



LAW OFFICE OF
BRYAN FAGAN
— PLLC —



VISITATION MODIFICATION 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 Visitation Modification in a 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

VISITATION MODIFICATION

Our team understands that family matters are sensitive, personal, and merit our full time and attention. As a parent facing a visitation conflict or change, you could probably use a helping hand and the stable, trustworthy counsel of an experienced legal advisor. That's where the Law Office of Bryan Fagan, PLLC comes in.

We provide all of our clients with personalized, face-to-face service, and we take the time to listen and understand your family dilemma. The court system may be jam-packed and slow-moving, but we are willing to work hard to make your visitation modification requests heard so that you can get the answers you need as soon as possible. If you are interested in modifying your visitation agreement, speak to one of our Houston family law attorneys right away.

- ☑ Texas Child Visitation Modification
- ☑ Common Possession and Visitation Schedule Questions
- ☑ The Ins and Outs of Child Visitation in Texas

CAN I CHANGE MY VISITATION AGREEMENT?

Yes. However, modifying your visitation agreement requires court approval, and you can't make changes for just any reason. You may be able to successfully alter your agreement if any of the following are true:

- ☑ Your circumstances or those of the other parent have changed significantly since the original visitation order was issued or last changed.
- ☑ Your child is 12 or older and is willing to personally speak with a judge to tell them that they want them to change the visitation orders.
- ☑ The custodial parent has voluntarily relinquished their parental responsibilities to someone else for more than 6 months.

If any of these describe your circumstances, our Houston family lawyers may be able to help you get your modification orders adjusted to that they are fair and beneficial to you and your child. In the meantime, keep in mind that you are legally obligated to fulfill the terms of your visitation agreement until and unless permitted by the court. Military families may have unique challenges when seeking to change a visitation agreement.

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.

GROUNDINGS 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.

COMMON POSSESSION AND VISITATION SCHEDULE QUESTIONS

Parents who are preparing to live underneath a possession schedule as a result of their divorce or child custody case will always have questions about how to either structure their schedules or how to best ensure their and their child's lives are transitioned well into the new lifestyle. With this in mind I wanted to share with you all some information on possession, visitation and time management in regard to your child.

While your specific situation may not be addressed in this article do not worry. The attorneys with the Law Office of Bryan Fagan, PLLC are available six days a week to answer your questions in a free of charge consultation. Please feel free to contact our office once you have read this blog post in order to set up a consultation and to learn more about the services that our office provides our clients with.

THE AFFECT OF SCHOOL ON POSSESSION IN TEXAS

If you are living under a Standard Possession Order (SPO) and have actually read the language included on the sections detailing possession then you will know that the order likely takes into consideration those weekends that are extended due to school holidays, or teacher in-service days. Generally speaking your possession schedule revolves around the school calendar- when the school year begins and ends on the "macro" level and when the school week begins and concludes on the "micro" level.



It is unlikely that your order actually contains the name of the school or school district that your order is based around. How can you be sure what school calendar is applicable for you and your child? In a Texas SPO the school calendar that is applicable to your situation is either that of the school that your child attends or the school district in which your child resides primarily if he or she is not currently enrolled in school.

The last part of the previous paragraph is relevant for parents who have children that are too young for school. The school district that matters for this discussion is the district assigned to the primary residence of the child. If you are the parent with weekend visitation under the SPO the school district for where your child's other parent lives is the relevant district to go by as far as a schedule or calendar is concerned.

A key point to remember in the midst of any potential argument or point of dispute as far as your court order is concerned is that you and your child's other parent are always able to negotiate terms that exist outside of the divorce decree or child custody order.

This means that if something included in your order becomes unworkable for either yourself or your child's other parent that you may decide to go outside of the terms of that order to agree upon something that works better for you and your family. This may help avoid arguments and misunderstandings about portions of your order, such as which school calendar is applicable to your child.

PRIMARY CUSTODY: WHAT WILL A JUDGE LOOK AT WHEN MAKING THIS DECISION FOR MY CHILD?

From my experience, clients going through a child custody or divorce case will always ask about being the "primary" parent as one of their first questions asked of me. This is understandable given that the reason you are going through a custody or divorce case is due, at least in part, to your desire to be able to spend as much time with your child as possible. Even the word "primary" would lead you to believe that you have the ability to see your child, be with your child primarily as opposed to secondarily.

Once you begin your family law case you may be surprised to learn that joint conservators under a Standard Possession Order have almost equal time with your child as far as possession is concerned. The main difference is determining which parent will have the right to designate the primary residence of your child. Given that the general split of time between parents is fairly even under a SPO this then would be the real "gem" to be placed in your crown as a parent.

What will a court consider when awarding the role of primary conservator of your child? First and foremost if there is evidence of child abuse, neglect or other wrongdoing on the part of you or your child's other parent that will nearly always automatically disqualify you from becoming the primary conservator of the child. Your ability to be named even a joint conservator of your child may be in question as well given past incidents where you or your spouse did not act in the best interest of your child.

For the most part, absent these sort of extreme circumstances a court will look to your schedule and compare that to your child's other parent. Whomever is in a better position to provide primary attention to your child will likely win out in this area. The ability to not only co-parent with the other parent but to encourage and foster a positive relationship between your child and the other parent is also highly valued from my experience.

Finally, the history of each parent and their involvement in having raised the child will be considered. If you have been an absentee parent while the other parent was there for every school recital and doctor appointment you will face an uphill battle in your bid to become the primary conservator of your child.



THE INS AND OUTS OF CHILD VISITATION IN TEXAS

One of the most frequently disagreed on subjects by parents in divorce and child custody cases is who should be able to have the children with them and on what days of the week those visits should occur. This goes for normal, school day visits as well as holidays and other "special" times of the year.

No matter how agreeable you and your child's other parent are on most subjects it is not always possible to come up with your own, makeshift visitation schedule. There are many subjects that must be sorted out in a child custody or divorce case and visitation is one of them.

Fortunately for Texas families, our State Legislature has created a guideline visitation schedule for weekends, holidays and Summer Vacation. Like any law, these guidelines are to be applied equally to all people but may not have the same impact (positively or negatively) on everyone in the same way.

Every family has questions or concerns about what a particular phrase in their orders means or what to do if [insert factual occurrence here] happens. The attorneys with the Law Office of Bryan Fagan, PLLC would like to share with you our thoughts and advice on this subject for parents.

WHERE WILL THE CHILD'S PRIMARY RESIDENCE BE?

The beginning to any visitation schedule or outline begins with where the child will reside primarily. Your final orders from your divorce or child custody case will state either that your child lives primarily with you or their other parent.

Whichever parent your child resides with primarily is known as the managing conservator or custodial parent. It would stand to reason then that the other parent is known as the non-custodial parent or possessory conservator.

Making this determination is essential because the custodial parent and the non custodial parents have different opportunities provided to them under the law to be able to have time to spend with their child.

WEEKEND VISITATION

For the most part, children are able to spend the first, third and fifth weekends of every month with their non custodial parent. The visitation period begins at 6:00 p.m. on Friday and lasts until 6:00 p.m. on Sunday. Depending on your particular situation you are able to change those times as needed but as far as what the Texas Family Code provides for 6:00 p.m. is the pick-up and drop-off time for weekend visitation.

SUMMER VACATION- SETTING A SCHEDULE FOR YOUR CHILDREN'S TIME AWAY FROM SCHOOL

Summer vacation is one of the all time most relaxing and care-free time periods in your child's life. It is an opportunity to play, visit new places and maybe even attend a summer camp or other activity. A unique part of the summer for children whose parents are not living together is that the non custodial parent is able to exercise his or her own extended time period of visitation with their child.

The way it works is that as the non custodial parent, you would need to contact the custodial parent by April 1st to notify him or her of your intent to have your child spend the extended summer visitation with you.

Thirty days is the length of time most non custodial parents are awarded in a visitation order and the default time period for visitation is July 1- July 31 if no notice or insufficient notice is provided to the custodial parent. I always advise clients to provide notice by certified mail or via email, where you are able to get a "read receipt" that will show exactly when your ex-spouse reviewed the email.



ADDITIONAL QUESTIONS ON VISITATION SCHEDULES IN TEXAS? CONTACT THE LAW OFFICE OF BRYAN FAGAN, PLLC

What you just read was an extremely abbreviated overview of visitation laws in Texas and how most families in our state encounter them. If you have additional questions on this subject or any other in the field of family law please do not hesitate to contact the Law Office of Bryan Fagan, PLLC today. Our licensed family law attorneys are available six days a week to meet with you to discuss your situation and answer any questions you have.





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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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