



LAW OFFICE OF
BRYAN FAGAN
— PLLC —



WRITS OF HABEAS CORPUS 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 Writs of Habeas Corpus 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

WRITS OF HABEAS CORPUS IN TEXAS

In family law cases involving a violation of child custody or support, a judge might hold a person in contempt of court. One of the punishments for such an offense includes jail time. However, if the judge committed an error, the wrongly jailed individual can file a petition for writ of habeas corpus to be freed from unlawful imprisonment.

If you feel that you are being sent to jail on unjust terms, our Houston family law attorney at the Law Office Bryan Fagan can help. We can evaluate your case, determine your available legal options, present a strong case to the court, and assert your rights.

TEXAS HABEAS CORPUS PROCEEDINGS

A petition for a writ of habeas corpus asks the court to overturn conviction due to a violation in due process. The court must show a valid reason for the convicted individual's detention. Once a conviction is entered, Texas law permits prisoners to file petitions in state court.

One of the most common habeas corpus claims is ineffective counsel. If the defendant's lawyer failed to raise defenses at trial or properly advise him/her about the consequences of a plea deal, the court could review the conviction and the work the attorney performed in the case.

Another common type of habeas corpus claim is newly discovered evidence that would've changed the conviction. If new evidence shows that the defendant was wrongly convicted, he/she could be freed from incarceration.

REQUEST A CONFIDENTIAL CONSULTATION TODAY

The petition must be filed in the county or district where the defendant was originally convicted. Our Houston family law attorney can help you or a loved one file a petition. Before we file the petition, we will help you understand the proceedings and your chances of success.

HABEAS CORPUS - WHAT DOES IT MEAN AND HOW CAN IT HELP YOU IN A CHILD CUSTODY CASE

Suppose that you and your spouse have been divorced for a few years and have split custody of your child pretty much 50/50. Both you and your ex-spouse have abided by the divorce decree's orders regarding visitation and possession, and there have never really been any issues.

The farthest thing from your mind is your child one day not returning to you at the scheduled time.

However, one Sunday, your ex-spouse doesn't drop your child off at your house at a normal time. You text him to see what's going on, and he says that he doesn't plan on bringing your son back for a few days.

This at first infuriates you, then after a few moments, you begin to worry more than fume. Does your child have clean clothes? How will he be getting to school? Will his medication be administered correctly?



Custody splitting is a difficult issue even in the best of environments. You and your ex-spouse agreed to the terms of your divorce decree, but if we're honest, each of you would like to have more time than you are currently allotted under the provisions contained in the order. In your son's best interests, he can share a relationship with both parents, but this type of behavior cannot stand.

WHAT ARE YOUR OPTIONS IF YOUR CHILD IS NOT RETURNED TO YOU BY THE OTHER PARENT

In the extreme event that your child is not returned to you by your ex-spouse, there are options for you to explore. Hopefully, this type of situation never actually occurs, but if it does, we will like you to be aware of one such option- Habeas Corpus.

Habeas Corpus actions should be undertaken only after first taking a look at your divorce decree or child custody order that is currently in place. These orders are the guidelines that you and the other parent have been operating under and will tell you the specific rights and duties of each parent.

In addition to those rights and duties is allocating time with your child for you and your child's other parent. These orders are signed by you, the other parent, and the judge and signify that everyone involved has read and understands each person's responsibilities.

If your court order mandates that your child is returned to you at a certain time on a day of the week and your child is not returned according to those terms, then the other parent violates the court's orders.

We will spend this blog post discussing a habeas corpus action, but you may be able to save the time, money, and stress of that process by contacting the other parent and attempt to discuss the return of your child directly with him or her. It may surprise you that simply hearing your voice may cause him or her to think twice about doing something against court orders.

SPEAK WITH A FAMILY LAW ATTORNEY TO INITIATE COURT PROCEEDINGS

However, if speaking directly to the other parent does not work, and your child is still not returned to you, it is time to consult with an attorney to discuss other avenues to get your child back. An attorney can confirm what you believe to be true about possession and visitation times as laid out in your court order.

I have had potential clients come into the Law Office of Bryan Fagan, PLLC to discuss a situation where he or she believes that their child is being kept by the other parent against the orders as set forth by the court, only to find out that he or she had misinterpreted the court order.

Assuming that you have read your court order correctly, a family law attorney can consult with you and discuss your options as far as using the legal system to assure the safe return of your child. Keep in mind that the sooner you find out what your rights are, the sooner you can act on them.

There is a fine line before jumping to conclusions before you have all the facts and then acting appropriately based on the knowledge you've gained from a licensed family law attorney.

WHAT IS HABEAS CORPUS (BESIDES HARD TO PRONOUNCE)?

If you are the parent with a legal right to possession of your child, then you may initiate a writ of Habeas Corpus to have your child returned to you by the other parent who is wrongfully in possession of your child.

As we've touched on before, it is critical that there is a valid order in place that governs possession, access, and visitation of your child and that this order states that you have the right to possession of your child at the time that you believe it does. If you can satisfy this issue, you have a strong chance of being able to succeed in a habeas corpus action.

You would need to file a petition for a writ of habeas corpus in the court in which your order comes from. If you have no order in place, you would likely need to file it in the county where your child resides.



QUESTIONS ABOUT HABEAS CORPUS ACTIONS OR OTHER FAMILY LAW MATTERS? CONTACT THE LAW OFFICE OF BRYAN FAGAN, PLLC

If you have any questions about habeas corpus proceedings or any other issue related to family law, please do not hesitate to contact the Law Office of Bryan Fagan, PLLC, today. One of our licensed family law attorneys is available six days a week to meet with you and discuss your situation free of charge.





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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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