

**“CO-PARENTING IS NOT A COMPETITION. IT’S A COLLABORATION OF TWO HOMES WORKING TOGETHER WITH THE BEST INTEREST OF THE CHILD AT HEART.” – ANNE BROWN**

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# **GET READY KIT**

**CHILD CUSTODY MODIFICATION**

**PRESENTED BY**

**ATLANTA DIVORCE  
LAW GROUP**



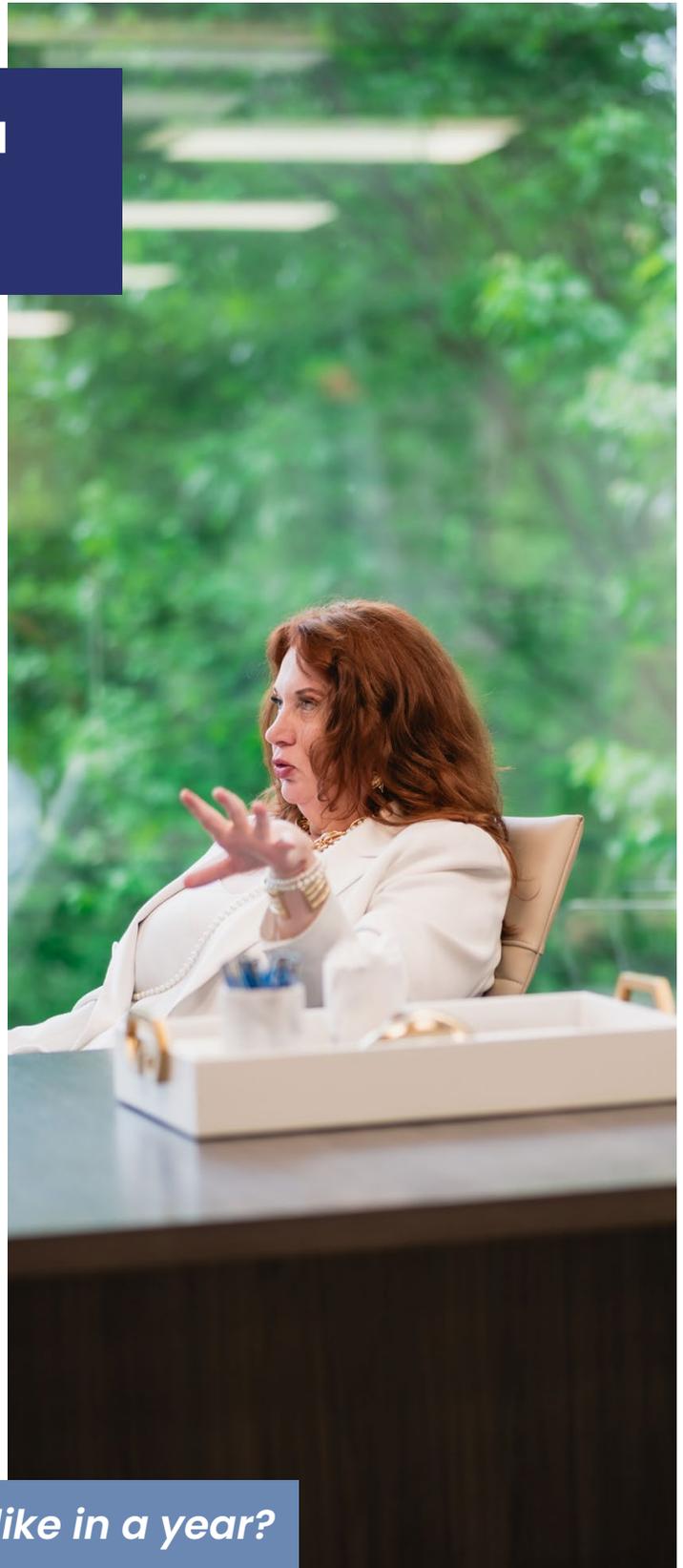
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# ABOUT

At Atlanta Divorce Law Group, our mission is to help families find a new and healthy family dynamic. When children are involved, you and your ex-spouse are still connected for the rest of your lives. What was agreed upon during your divorce could have been what was best at that point, but that may not be what's best now. Circumstances change whether it's financial, living arrangements, or work requirements. Sometimes, the needs of your children have changed that may require a modification of custody or child support.

The next step is to determine if a modification is the best option for you. This Get Ready Kit has been designed to help you know what's involved in the process and how you can prepare now. You may even know this is the right step, but the timing may not be right. We will discuss several different steps in the process and what you can do now to prepare. Taking control now will help you have a clear mind once you decide to go through the process.



*What do you want your life to be like in a year?*

# A TYPICAL CHILD CUSTODY MODIFICATION PROCESS

There are typically several stages to a modification process. The next few pages will discuss the different stages and how you can prepare ahead of time for what is to come.

Not only will this provide you an opportunity to have a clear picture of your current financial situation, but in the case of children, you'll begin to develop a clear idea of what you want for them during and after this process.

*It's important to note that not every case will go through every stage.*

More amicable modifications will be completed through mediation, while more complex cases may involve a trial. The majority of cases are settled at mediation. This will be discussed further when you hire a law firm.

The last section will identify some items that will help as you start to co-parent.

## STEP 1: THE CONSULT

Once you've decided that a modification is what's necessary for you and your children to have a better life, the first step is to hire a law firm. We encourage you to hire a firm that makes you feel comfortable, safe, and empowered. The process can be expensive but to go with the cheapest law firm means you get what you pay for. There are many nuances in the law and many approaches and options available to you, so it's important to hire a firm that specializes in family law and are considered experts.

We believe that if you are provided a case strategy at your consultation, it's going to be a cookie cutter strategy based on other people's cases instead of the specific circumstances of your case. While experienced firms can give you an idea, a true strategy is created after your attorney has spent time digging into the facts of your case and is not something that can be given after a 30 minute conversation.

# STEP 2: COMPLAINT/PETITION FOR MODIFICATION FILED

*Legal document needed to initiate the custody modification filed with the clerk of the court in the appropriate county.*

## WAYS TO PREPARE NOW

### A. Gather necessary documents:

- i. Your attorney will need all final pleadings from your previous cases:
  1. Final Judgment and Decree of Divorce
  2. Final Order of Legitimation
  3. Parenting Plan
  4. Child Support Worksheet
  5. Child Support Addendum
  6. Consent Order of Modification
- ii. Your attorney will need any written communication from you and the other parent regarding informal modification of the parenting plan (e.g. did you send an email that said your ex-spouse could care for the minor children over the past weekend?)
- iii. If the minor child is 14 or older, does he or she wish to elect to live with you? *This is a delicate process, and your attorney should be intimately*

*involved in obtaining necessary documentation to avoid any appearance of undue influence on the child.*

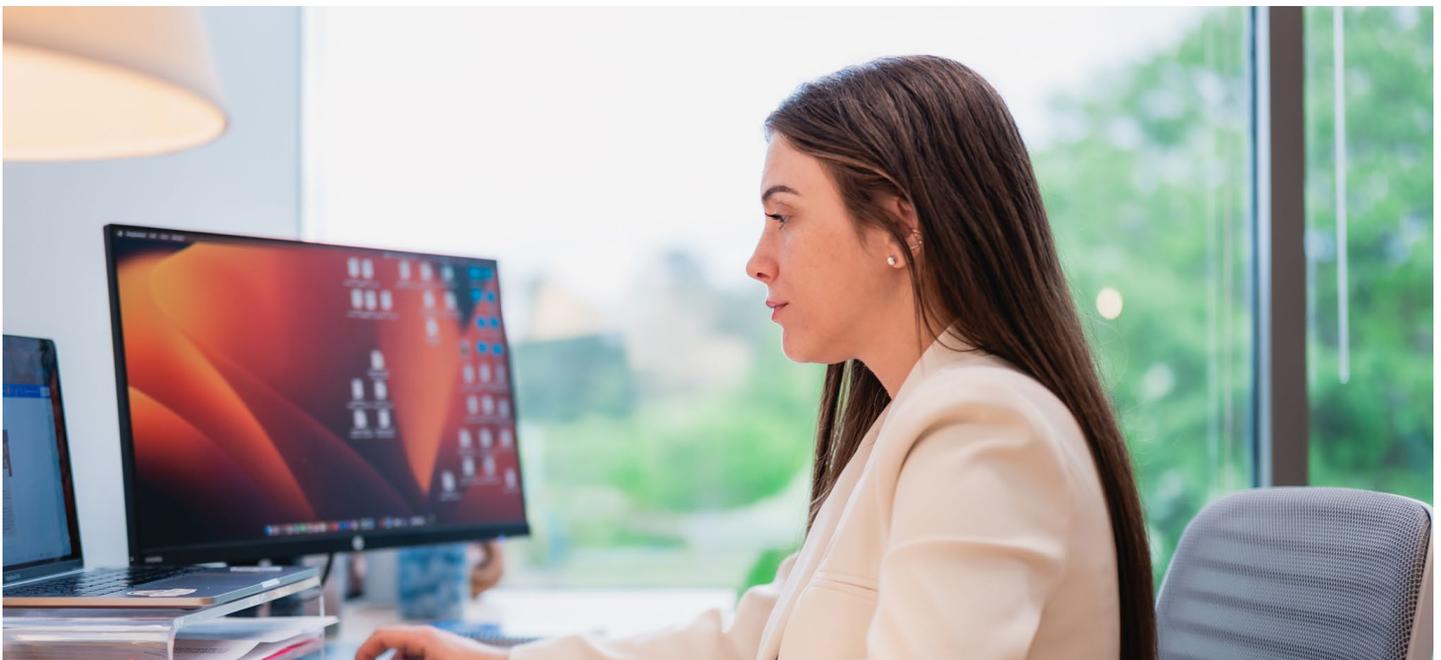
### B. Gather necessary information:

- i. What county have you lived in for the majority of the past 6 months?
- ii. What county has the other parent lived in for the majority of the past 6 month?
- iii. What county has your child lived in for the majority of the past 6 month?
- iv. List all addresses where the minor child has lived for the past 5 years.
- v. What was the date and location of divorce or legitimation?

## STEP 2: CONTINUED

### **B. continued.**

- vi. Has there been a material change in circumstances? This can be almost any major change in the minor child's life, for example:
1. Has one of the parents moved?
  2. Does the child have a new sibling?
  3. Has one of the parents started dating seriously (introduced the child)?
  4. Has the child aged so much since the entry of the last order, his/her needs have changed requiring changes to the agreement?
  5. NOTE: Some major changes DO NOT (usually) QUALIFY as material change in circumstances, for example:
    - a) Natural change in school due to graduation (elementary to middle or middle to high)
    - b) Getting a pet
    - c) Getting a car/driver's license
- vii. Are there any temporary issues that need immediate attention?



# STEP 3: COMPLAINT SERVED TO OTHER PARENT

*Summons and complaint served to defendant initiating the custody modification proceedings.*

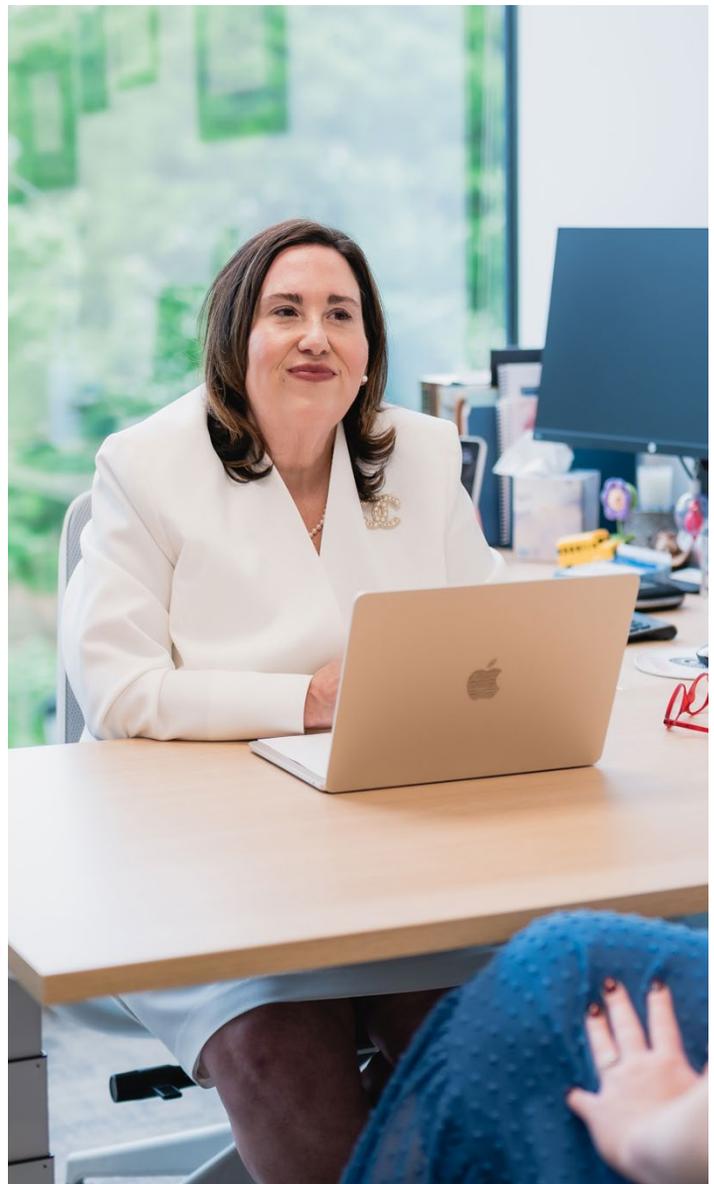
## WAYS TO PREPARE NOW

### A. Gather the necessary documents:

None

### B. Gather the necessary information:

- i. How do you want the other parent served?
  1. With a cordial email and request they execute an affidavit called an acknowledgment of service?
  2. Via private process server?
  3. Via sheriff?
- ii. Where do you want the other parent served (e.g. work, home, school)?
- iii. Prepare a description of the other parent for the process server if chosen.



## STEP 4: DISCOVERY – FORMAL OR INFORMAL

*Discovery occurs as long as necessary up until the final trial. Each party gathers critical information and evidence. There are four types of discovery: interrogatories, request for production, request for admission, and depositions.*

### WAYS TO PREPARE NOW

#### **A. Gather the necessary documents:**

- i. Monthly statements for all bank accounts for at least 1 year (or since the last order if less than 1 year ago)
- ii. Monthly statements for all credit card accounts for at least 1 year (or since the last order if less than 1 year ago)
- iii. Monthly statements for all loan accounts for at least 1 year (or since the last order if less than 1 year ago)
- iv. Monthly statements for all mortgages for at least 1 year (or since the last order if less than 1 year ago)
- v. Monthly statements for all investment accounts for at least 1 year (or since the last order if less than 1 year ago)
- vi. Monthly statements for all retirement accounts for at least 1 year (or since the last order if less than 1 year ago)
- vii. Monthly statements for all 529 accounts for at least 1 year (or since the last order if less than 1 year ago)
- viii. Policy documents for all insurance that covers the minor child (car, life, home, umbrella)
- ix. Receipts for medical costs for you for the past year (or since the last order if less than 1 year ago)
- x. Tax returns for the past 3 tax years.

## STEP 4: CONTINUED

### A. continued.

- xi. Pay stubs for the past year.
- xii. Email correspondence relevant to the case since the last case (anything before the last order is irrelevant to this matter and would only be helpful if you think it will help your attorney understand the perspective)
- xiii. Text correspondence relevant to the case (anything before the last order is irrelevant to this matter and would only be helpful if you think it will help your attorney understand the perspective)
- xiv. Video evidence relevant to the case (anything before the last order is irrelevant to this matter and would only be helpful if you think it will help your attorney understand the perspective)
- xv. All business documents you have access to for businesses you own (e.g. monthly bank statements, monthly credit card statements, formation documents, etc.)
- xvi. Communications between you and third parties relevant to the case (anything before the last order is irrelevant to this matter and would only be helpful if you think it will help your attorney understand the perspective)
- xvii. Notes relevant to the case (e.g. Did you keep a log of skipped visitation? Did you keep track of the times you emailed the other parent with no response? Anything before the last order is irrelevant to this matter and would only be helpful if you think it will help your attorney understand the perspective)

### B. Gather the necessary information:

- i. What documents would you like to request from the other parent? *This will require counsel from your attorney when the time comes.*
- ii. What specific information would you like to request from the other parent? *This will require counsel from your attorney when the time comes.*
- iii. What documents, if any, would you like to request from third parties? *This will require counsel from your attorney when the time comes.*
- iv. List all bank accounts, including institution and last four digits of account number.

## STEP 4: CONTINUED

### **B. continued.**

- v. List all credit card accounts, including institution and last four digits of account number.
- vi. List all loan accounts, including institution and last four digits of account number (e.g. car loan).
- vii. List all mortgage accounts, including institution and last four digits of account number (e.g. first mortgage, Home Equity Line of Credit).
- viii. List all investment accounts, including institution and last four digits of account number.
- ix. List all retirement accounts, including institution and last four digits of account number.
- x. List 529 accounts, including institution, last four digits of account number, the beneficiary child, and which parent/guardian has control of the account.
- xi. List all insurance policies that cover the minor child (car, life, home, renters, umbrella).

*This can be the most tedious part of the custody modification process. Whether you engage in discovery informally or formally, you will need a lot of documents from you and the other parent. You want to be sure that both of you and your attorney are confident you have a full picture of your situation.*

# STEP 5: OTHER PARENT RESPONSE TO COMPLAINT

*The person served has 30 days to respond to the summons. They must respond to the other parent's claims and assert their own defenses. This can be filed on their own or by an attorney.*

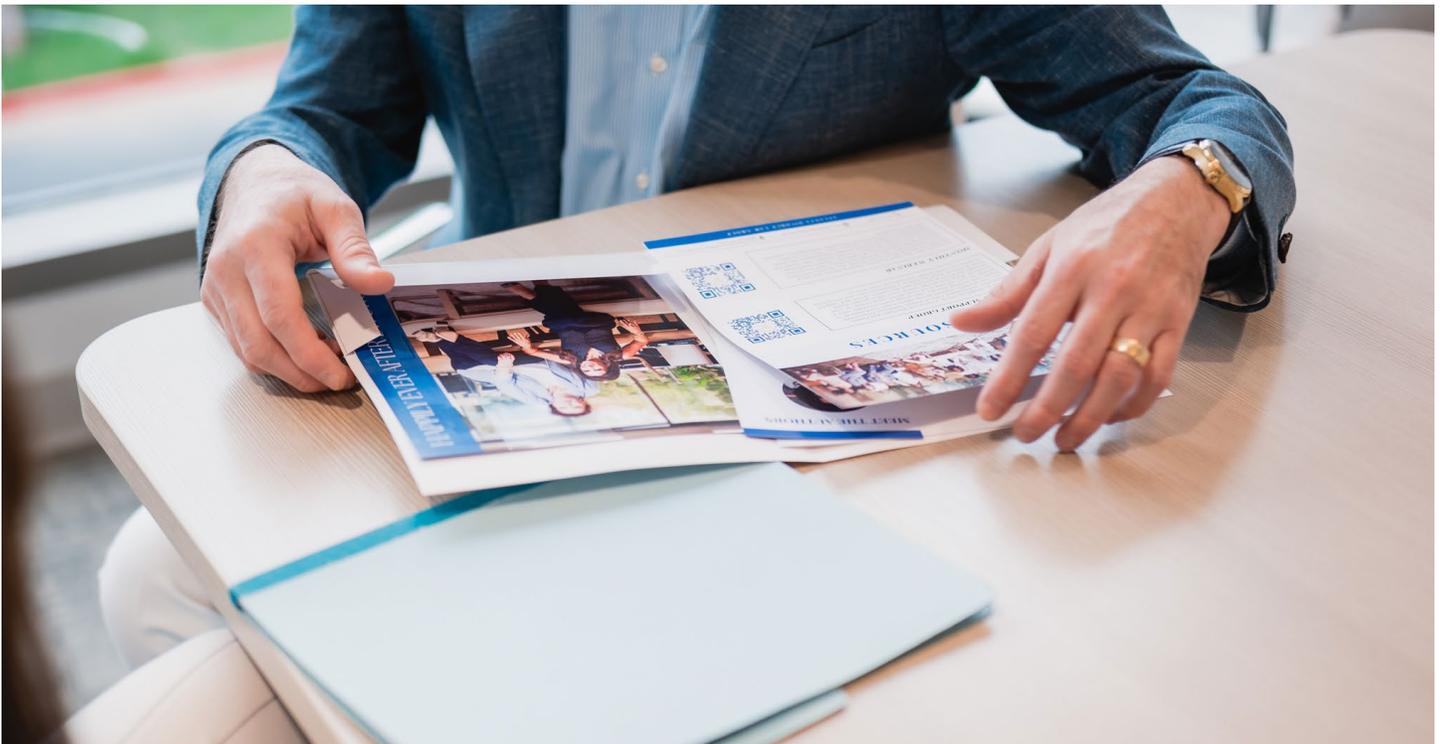
## WAYS TO PREPARE NOW

**A. Gather the necessary documents:**

None

**B. Gather the necessary information:**

None



## STEP 6: GUARDIAN AD LITEM

*This is an attorney hired by the parties to represent the best interests of the minor children. This person conducts an investigation on behalf of the court, makes a recommendation regarding physical and legal custody (to the extent they are in dispute), and reports the recommendation to the court.*

### WAYS TO PREPARE NOW

#### **A. Gather the necessary documents:**

- i. All evidence of disagreements between you and the other parent
  1. Text messages
  2. Emails
  3. Audio recordings
  4. Video recordings
- ii. All evidence of the children's performance at school:
  1. Report cards
  2. Email communications with teachers
  3. Disciplinary records
- iii. All evidence of the children's health:
  1. Medical records
  2. Medical bills
  3. Recommendations from therapists
  4. Prescriptions
- iv. All evidence you can think would be necessary for a thorough investigation by the GAL.

## STEP 6: CONTINUED

### **B. Gather the necessary information:**

- i. List of witnesses who will be able to assist in the investigation (e.g. teachers, children’s counselors, your counselors, neighbors, children’s doctors, your doctors, friends, family).
- ii. List of disputes between you and other parent (summary of issues).
- iii. What you believe is in the best interests of the minor children and why.

## STEP 7: MEDIATION

*A neutral law professional is hired to facilitate discussion between the parents in an effort to reach an agreement without the need for a long, drawn out trial.*

## WAYS TO PREPARE NOW

### **A. Gather the necessary documents:**

- i. Review #3

### **B. Gather the necessary information:**

- i. Imagine your life after this process is complete. What does it look like? Create a picture of that for yourself and your attorney.
- ii. This picture helps us to stay focused on our goals and fight for what is most important.
- iii. What do terms are you firm on, and what are willing to compromise?
- iv. Mediation typically lasts 4 hours or longer. Prepare yourself mentally for the long haul so that you can stay rational and energized throughout the process.

## STEP 8: TEMPORARY HEARING

*The purpose of this hearing is to provide a temporary plan in which to work during the custody modification proceeding or other family law matter. This is especially helpful when neither party can agree on certain arrangements.*

### WAYS TO PREPARE NOW

#### **A. Gather the necessary documents:**

- i. Are there any witnesses you would like? Only one witness can come to this, but your attorney can get affidavits from other witnesses or have them prepare statements.
- ii. Prepare any evidence you have regarding the temporary issue.

#### **B. Gather the necessary information:**

- i. Prepare your testimony regarding the temporary issue.
- ii. Prepare a statement regarding your perspective of the temporary issue.

*Temporary hearings or agreements are not always necessary. Typically, they are reserved for cases that look like they will take some time and have issues that need to be addressed in the meantime (ex. they need a temporary arrangement for which school the child will attend until the final decision).*

## STEP 9: LATE CASE EVALUATION

*This is usually scheduled about 120 days into the proceedings if the judge believes a late case evaluation may result in a settlement thus eliminating the need for a trial.*

## STEP 10: GOING TO TRIAL

*Usually 6 months to a year after complaint for modification is filed. At this point, neither party has been able to agree on all areas of the custody despite going through mediation, settlement conferences, etc. The trial is the final alternative.*

### WAYS TO PREPARE FOR STEPS 9 & 10

**A. Gather the necessary documents:**

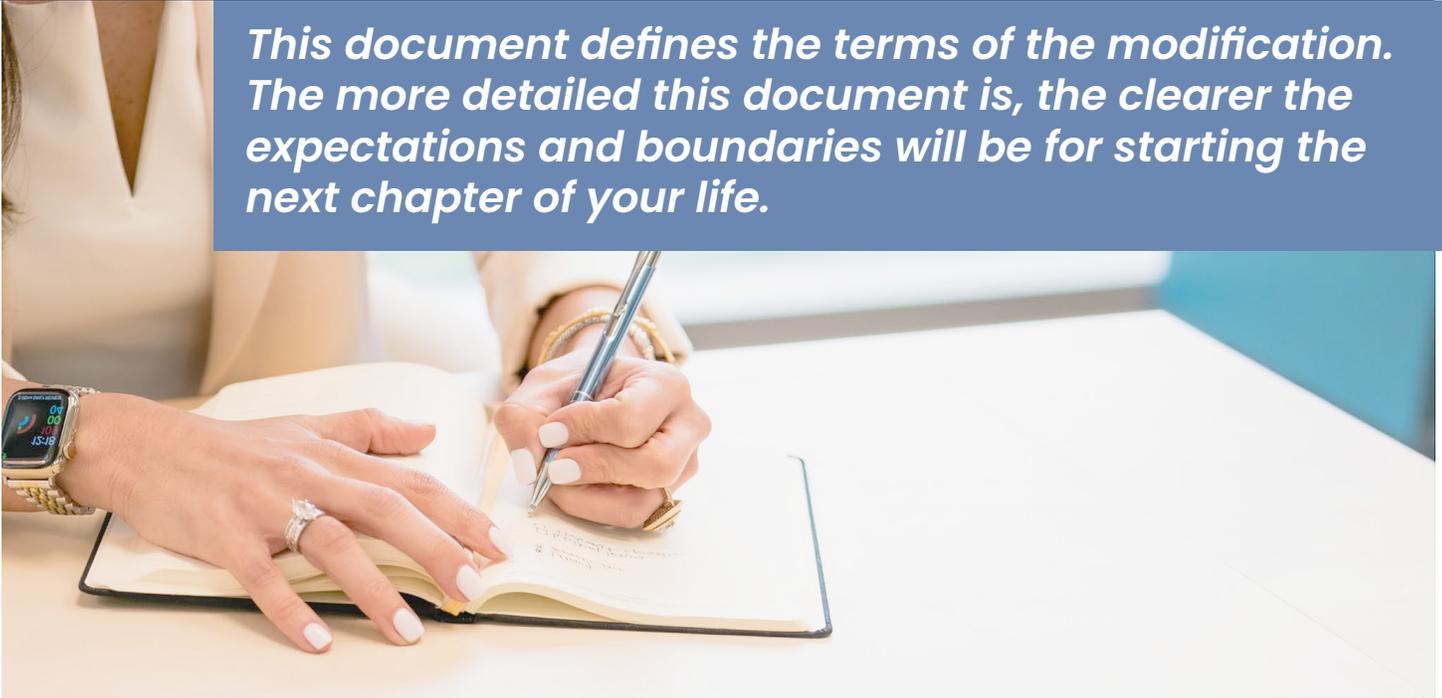
- i. When the time comes, your attorney will walk you through the steps, but most of the preparation work lies on her/his shoulders.
- ii. When the time comes, you attorney will do much of the word to prepare evidence, timelines, and exhibits to support your claims.

**B. Gather the necessary information:**

None

# STEP 11: SETTLEMENT AGREEMENT

*This document defines the terms of the modification. The more detailed this document is, the clearer the expectations and boundaries will be for starting the next chapter of your life.*



## WAYS TO PREPARE NOW

### A. Gather the necessary documents:

None

### B. Gather the necessary information:

- i. Do you have a parenting schedule you would prefer?
- ii. Do you have extra parameters you want in the parenting plan (e.g. covering alcohol consumption, driving, safety precautions, travel outside the US, ear piercing, new significant others, etc.).

# FINAL STEP: CO-PARENTING AT IT'S BEST

*“A healthy and positive co-parenting relationship is nothing short of a gift.” – Anonymous*

## Effective Co-Parenting Tips

- i. **Your Children’s Needs Come First.** Making your children’s security and sense of stability a priority is key to a “successful” divorce. Do what it takes to place them first. A co-parenting therapist can be helpful here.
- ii. **Prioritize Communication for Effective Co-Parenting.** Find a communication strategy that works best for your family; Co-parenting apps are great.
- iii. **Stay on the Same Page for the “Big Stuff” and Make Important Decisions Together.** This can include medical needs, education, finances, etc.
- iv. **Be Positive & Never Bad Mouth Your Co-Parent.** Keep the adult situations between the adults.

## Co-Parenting Apps

Co-parenting sites/apps can be an easy to use tool for your family to effectively run two homes. They allow you to communicate, schedule, keep track of finances, etc. Below are a few suggestions.

- i. **Our Family Wizard.** Varies from \$99–210 based off package.
- ii. **Co-Parently.** \$9.99/mo or \$99/year (per parent).
- iii. **WeParent.** \$7.99/mo, \$69.99/year or a one time payment of \$99.99 for a lifetime use.

## Co-Parenting Books

*Mindful Co-Parenting: A Child Friendly Path Through Divorce.*

By: Jeremy S. Gaies, Psy.D & James B. Morris, Psy. D

*The Co-Parenting Handbook.*

By: Karen Bonnell (Co-Parenting Coach) with Kristin Little (Child Specialist)

*Co-Parenting 101.*

By: Deeha Philyaw & Michael D. Thomas

*Mom’s House, Dad’s House: Making Two Homes For Your Child.*

By: Isoline Ricci, Ph.D

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