



LAW OFFICE OF
BRYAN FAGAN
— PLLC —



PARENTAL ALIENATION 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 Parenting Time, 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

HOUSTON, TX, PARENTING TIME LAWYER

LET OUR FAMILY LAW ATTORNEYS PROVIDE QUALITY ASSISTANCE

One of the most difficult aspects of most divorces concerns children. If a couple has children together, it can often be hard for them to agree on child custody and visitation decisions. This is why Texas law often intervenes in the case of parenting time. The Texas legislature has established children should have "frequent and continuing" contact with both parents who are able to act in their best interest and provide safe environments for them.

- ☑ Texas Divorce and Virtual Parenting or Electronic Access to Children
- ☑ A Divorced Parent's Guide to Summer Visitation in Texas
- ☑ The Texas Standard Possession Order

POSSESSION ORDERS

Most custody orders will include a standard possession order (SPO) that sets the schedule for each parent's time with their child. Custody orders refer to parenting time as "access and possession," known as visitation in other areas. Possession refers to the fact that you can see your child in person and decide where the child goes. Access refers to interaction with your child by phone, text, social media, or other means of communication; you can also attend their extracurricular activities and have access to medical and school records.

The SPO, therefore, sets the terms of basic visitation the noncustodial parent has with the child. It will also set the terms for how the exchanges of the child will take place, where the child will spend the holidays, and will hold special rules for parents who live more than 100 miles apart.

Guidelines for parenting time are usually dependent on the judge's decision. He or she will be considering what is in the child's best interest in each particular case. For children under 3 years of age, the Texas Family Code also holds the court will decide what is appropriate under the circumstances, factoring in what is best for the child without specifically codifying dates and times.

SCHEDULE A FREE CONSULTATION TODAY

If you need help negotiating the terms of your parenting time, don't hesitate to give us a call. Our skilled Houston, TX, family law attorneys at the Law Office of Bryan Fagan, PLLC are familiar with helping people through many complex family law matters. We understand this may be a stressful and heartbreaking time for you. If you need more time with your children in the parenting plan, or you want to seek a modification to the parenting time after a divorce, let us help. We can offer you trusted and dedicated legal advocates who can focus on prioritizing your needs throughout every step of your case.

TEXAS DIVORCE AND VIRTUAL PARENTING OR ELECTRONIC ACCESS TO CHILDREN

Something that most people and the courts can agree upon is that it is important to spend time with your children.

This sentiment can be found in Section 153.001 of the Texas Family Code which provides: "(a) The public policy of this state is to: (1) assure that children will have frequent and continuing contact with parents who have shown the ability to act in the best interest of the child;"



Unfortunately, it is not uncommon for parents who are going through a Texas divorce or who separated to not cooperate in making sure that these frequent contacts. When this is the case it is often necessary for parents to seek court intervention.

ELECTRONIC ACCESS TO CHILDREN

Not only can a parent ask a court with physical visitation with a child a parent can also ask for electronic access to a child.

These electronic communication provisions allow parents to supplement their physical visitations with their children by being able to see and speak to their children more often. Electronic communication can take many forms including:

- Skype
- Facetime
- Phone calls
- text
- Email

In an ideal world parents will cooperate with each other in co-parenting and facilitating communication with their children. Unfortunately, that is not always the case.

It is therefore important if electronic communication to you that you ensure your court order as a provision that complies with section 153.015 of the Texas Family Code.

VIRTUAL PARENTING STATUTE

The electronics provision of the Texas family code has been called the virtual parenting statute. I have heard some parents talk about how they use electronic communication to:

- Read their children a bedtime story
- Help with homework

Electronic communication has not been important to all the parents I have represented. However, for others it has been very important. One father I know was very happy to have this provision and talked with his children daily via facetime on the ipads he purchased them.

A DIVORCED PARENT'S GUIDE TO SUMMER VISITATION IN TEXAS

If you're a parent who just got a divorce finalized at the end of this school year you've probably been acclimating yourself to a different schedule than you've become accustomed to as far as summertime with your child. Whether you are the parent with whom your child resides with primarily or you're the parent who has visitation throughout the year life as a divorced parent is different than life as you knew it.

Some divorce decrees have detailed visitation guidelines when it comes to the summer.

Others follow the Standard Possession Order (SPO) based on the Texas Family Code. Either way it can be difficult to remember, understand and plan for a summer when you're not exactly clear on when you are supposed to have your child and for how long.

The Law Office of Bryan Fagan, PLLC would like to walk with you through some of the essential pieces of information necessary to take advantage of and enjoy the time you are allotted during the summer with your child. Part of that enjoyment is not upsetting the balance that you must now share with your ex-spouse in terms of dividing the summer up between both of you.



TEXAS STANDARD POSSESSION ORDER

Most divorced families follow pretty closely the Texas Standard Possession Order. Within this Order, there are certain notice requirements that must be followed in order to take full advantage of the time you are allowed to be in possession of your child.

To begin with, the “nonprimary” parent has the choice to choose a thirty day period during the summer to be theirs continuously if they provide written notice to the primary parent by April 1st. It is allowable to break up the thirty days into two parts.

If you have a divorce decree, you can look the section detailing summer visitation and see what date you are required to provide notice if you are the nonprimary parent. The majority of divorce decrees in Texas will utilize April 1st as the deadline. If you do not provide written notice of your intention to take advantage of the thirty days then by default you are provided possession of your child for the month of July.

April 15th is also a key date for divorced parents to put in their calendars each year. This is the date that the primary parent must provide written notice to the nonprimary parent regarding their intention to take advantage of one weekend during the nonprimary parent’s thirty day period of possession.

The reason why the primary parent is given this ability is that thirty days is a long time for a child to be away from one of their parents. This way, theoretically, the primary parent wouldn’t have to go any longer than two weeks without seeing their child.

EXTENDED SUMMER POSSESSION FOR A PRIMARY PARENT

If you are the parent with whom the child lives primarily during the school year do not worry that you will not be able to have an opportunity to take a vacation with your child. The key to know when this period of possession is likely to fall is if the nonprimary parent provides the written notice by April 1st designating their chosen period of possession.

If he or she does not provide notice by this date and is defaulted into possession of the child in July, it is likely that the primary parent’s period of possession would take place during the first couple weeks in either June or August. This is because the primary parent has the ability to choose one weekend that falls outside of the nonprimary parent’s period of possession to have the child.

WHAT IF MY EX-SPOUSE DENIES ME POSSESSION OF MY CHILD DURING THE SUMMER?

If you have thoroughly reviewed your divorce decree, provided the requisite notice to your ex-spouse stating the periods of possession you have chosen to take advantage of and are still denied the ability to see your child when the time comes you have the option to pursue an enforcement case against your former spouse.

An enforcement is a remedy available to parents if the other parent violates a provision in an order. While it is understandable to an extent if a person misapplies or misunderstands a portion of a divorce decree, it is not an excuse to violate an order.

If this scenario fits your life, you should consider hiring an attorney to file the enforcement for you. The reason being is that an enforcement is a very specific kind of legal suit that has certain requirements that must be met in your court documents.

If the documents fail to state a violation in a particular way, or is too aggressive in its request for relief then your suit can be denied by a judge. Penalties for violating a court’s order include attorney’s fees, court costs and the possibility of jail time.



THE TEXAS STANDARD POSSESSION ORDER

If you are about to undertake a Divorce or Child Custody and have a child then you should be familiar with a Standard Possession Order and what it entails. Our State Legislature created the Standard Possession Order, or SPO, in order to help family law courts who have to work with parents to figure out when each parent will be able to have possession of their child after their divorce has been finalized.

If you and your spouse are able to settle upon your own possession order that suits you both better than a SPO then that is fine and even preferable to the SPO. However, the SPO is utilized by courts because it is believed to be in the best interest of the child because both parents are provided reasonable amounts of time.

BASIS FOR THE STANDARD POSSESSION ORDER IN THE TEXAS FAMILY CODE

Our state law holds that frequent contact between child and parent is in the best interests of the child because it further strengthens the bond between the two and creates an environment where the child can develop well. The State does not want parents to get divorced or otherwise separate, either. This is part of the reason why you cannot file for divorce on a Monday and have the divorce finalized on the following Tuesday.

Our State has a built in waiting period wherein after you file for divorce the quickest the divorce can be finalized is 61 days later. Families that stick together tend to be less expensive for the State down the line, I suppose.

DOES THE SPO APPLY IF YOU HAVE A CHILD UNDER THE AGE OF THREE?

If you are like me and have a child or two under the age of three then this section is for you. An SPO is intended to apply only to children that are over the age of three. For those of you with children under three then a court need only to create a possession order that is age appropriate.

This means that bearing in mind the challenges of raising a child of this age a judge will need to ensure that both parents have an opportunity to foster the sort of long lasting relationship that we discussed in the previous paragraph. Of course, taking a child this young away from their home for even a weekend may be too much so a judge has a special challenge in this regard.

Once the child turns three then the judge may either order that a SPO go into effect or order something else based on the similar circumstances of your case. Again, if you and your spouse/the other parent are able to come up with a different possession order yourselves then by all means that is the best alternative. Reason being is that since you and the other parent know your child's circumstances exponentially better than a judge will it makes sense that you both will be able to come up with an possession schedule that better suits everyone involved when compared to a judge

WHAT IF A SPO DOES NOT WORK FOR YOUR FAMILY?

In some instances a SPO will not work for a family. A judge will not cram a SPO down your throat if it is unreasonable to do so or if the evidence in your hearing or trial have shown that it will not work out for you and your family. We see this often with parents who work unorthodox hours.

An SPO is also based around the school calendar for most public schools in Texas. If your child attends home school or private school and the holiday/school schedules do not sync up with your child's then it is unlikely that an SPO would be an appropriate means of establishing a possession schedule.

If a SPO does not work for you or your family then a judge will do their best to balance those specific needs and the Standard Possession Order and its key tenets in terms of dividing up possession between you and the other parent during the year. Whatever alternative methods of scheduling possession are agreed to a court will need to determine that they are in the best interests of your child.



STANDARD POSSESSION FOR PARENTS WHO LIVE WITHIN 100 MILES OF ONE ANOTHER

If you and your child's other parent live within 100 miles of one another then the parent with whom the child does not primarily reside with will have the right to take possession of the child on the first, third and fifth weekends of every month from 6:00 p.m. on Friday to 6:00 p.m. on Sunday. These weekends can be extended by holidays as well that occur on Monday or Friday.

Thursday evenings from 6:00 to 8:00 p.m. for the child are spent with whichever parent that your child does not live with primarily. This allows you or the other parent to have a night during the week to see the child and spend time with him or her.

Holidays such as Spring Break, Christmas and Thanksgiving are alternated between you and your child's other parent. In no year may one parent have both Christmas Day and Thanksgiving unless that is agreed to between you and the other parent. Summer Vacation allows you to have a period of thirty days of possession of the child. The other parent may give notice of their intent to take one weekend during this thirty day time period if notice is provided by April 15.

STANDARD POSSESSION FOR PARENTS WHO LIVE MORE THAN 100 MILES FROM ONE ANOTHER

If you and the child's other parent reside more than 100 miles from one another then the time what the non primary parent gets to spend with the child will likely be reduced. If your child does not reside with you primarily then you can choose to have possession of the child on the first, third and fifth weekends of each month or if that amount of travel will not work you can choose any weekend of the month to see your child provided that you give at least fourteen days of notice to the other parent. You must choose whichever option you want and then give notice to the other parent within 90 days of moving more than 100 miles away.

Christmas and Thanksgiving holidays are not affected by the distance that you reside from the other parent. Summer break allows you to have 42 instead of 30 days of possession of the child. Finally, you are awarded every Spring Break rather than every other Spring Break. The every Thursday from 6:00 to 8:00 p.m. time slot is removed as the travel required to take advantage of this time is unworkable in most situations based on distance.

**ADDITIONAL QUESTIONS ON THE STANDARD POSSESSION ORDER? CONTACT THE **
LAW OFFICE OF BRYAN FAGAN, PLLC

If you have any additional questions in regard to possession orders please contact the Law Office of Bryan Fagan, PLLC. One of our licensed family law attorneys is available to meet with you six days a week at no charge to you. We would be honored to talk about your case with you and to answer any questions you may 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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