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**BRYAN FAGAN**  
— PLLC —



# CO-PARENTING IN HOUSTON, TX

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## INTRODUCTION

Thank you for downloading our special report: about Co-Parenting, 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

## WHY IS CO-PARENTING IMPORTANT FOR CHILDREN?

While communicating with your ex-spouse can be quite challenging, effective co-parenting is necessary for the benefit of your children's self-esteem, emotional well-being, and future. Having both parents play an active role in your kid's lives can help them adjust more quickly and easily to divorce and new living situations.

Knowing what to expect and what's expected of them are also the benefits of consistent co-parenting. Seeing you and ex-spouse work together can help your children become better problem solvers. Clearly, there are many mental and emotional benefits to successful co-parenting.

### COMMON CO-PARENTING MISTAKES

Co-parenting after a divorce is rarely a walk in the park, especially if the separation was hotly contested. When serious co-parenting mistakes are made, they can cause damage to your children's mental and emotional health.

**The following are the most common co-parenting mistakes to avoid:**

- ☑ Fighting in front of the children – When a conflict occurs, parents must wait until the kids are not around to address it. There is a time and place to resolve issues. Doing so in front of the children can result in emotional trauma.
- ☑ Putting children in the middle – It is not uncommon for one parent to bad mouth the other while they're with their children. However, this type of behavior places undue stress on kids and typically makes them feel as if they are in the middle of every problem.
- ☑ Not being flexible with parenting schedules – Life is full of surprises, which can result in scheduling issues between two parents. When one refuses to be flexible about parenting schedules when situations occur, not only does it cause conflict, but it can also hurt the kids even more. Compromising and being understanding can help ensure your child spends quality time with the other parent without missing out on special events.
- ☑ Co-parenting: Assisting your child in their post-divorce life
- ☑ Co-Parenting tools, systems and helpful knowledge for post-divorce life
- ☑ How to Co-parent with an addict ex-spouse
- ☑ How to co-parent with your ex-spouse while maintaining appropriate boundaries

## CO-PARENTING: ASSISTING YOUR CHILD IN THEIR POST-DIVORCE LIFE

No person is impacted more by your and your spouse's decision to get a divorce than your son or daughter. We may get so wrapped up in what a divorce means for us as adults that it is easy to lose sight of just how much a divorce will change the way that your child views their world and interacts both with you and your spouse.

This can occur even in the middle of a divorce where your children are the main issue being debated back and forth. While you may be most concerned with how frequently you will be able to see him or her after the divorce, what should also be considered is the psyche of your child and their ability to rebuild trust in others and confidence in themselves after your divorce is finalized.



I don't mean to be melodramatic with that introductory paragraph. It may be that your child will be relieved that you and your spouse are getting divorced. The home environment may very well have become toxic and unlivable for the most part as a result of the breakdown in the marital relationship.

Regardless of how your child views the divorce you and your spouse will need to work together as much as possible in order to repair and rebuild any broken aspects of your relationship with your child. The best way to do so is through what is commonly called co-parenting.

## **CO-PARENTING: A PHRASE OFTEN UTILIZED BUT UNDEREXPLAINED**

In the world of divorce and family law co-parenting is one of those ubiquitous terms that lawyers and laypeople throw around a lot but never really explain. I'll bet that if you polled a dozen lawyers as they left the courthouse you would get a dozen responses as to what co-parenting means.

To me, co-parenting refers to a situation where both you and your ex-spouse agree to work together, to communicate and to mutually take on the responsibilities of parenting your child even though you both no longer live in the same house anymore. This may seem like the last thing you want to think about as you begin to separate your life from theirs, but for your child, this is typically the best arrangement possible.

The State of Texas would agree that this parenting structure is for the best, and as a result, has included these sort of qualities within its most commonly ordered parenting plan- that of Joint Managing Conservatorship. Joint Managing Conservators share almost equally in the rights and duties associated with raising their child.

There is a presumption that this is the parenting plan that will work best for your child and it takes a substantial amount of evidence to overcome that presumption. Extreme situations in which either you or your spouse have engaged in drug or alcohol abuse or have abused one another or your child will almost certainly overcome the presumption in favor of naming you and your spouse joint managing conservators.

## **CONSISTENCY IS AT TOP OF THE LIST OF REASONS WHY CO-PARENTING IS GOOD IN THE SHORT AND LONG TERMS**

Children will emulate what they see much more than what they are told from my experiences as a parent. If your child observes you and your ex-spouse working together and acting in concert on important parenting issues that will stick with your child as he or she gets older.

Even though deep down you may be very upset at your ex-spouse it is highly recommended that you put those feelings on the back burner in order to provide a unified front towards the raising of your child.

In a time where your child's life will be changing dramatically, consistent and reliable expectations need to be set forth that allow your child the opportunity to grow as a person in any new environment he or she finds themselves in but to also provide the sort of protection from worry that can be a side effect of seeing their parents divorce and separate.

If you are able to provide evidence to your child that their interests come before anything else, it may be that your son or daughter feels more comfortable in their new environments.

## **BASICS OF CO-PARENTING**

In order to co-parent effectively, you and your spouse will need to present a united front to your child in terms of discipline. This means that if your ex-wife has barred your son from playing video games for a disciplinary infraction, then you should continue that punishment. This harkens back to our prior section wherein we discussed the importance of consistency.



Another key part to co-parenting well is to communicate as best you can with your ex-spouse. Doing so will serve the dual purpose of eliminating as much as possible misinformation and misunderstandings while allowing for you and your ex-spouse to have an opportunity to settle on a mutually arrived at plan of "attack" prior to speaking with your child individually.

Finally, a rule that your court laid down at the beginning of your divorce case will again be helpful in post-divorce life. Ensuring that neither you nor your family speak ill of your ex-spouse in front of your children is crucial as well. Seeing you say nasty things about your ex-spouse can give the impression to your child that it is ok to disrespect another person.

This is not a lesson that you want to teach and will not be productive in raising your child well. The Golden Rule can and should be applied here: treat others and speak about others the way that you would want to be treated and spoken about.

## CO-PARENTING TOOLS, SYSTEMS AND HELPFUL KNOWLEDGE FOR POST-DIVORCE LIFE

Creating a system of keeping track of events, illnesses, habits and other aspects of your child's life is essential to co-parenting well after a divorce. Many divorced parents fail to integrate a system of wellness and check-ups into their child's life after a separation and the results can be disastrous for the child and the parents alike.

While I would never say that I have seen and experienced everything as a family law attorney, I would say that I have witnessed people parent effectively and people parent ineffectively. My goal today is to continue to share what I believe to be the habits of ex-spouses who effectively co-parent after divorce.

### A CALENDAR- DIGITAL OR ON THE WALL

I remember back in the days when going to the mall was an event, there would be little booths, kiosks and stands set up in the corridors where families would walk up and down in order to move from one store to the next. One of those kiosks was inevitably one where calendars would be sold.

These calendars would usually have themes like football or kittens or marine life. Whatever the theme, there was clearly a time where on the wall calendars were a mainstay for many households.

Flash forward to today and I don't think this is the case. Outside of my own home, I can't recall having seen a calendar hanging on anyone's wall in the past few years. The reason is probably due in large part to the fact that there are online calendars available that serve the same purpose. Your email provider probably gives you access to an online calendar for free, in fact.

Many co-parenting issues come about as a result of poor communication and bad planning. Using a calendar can nip these issues in the bud when it comes to co-parenting your child.

A simple calendar can help you to plan out events up to twelve months in advance. If you are planning a vacation for yourself and your child in June you can fill that in on the calendar so that your ex-spouse has access to and knowledge of the event as soon as you can.

I will note that if your final decree of divorce requires you to provide notice to your ex-spouse in writing of a trip during the summer, you must do so as well. The calendar is just another method for keeping track of everything.

Telling your ex-spouse that you plan on taking your son to the beach for four days in June only leaves so much of an impression. However, showing him on a calendar that stretch of days and highlighting it in yellow leaves a more indelible image and imprint on his brain.



## RESOLVING CONFLICTS THROUGH PLANNING

What if that expected beach trip coincided with another event that you had been planning for your child? It would be less than ideal to have the idea of this in mind but to not share it with your ex-spouse until late April. The calendar system allows you to take the calendar map out your year months in advance and hopefully, sidestep avoidable issues like this.

I don't know how you and your ex-spouse resolve contentious issues. One could surmise that due to the fact that you are now divorced, your methods for conflict resolution probably aren't great. Despite this, the calendar allows for those discussions to come forth early rather than late.

Reasonable people, of which I assume you are one, can come together to settle disputes with some ease if afforded the time to do so. The calendar provides you time by allowing one another to know how you plan on spending your time with your child during that year.

## GETTING THE CALENDAR READY FOR JANUARY

Major retailers all sell calendars, so when you see a good deal on one go ahead and make the purchase. If you buy this year's ask your ex-spouse to do the same next year if costs are an issue. Once the calendar gets home take an opportunity after your child is in bed or at the other parent's home to map out the year. Take your time and take care to make sure that every foreseeable event is planned for.

We tend to get excited about summer trips and the winter holidays, but your child's school year calendar is probably the most important. Map out the Spring Semester for your ex-spouse based on the information that you are aware of. He or she can do the same once the calendar is turned over to him or her.

Combine the hectic schedules of your child and you and you will quickly find yourself in mess after mess if you cannot anticipate events occurring in your child's weekly schedule. Sports teams, extracurriculars, school projects, dances, and the list goes on and on. Fail to plan and you should plan to fail.

Next, Summer Vacation should be looked at. If you are the parent with a visitation schedule you should look to make sure that you have provided the requisite notice to your ex-spouse of the time period that you intend to have visitation with your child over the summer.

Once you have met this requirement in writing you should fill in your summer plans on the calendar. This way your ex-spouse can plan for when your child will be gone and can also begin to figure out when he or she will be taking their weekend during your 30 or 42-day visitation stretch in the summer.

You may not have all the information available to you as far as planning the Fall Semester schedule for the following school year but you may have some dates that can be filled in. Once you find out the schedule for Thanksgiving and Christmas breaks you can fill those in along with which parent has what parts of the Christmas holiday.

## TAKING CALENDARING TO THE NEXT LEVEL

All of these tips are tricks are helpful in and of themselves as far as I'm concerned. However, I can share with you some "next level" tips as far as helping you take the fullest advantage of the help that a calendar can provide you with.

First of all, if you are the parent who is designated as being the one who should prepare the calendar you should have a deadline to send the calendar over to your ex-spouse for their review. Likewise, your ex-spouse should have a deadline by which he or she needs to turn the calendar back to you. This way he or she will be made to review the calendar immediately. Questions or concerns about any marks made within that calendar can be addressed sooner rather than later.



Any conflicts or problems with the schedule can be addressed and negotiated upon. Once a final resolution is arrived at, a final draft should be done where both you and your ex-spouse can keep a copy in your respective homes. That calendar should be kept out someplace handy so that you both and your child can review it with ease. A year is a pretty long time, so I've been told. If you need a refresher just look at your calendar and it will hold all the answers you need.

## HOW TO CO PARENT WITH AN ADDICT EX-SPOUSE

It is not surprising to learn that many divorces have been filed because one spouse is addicted to either drugs or alcohol. When a person isn't able to control their behavior to an extent where the behavior begins to harm their relationships then it is truly an addiction.

It is difficult to be married to an addict especially if you have children together. Raising children is hard enough but when your spouse cannot fulfill their part of the responsibilities then it is near impossible to do a good job of parenting.

The Spring Divorce attorneys with the Law Office of Bryan Fagan, PLLC have represented clients whose spouses are addicts and would like to share some of the experiences we've accumulated in order to assist you, the reader.

### ADDRESS THE PROBLEM WITH ADDICTION HEAD ON BEFORE DIVORCE

When an addict is in the midst of their disease they are not to be trusted or believed when it comes to any statement made about themselves or their wellbeing. Having the opinion that they can, "Quit anytime they want," or that they, "Don't have a problem with drugs or alcohol," are the sort of falsehoods that addicts use to justify or downplay their behavior.

To a sober person these sorts of mistruths are obvious but to an addict they may seem as clear cut and obvious as any statement ever uttered. If you are married and suspect your spouse to be an addict of drugs or alcohol it is essential to deal with the problem rather than to hope it goes away on its own.

Having face to face time with your spouse to tell them that you have a problem with their behavior and to assist them in addressing it can go a long way towards saving a marriage and protecting your children from future harm.

### SHARING CUSTODY OF THE CHILDREN WITH AN ADDICT

If you already are divorced from an addict-spouse then the situation becomes more dire in that you have no control over the addict's choices or behavior. Even married persons don't exert too much direct control over the situation but not living with the addict leaves the ex-spouse to their own devices.

For parents who are joint managing conservators, the non-addict parent should consider hiring an attorney to return to Court in order to modify the prior Court order. A modification should seek to alter the conservatorship arrangement in order to regain control over the possession, access and visitation of the child.

In cases of neglect, family violence or substance abuse a Court can modify the conservatorship arrangement to make the non-addict parent a sole managing conservator of the child. This designation restricts the rights of the addict spouse and the often times the visitation allowed to them with the child.

Examples of behavior that may justify a modification attempt is an instance of drunk driving where the child is in the vehicle or abuse that stems from using drugs or alcohol. A particularly scary situation happened to a former client of the Law Office of Bryan Fagan, PLLC involving her five-year-old daughter and alcoholic ex-husband. On a weekday night, the ex-husband and the child left a restaurant one evening when the parent was intoxicated.

The parent drove for ten minutes before falling asleep on a highway and dragging the side of his truck on the cement barrier in the middle of the highway. This went on for about three minutes before a police officer was able to alert the attention of the driver and pull him over.



Amazingly, the child was asleep the entire time and did not wake up during the incident. Our client was called after her ex-husband was arrested and she arrived at the scene to pick up her daughter. She was, understandably, shocked at what she saw and knew that she needed to take immediate action to avoid a repeat of this incident from occurring.

### **HOW TO MODIFY A PRIOR COURT ORDER INVOLVING AN ADDICT PARENT**

A Petition to Modify the Parent Child Relationship was filed where she sought to be named the sole managing conservator of the child. To meet this high burden, our client needed to show:

- ☑ that the circumstances of a party have changed in a substantial way since the last order was rendered
- ☑ the current environment of the child endangered the health or emotional development of the child
- ☑ the change being requested is in the child's best interests

The parties attended mediation and saw the father agree to some stringent drug testing as well as a restriction on his being able to come into contact with his daughter. What was also important, in terms of a point of negotiation, was that the father agreed to not being able to drive a vehicle with his daughter as passenger except in the case of an emergency.

Because Dad did not have any relapses and had enrolled into an Alcoholics Anonymous class he was able to show our client that he was taking his situation seriously. As a result, he was able to work back into a normal schedule of visitation after a few months of proving to our client that his behavior and decision making was improving.

### **DIVIDING PROPERTY IN A TEXAS DIVORCE - THE JUST AND RIGHT DIVISION**

Before a couple can get a divorce in Texas, one thing that must be resolved is the division of their property and debts. There are multiple steps that must occur during such a division including:

- ☑ The assets must be identified. This is typically done by completing a sworn inventory.
- ☑ Characterize the property. Before going into characterizing the property, it is crucial to understand that Texas is one of a handful of states that has "community" property.
- ☑ Valuation of Assets
- ☑ Dividing the Property

This article outlines the process of dividing property in divorce in Texas. Property can either be divided by agreement or by court order.

#### **IDENTIFYING ASSETS**

The first step in dividing marital property during a divorce is to determine the property that is owned by the spouses whether or not it is community or separate property. The local rules of most Texas counties require each party to file an inventory and appraisal and proposed division of property prior to the final trial on the merits of a divorce case.

The Inventory must list each asset and liability of the marital estate, along with the corresponding value and character. Further, the Inventory should detail and value all claims that could impact the property division, including claims for reimbursement and fraud.

The Inventory is then used by the Judge to help formulate what a just and right division of property would be for the spouses. Inventories are not only useful in Trial but are also useful during the divorce process for use in negotiations and mediations when attempting to settle the case.

For these reasons it is important to take all steps necessary to ensure that the Inventory is comprehensive and accurate. This begins at the outset of the case by gathering all relevant documents and information in order to assist in proving the value and character of the marital estate.



## CHARACTERIZATION OF PROPERTY

As Texas courts can only divide the parties' community property in a dissolution proceeding, the characterization of property as either community or separate is an important second step to the division of marital property in a Texas Divorce.

### SEPARATE PROPERTY

The Texas Family Code has codified the definition of separate property as follows:

- ☑ the property owned or claimed by the spouse before marriage;
- ☑ the property acquired by the spouse during marriage by gift, devise, or descent; and
- ☑ the recovery for personal injuries sustained by the spouse during marriage, except any recovery for loss of earning capacity during marriage.

### COMMUNITY PROPERTY

The Texas Family Code and case law define community property as follows:

- ☑ "Community property consists of the property, other than separate property, acquired by either spouse during marriage."

The distinction between community property and separate property is important because the court divides the community property between the parties but cannot do so for separate property.

Property possessed by either spouse during or on dissolution of marriage is presumed to be community property. To rebut the community property presumption, a party who asserts the separate property claim must present "clear and convincing" evidence of the property's separate character.

### VALUATION OF PROPERTY

Once an asset is designated as either community or separate property, the parties must prepare to place a value on it. As a general rule, property to be divided in a divorce proceeding should be valued according to its fair market value.

Texas courts must divide the community estate in a manner that results in a just and right division. Before a court can determine whether the division of marital property is "just and right" under Texas law, a value must be placed on each asset.

Often our client's property, assets and debts include:

- ☑ Closely-held businesses
- ☑ Partnerships
- ☑ Corporations
- ☑ Limited Liability Companies
- ☑ Family trusts
- ☑ Professional practices
- ☑ Advanced degrees
- ☑ Real estate
- ☑ Ranches
- ☑ Securities
- ☑ Livestock
- ☑ Oil wells
- ☑ Overseas holdings
- ☑ Executive compensation packages
- ☑ Estates
- ☑ Student loans





The valuation of community assets can be established by:

- agreement of the parties
- documentary evidence
- by the testimony of the parties, or
- by the testimony of a qualified expert

In most cases, the value assigned to the assets and liabilities of the marital estate should be determined as of the date of divorce, or a date that is as close to the date of divorce as possible. The court has discretion to determine which valuation dates to use.

Sometimes times, valuation of assets make requires experts including but not limited:

- Forensic accountant
- Real Estate Appraiser
- Real Estate Agent
- Business appraisers

## FORENSIC ACCOUNTANT

Forensic accountant are generally used in cases:

- To trace assets to prove an asset is separate property or community property.
- To help search for undisclosed assets.
- Communicate the significance of certain property or income.

## REAL ESTATE APPRAISER

If spouses cannot agree on their real property's value then a spouse can hire a real estate appraiser to give an opinion of value of the property under the current market conditions.

A real estate appraisal involves:

- Obtaining the sales price for comparable properties in the area
- Extrapolating a value for the subject property based on the comparable properties.

## REAL ESTATE AGENT

Real estate agents can also be used to value real property. Like real estate appraiser they:

- are knowledgeable about the real estate market
- They have access to what properties are for sale or have sold for in the properties neighborhood

## BUSINESS APPRAISER OR BUSINESS VALUATOR

If your community property owned by parties includes a business, the business will need to be valued and appraised. A business appraiser often does this evaluation.

The evaluation often includes looking at:

- The business records
- Interviewing the business employees
- Business inventory





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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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