



LAW OFFICE OF  
BRYAN FAGAN  
— PLLC —



# DIVORCE DECREE ENFORCEMENTS IN HOUSTON, TX

WORK WITH A HOUSTON ATTORNEY

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## INTRODUCTION

Thank you for downloading our special report: about Divorce Decree Enforcements, 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

## HOW TO ENFORCE YOUR DIVORCE DECREE

### COUNSEL FROM A HOUSTON LAWYER

The provisions written in your divorce decree are enforceable by the court. If you or your ex-spouse decide later on that the provisions in the divorce decree are unacceptable, you must petition in the court for a modification. You cannot merely ignore the divorce decree in hopes that it will go away.

Violators of the divorce decree can be put in contempt of court. The violations are often the result of anger or betrayal on the part of the violator. In some cases, the violator hopes that he or she can get revenge on an ex-spouse through his or her actions or can control his or her ex-spouse.

- ☑ Enforcement Suits in Texas Family Law: An Overview
- ☑ Texas Divorce Property Division Enforcement
- ☑ Enforcement Suits in Texas Family Law, Part Four

### COMMON DIVORCE DECREE VIOLATIONS

Some of the more common divorce decree violations are:

- ☑ Non-payment of child support
- ☑ Non-payment of alimony
- ☑ Non-compliance with visitation schedules
- ☑ Failure of a custodial parent to return the child on schedule

### WHAT TO DO WHEN YOUR EX-SPOUSE HAS VIOLATED THE DIVORCE DECREE

If your ex-spouse has violated the divorce decree, you will need to file a contempt of court motion. At the Law Office of Bryan Fagan, PLLC, the attorney can help you to file this motion correctly. You will need to ensure that your ex receives the motion and the notice of the date and time of the hearing.

Even if you choose to handle the contempt action yourself, you should at least consult with a lawyer to make sure you are doing it correctly. Your local family law court can also help you identify which papers you need to fill out and walk you through the process to ensure that you fill them out correctly.

In your contempt of court motion, you are required to indicate exactly what part of the divorce decree your ex violated and how he or she violated the decree. You will want to create a complete account of what happened. An attorney can help you create a strong case and get supporting paperwork in order before you go to court.

After listening to the arguments, a judge will determine if your claim is sufficient. If it is, you will be issued a written order detailing the contempt order and how it will be resolved. If your ex does not comply with the requirement to resolve the issue, he or she may be jailed until he or she agrees to comply.



## WHEN YOUR SPOUSE WILL NOT SURRENDER MARITAL PROPERTY

Some of the most frustrating violations of divorce decrees are when ex-spouses refuse to comply with property division orders. You might be ordered to receive a percentage of your marital finances or the family car, but there is nothing that guarantees your ex will cooperate and give you what is legally deserved. If this happens to you, our Houston family law firm can help you discover and use ways to enforce the property division order. In Texas, you only have two years to try to enforce a property order after your divorce finalizes, so do not delay in reaching out to us for legal assistance.

## ENFORCEMENT SUITS IN TEXAS FAMILY LAW: AN OVERVIEW

If you have ever been involved in family lawcase in Texas it is likely that you either settled your case or ended your case in a trial before a judge.

The result of either of those situations is that a Final Order of some sort was signed off on by you, the opposing party and the judge. That order now stands as the ground-rules for governing the relationship between you and your child whether you like it or not.

In some instances people don't like what the order says in many regards and decide that not abiding by its terms will be an alright thing to do. If you find yourself in a situation where your ex-spouse or child's other parent has violated the court's order then you have the ability to hold them responsible, potentially, for their actions.

I say potentially because, as I often remind clients, you cannot simply contact the police or constable and inform them of a violation of your order. You must file what is known as an Enforcement in the same court that issued your prior order and present evidence as to the specifics of each violation. Today's blog post will discuss this process in some detail.

Potential remedies under a family law Enforcement suit.

Enforcement actions have many different parts to them that encompass not only Texas Family Law matters, but criminal law and case law that appellate judges have handed down over the years.

You and your attorney must be able to find the correct "blend" of these sets of laws in order to arrive at a remedy that is suitable for your situation. Let's go over some of those remedies to begin our discussion.

### CONTEMPT OF COURT

Having a court determine that your opposing party is in contempt of court is a very serious matter. Our state law defines contempt of court as the failure of a person to obey an order of the court, disrespectful actions towards a judge or a disruption of courtroom proceedings through negative behavior.

There are dual penalties that a judge in Texas may assess against a person for being found in contempt of court. The first is a civil fine that is often assessed against every violation the court determines is applicable.

An even more serious remedy available is jail time for violations of a court's order. This is obviously a criminal penalty that is made available even in a civil case like an enforcement. The maximum amount of time a person is able to serve in prison for violation of a court's order is 180 days. \$500 per violation may be doled out by a judge as a penalty.

Beyond the types of contempt of court penalties that can be handed down by a judge, there are two types of contempt.

### DIRECT CONTEMPT

The first is called direct contempt. This type of contempt is the sort that involves bad behavior in front of the judge. Acting disrespectfully towards the judge or other courtroom personnel can result in fines or jail time for the offender.



## CONSTRUCTIVE CONTEMPT

On the other hand, constructive contempt is the type that occurred at some previous time and must be proved by you and your attorney. Enforcement hearings are held in order to allow you to present your evidence in order to prove violations of the order that occurred in the past.

## A MOTION TO ENFORCE: WHAT IT MEANS AND HOW TO BEGIN THE PROCESS

To understand an enforcement suit it is critical to understand just why a court's order must be followed in the first place. The fact of the matter is that while you and your child's other parent probably agree that you both want what is best for your child, neither of you can agree on how to go about arriving at "what is best".

You've already gone to court because you couldn't agree and now have a court order that plays tie breaker for you two.

That order contains the specific rules of engagement for you two to follow. The order's language must be specific and clear for a court to enforce it potentially. Assuming that your order is, then there is the potential for an enforcement action should you or your child's other parent violate that order.

Just as the order itself must be clear and concise, so must your motion for enforcement. The motion must include the specific provisions that were violated as well as the relief you are requesting from the court. You can attempt to enforce issues related to custody, possession, conservatorship, visitation, child support, spousal support or property division among others.

The penalties you are seeking must be requested correctly. For example, I noted earlier that a person can only be made to serve up to 180 days in jail for violations of a court's order. If you ask for more than 180 days a penalty, the opposing party can request a trial by jury and even have an attorney appointed to represent him or her. This follows the law from the United States Constitution.

A real world example of this can be seen in a enforcement case that I defended last year. The opposing party made a mistake in her motion and asked the court to assess far more than 180 days of jail time as a penalty for violating the court's order. With that said, I made sure to file a motion with the court request a jury trial based on this mistake.

## TEXAS DIVORCE PROPERTY DIVISION ENFORCEMENT

Many people feel relief when their divorce proceedings end and they get the chance to start their lives over. Your new beginning can be frustrated when your ex-spouse refuses to comply with the court's property division. Our attorneys are available to help you ensure that the court's order is followed, and your property is protected, as you go into this new phase in your life.

## HOUSTON PROPERTY DIVISION ENFORCEMENT ATTORNEYS

We at the Law Office of Bryan Fagan, PLLC are dedicated to the service of our clients' best interests in matters of property division enforcement. Dealing with the laws regarding property division in Texas can be a difficult matter, so we provide our services to clients throughout the greater Houston area, including the surrounding areas of Harris, Waller, Fort Bend, Montgomery, Washington, and Grimes counties. Let us work to ensure that you keep the property you are entitled to own after your divorce.

## JUST AND RIGHT DIVISION

Texas property law is unique, in that most of the property acquired by the couple during the marriage becomes "community property." This property does not belong to either of the spouses individually, but instead belongs to the marriage. When the marriage ends, the court divides up this property in a "Just and Right Division."



## PROTECTING PROPERTY DURING THE DIVORCE

During the divorce proceedings, the court can issue a Temporary Restraining Order to prevent one spouse from removing, tampering with, or damaging property. These restraining orders can also be issued to prevent other harassing behaviors by either spouse.

The court may also issue a Temporary Injunction allowing one spouse to occupy the home and/or run the family business during the divorce.

If you have questions regarding protecting property during a divorce, you should speak with one of our Houston Divorce Attorneys about your options.

## FURTHER COURT ORDERS TO CLARIFY

In some cases, the original court order may not be entirely clear regarding who gets what property, or how they can use it. In those cases, our attorneys can work with you to obtain further court orders to clarify the original order.

These orders will not change the original division of property, but they can help protect you from acting unlawfully without realizing it, as well as protect your property from your ex-spouse.

## ENFORCEMENT SUITS IN TEXAS FAMILY LAW, PART FOUR

Thank you for coming back to the blog for the Law Office of Bryan Fagan, PLLC to read more about Enforcement actions in family law court. Today's post will discuss how to defend yourself against an enforcement action based on the failure to pay spousal maintenance.

We will then get into what you can ask a court to do to ensure that future child support is paid to you as ordered and how to go about collecting previously unpaid amounts of child support.

## DEFENSES AGAINST ENFORCEMENT ACTIONS FOR THE FAILURE TO PAY SPOUSAL MAINTENANCE

If you are ordered to pay an ex spouse spousal maintenance and at some point in time stop doing so, your ex spouse has the right to file an enforcement petition against you. However, as we noted in yesterday's blog post that dealt in the area of child support defenses you are not completely out luck if you have not been keeping up with your court ordered obligation.

Just as in child support matters, you can have a legitimate inability to pay the spousal maintenance as ordered. If you have an inability to pay due to not having any income, no property that can be sold to make up the difference and have not been able to borrow money to pay the spousal maintenance then you can have the lawsuit filed by your ex-spouse dismissed.

If you find yourself in a position where you will be needing to defend yourself based on these sort of reasons be prepared for your ex-spouse's attorney to serve you with discovery requests in order to verify that you have no additional sources of income or property from which your spousal maintenance obligation can be met.

In a recent case, our office had filed an enforcement suit based on an opposing party's failure to pay spousal maintenance as he had been ordered to do. In his Answer he noted that he had no sources of income to pay the maintenance.

Immediately I requested tax returns and other financial documents be submitted to me for review. Eventually we learned that this gentleman had real estate holdings that were more substantial than even our client had speculated.

Rather than proceed to court with this rickety defense the gentleman and our client came to a settlement on the amounts that were previously due.



## **TO THE VICTOR GO THE SPOILS: HOW TO COLLECT ON A JUDGMENT IN A CHILD SUPPORT ENFORCEMENT CASE**

If you go through with an enforcement hearing and are successful in your attempt to prove that the other parent does in fact owe child support then you may be wondering how to translate that victory into actually getting money in your pocket. In the State of Texas there are multiple avenues for collecting on a child support judgment.

### **INCOME WITHHOLDING**

Income withholding is probably the most straightforward approach to take. For more people who are not self employed, a court can place a withholding order on his or her paycheck where that money can be transferred to you.

The idea is to have the amount owed in child support paid off within two years after the judgment is entered through an income withholding ordered. If your opposing party is self employed then a court may order him or her to pay payments directly to you in order to pay the arrearage.

### **CHILD SUPPORT LIENS**

A lien may be placed on the property of a person who owes child support as well. This can cover personal as well as real property owned by the other parent in your situation.

A remedy such as this has a bit more moving pieces than a straight income withholding remedy so you would probably be best served discussing this potential option with your attorney before requesting that it be put in place upon the order of a court.

### **SUSPENDING LICENSES**

A lesser known but powerful tool for ensuring that past amounts of child support are paid is suspending any licenses held by child support obligors. You would need to file a separate petition to have the licenses filed and then serve notice to the parent who owes the child support of what you are attempting to accomplish.

In the event that he or she responds to your petition a hearing would be held in order to determine whether or not it is appropriate to suspend a license given the facts and circumstances of your case.

What sort of licenses may be suspended? Driver's licenses, as well as many professional licenses like those for physicians, engineers and attorneys can be suspended by submitting an order from your family court to the body that issues a particular license.

Child support amounts owed must be equal or greater than three months old and the parent who owes the money must have been given an opportunity to make payments in order to get current on these amounts. If there has been an continued failure to make payments under the structure of a court order then any licenses that can be suspended under state law may be in line for possible suspension.

Other instances that can potentially warrant the suspension of a license include circumstances where an enforcement order has been in place and the other parent has failed to comply with those provision that are related to possession and access of a child.

If your child's other parent hasn't been abiding by the possession schedule in your first order and still hasn't followed it after a subsequent enforcement hearing then license suspension may be on the table as an option to pursue.





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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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