



LAW OFFICE OF
BRYAN FAGAN
— PLLC —



MODIFICATIONS 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 Modifications, 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

MAKING DIVORCE MODIFICATIONS IN TX

HIRE A HOUSTON ATTORNEY

Sometimes, the divorce decree you created and filed when you separated from your spouse doesn't pan out like you thought it would. For example, you may have established the child support payments that you would pay out to your ex and the children every single month. Shortly after the divorce, you may lose your job. In this case, you may need to seek a modification to lower your child support dues to you don't go into debt.

The Texas Family Code sets forth the rules that you have to follow in order to either increase or decrease a person's child support obligation. Whether a new job has resulted in a higher income for their ex-spouse or they themselves are making less money because of a change in employment, a modification of the child support figure is justified.

REASONS TO MODIFY CHILD SUPPORT

General Rules

- You must wait at least three years from the time the last order (whether an original order or modified order) was set into place
- Whatever the "new" amount of child support should be must differ by at least 20% or \$100 from the current monthly child support amount

If the rules above don't fit your situation, then you can still modify your child support order if you can prove a substantial change in circumstances to the judge. Examples include:

- Job loss or significant job raise
- Medical expenses
- Unexpected costs
- Pay cut
- Change in the child's daily needs (school, medical, etc.)
- Change in the custody of the child

If you need to move out of state, you may need to modify your child custody or visitation schedule to accommodate for the distance.

HOW CAN I MODIFY A DIVORCE DECREE?

It is tempting to just go to your ex-spouse and attempt to work out an informal arrangement whereby your support figure is changed with a handshake. Modifying your divorce decree is not a simple task. You cannot simply tell your ex-spouse that you need to make changes in your decree and then implement them accordingly. Instead, you are required to go through the court. Since the court has jurisdiction over your divorce decree and is responsible for enforcing it, they will need to approve or deny your requested modifications.

- Texas Child Visitation Modification
- Texas Child Custody Modifications
- Child Support Modification in Texas (Part 1)



PROVIDING PROOF FOR A MODIFICATION

The courts won't grant a modification simply because you request one. Instead, you will be required to bring a suit and provide evidence of certain facts. You may be required to explain why you need a modification and show what makes this modification beneficial for all parties involved.

Most modifications are the result of changed circumstances. For example, he or she must prove that the circumstances of one or both parents have materially and substantially changed since the time the order was made.

TEXAS CHILD VISITATION MODIFICATION

Spending time with your children is one of the most important things you can do every day. Children look forward to their visitation with their non-custodial parent, and parents rely on having that time with their children. Parents should be very thoughtful when seeking to modify a visitation arrangement, so as not to do more damage to the child involved. Parents should never seek to change a visitation schedule as a way to punish the other parent or the child.

Sometimes modification is necessary, however, and in those cases, our Texas Family Lawyers are available to assist you in creating a visitation schedule that works best for your family.

HOUSTON VISITATION MODIFICATION ATTORNEYS

Our Houston Family Law attorneys are dedicated to the resolution of your family's modification requests and other family law in the most congenial and positive way possible. If you're a resident of Houston or the surrounding area of Harris, Montgomery, Fort Bend, Waller, Washington, and Grimes counties and have questions concerning child visitation modification in Texas, contact one of our attorneys to set up a free consultation to discuss the details of your case.

GROUNDS FOR MODIFICATION

Courts will modify a visitation arrangement if the modification is in the best interest of the child AND circumstances have materially and substantially changed.

Examples of material and substantial change might include:

- A change in a non-custodial parent's employment schedule, which makes the previous schedule unworkable
- A non-custodial parent's drug or alcohol abuse, which presents a danger to the child and warrants supervised visitation
- Conviction or deferred adjudication for child abuse or family violence

You should discuss all of the circumstances in your case, including any changes in location or lifestyle, to your attorney, who can help you determine whether those changes are material and significant.

MILITARY FAMILIES

Military Families often have special concerns regarding what will happen should one of the parents be deployed. Texas law provides for these situations.

If a custodial parent is going to be deployed, he or she can petition the court for a temporary order granting custody to another person. This person can be the other parent, a person chosen by the custodial parent, or a person chosen by the court. This order will end when the custodial parent returns home. If the non-custodial parent is granted custody under this temporary order, then the custodial parent can choose another person (such as a spouse) to have visitation with the child while the custodial parent is deployed.

If a non-custodial parent is going to be deployed, then the non-custodial parent may choose another person to have visitation with the child while they are gone. This person must be approved by the court. When the non-custodial parent returns home, he or she will resume visitation rights.



TEXAS CHILD CUSTODY MODIFICATIONS

Texas Child custody battles can be very emotionally upsetting, particularly for the children involved. After a divorce, children and adults need time to heal, adjust, and come to terms with their new living arrangements.

It is very important to remember that a rehashing of a custody dispute after the divorce is over can be very distressing to everyone involved, and might do more harm than good. We encourage anyone who is considering asking the court to modify their custody arrangement to consider out-of-court remedies first, and resort to a courtroom battle only when absolutely necessary.

The attorneys at the Law Office of Bryan Fagan, PLLC can speak with you about all of your options in handling this particularly sensitive situation.

HOUSTON CHILD CUSTODY MODIFICATION ATTORNEYS

At the Law Office of Bryan Fagan, PLLC, we understand that situations may have changed regarding the custody of your children, and we will work to ensure that they have the best possible living situation following the modification of your child custody agreement.

If you're a resident of the greater Houston area consisting of Harris, Montgomery, Fort Bend, Waller, Washington, and Grimes counties and have questions concerning child custody modification in Texas, get in touch with our attorneys and schedule a free consultation to discuss the particulars of your case.

It is always important to consider why you want to modify your custody arrangements. Doing it to "get back at" your ex-spouse is never an acceptable reason, and will probably hurt your relationship with your children more than help it.

However, there are plenty of valid reasons to consider modifying a custody agreement, including a change in financial resources, better educational opportunities for the child, serious illness or injury of a child or parent, or the preferences of the child or parent.

OUT OF COURT OPTIONS

Most parents do not realize that they can choose to modify their custody agreement on their own. Courts almost always agree to the wishes of the parents, as long as they are in the best interest of the child. It is perfectly acceptable to ask the court to make an agreed-to modification of the order, and the court will almost always do so.

It is also possible for the parents to bypass the court altogether, and agree that the child will live with one parent instead of the other without formally modifying the order. However, this could be a risky maneuver for the parent taking custody of the child, as the other parent may decide to enforce the still-valid order at any time and take the child back. This risk decreases after the child has been relinquished for more than six months, but there is still the possibility that the court might enforce the original order.

Your attorney can explain the risks and benefits of choosing to handle your custody arrangement out of court and help you make the best decision for your family.

MODIFICATION BY THE COURT

Courts will modify an order regarding possession of the child only if the modification is in the best interest of the child, and one of these three tests is met:

- ☑ Changed Circumstances: the circumstances of one of the parents or the child must have materially and substantially changed.
- ☑ Child's Request: the child (age 12 or older) files a written request with the court
- ☑ Relinquishment: the custodial parent has given the child to the other parent for at least 6 months



Examples of changed circumstances include moving very far away, or changing your lifestyle significantly (such as starting a new job, which would require the child to be alone at night). There is no clear Texas law regarding whether remarriage is a significant, material change.

You should disclose any changes in lifestyle or location to your lawyer, so that he can help you decide whether those changes might be material and significant.

CHILD SUPPORT MODIFICATION IN TEXAS (PART 1)

It is not uncommon for a client to express concern to me regarding possible changes to their income during a divorce in relation to their obligations to pay child support. What I usually tell them is in general after a divorce property issues are done. However, under the law of Texas child issues are generally not done until after the child graduates high school or turns 18 whichever comes later.

Basically this means that child support law was written with the understanding that the person responsible for paying child support's ability to provide financial support for their children might change.

Should a change occur that would impact a parent's ability to pay for child support. They are allowed file a "Petition to Modify" the child support order on the basis that there has been a "substantial change in circumstance". It is not uncommon for a client to express concern to me regarding possible changes to their income during a divorce in relation to their obligations to pay child support. What I usually tell them is in general after a divorce property issues are done. However, under the law of Texas child issues are generally not done until after the child graduates high school or turns 18 whichever comes later.

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Should a change occur that would impact a parent's ability to pay for child support. They are allowed file a "Petition to Modify" the child support order on the basis that there has been a "substantial change in circumstance".

Possible reasons for a substantial change in circumstance may include:

- a serious illness
- change in employment, or
- even being deployed in the military

Generally, once my client's understand there are options available to them to modify their support obligations if necessary they feel better. These same options are available to a parent who feels like the other parent is not providing adequate support to a child.

HOUSTON CHILD SUPPORT MODIFICATION ATTORNEYS

The lawyers at The Law Office of Bryan Fagan, PLLC are dedicated to helping you and your family find the solution that works best for everyone. We understand things may have changed from the time child support decision was made, and we will work to promote the best interests of you and your child in the modification of the child support order. If you have questions regarding modification of a child support order in the greater Houston area, including Harris, Montgomery, Fort Bend, Waller, Washington, and Grimes counties, contact our Houston family law attorneys to schedule a free consultation and discuss the details of your case.





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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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