able to file for divorce in Texas. Domicile means that Texas is considered to be the permanent home the party intends to return to after completion of the service assignment that necessitates their absence from the State. A spouse of a soldier or public servant may exercise this same right.

For example, we can consider the circumstances of a hypothetical client named William to bring the aforementioned statute into a real-life scenario. William lived in Montgomery County, Texas and considers it to be his domicile prior to enlisting in the Army. William lived outside of the State of Texas and Montgomery County for years due to military assignments and during that time period met and married a woman named Susan. William and Susan lived overseas in Germany when unfortunately, it became apparent to both persons that the marriage was not working out. In this scenario, William may file for divorce in Montgomery County if that is his desire. His having lived outside of Texas for any length of time does not hinder his ability to file for divorce because his absence was due to his having served in the military.

This statute allows service members or other public servants and their spouses to use Texas Courts in order to petition for divorce without first needing to re-establish residency upon returning to the State.





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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

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