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Mediating Modifications: Child Custody, Child Support And Alimony

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Divorce Mediator Carmela M. Miraglia discusses how mediation can assist parents and former spouses amicably modify judgments and agreements.



Fortunately, life goes on after a divorce. However, the needs and goals of the divorced spouses and their children can change with time. Often, these changes are significant enough that terms of a divorce agreement are no longer viable for one or both former spouses. Massachusetts has a legal process that allows divorced spouses to officially modify their divorce agreement to reflect these significant changes. Moreover, the modification process does not require litigation. Changes to a separation agreement can be mediated and resolved through [a Joint Petition to Modify a Judgment or Order](#).

What Issues Can Be Modified After a Divorce in Massachusetts?

Not all issues in a divorce can be modified after the divorce becomes final. For example, *the division of marital property* generally cannot be revisited through an action to modify. The division of assets is generally permanent, with a few rare exceptions. The division of assets is said to “survive” the Judgment of Divorce, making it unmodifiable. *Child custody and parenting time, child support and alimony* are generally areas of a divorce agreement that can be revisited during the modification process as each of these obligations continues well after the divorce has been finalized. Child custody, parenting time and child support are generally always modifiable in Massachusetts following the entry of Judgment. Alimony is modifiable so long as the divorce agreement of the spouses provided that alimony would “merge”, and therefore be modifiable in the future if circumstances changed. (In most instances, if the agreement provides for the payment of alimony, the judgment will be modifiable. If the agreement includes a waiver of alimony, however, the changes increase that the waiver of alimony “survived”, and cannot be modified except in very unusual circumstances.)

Using a Mediator to Resolve Child Custody Modifications in MA

Child custody is one of the most common issues to be revisited after a divorce. If either you or your former spouse has changed jobs or has moved out of state, it can make it all but impossible to maintain the existing custody agreement from the divorce, no matter how hard you try. Similarly, sometimes changes in children’s schedules occur as kids get older. What works for a seven-year old may not work as well for a 15-year old. Mediation, rather than litigation, is an excellent way to amicably resolve these new dilemmas because it focuses on *finding a mutually-beneficial resolution* that centers on the best interests of the child. Former spouses who went through a contentious custody battle at the time of the divorce often find it a relief to mediate child-related issues that arise after the divorce is over.

Mediating Child Support Modifications in Massachusetts

Like child custody, child support judgements can be modified as lives and finances change following a divorce or final judgment. Jobs are gained or lost, raises received and children grow as time passes. Under the [Massachusetts Child Support Guidelines](#), these changes can warrant a change in child support. Mediating child support after a judgment can help you, the other parent, and your children avoid the stress and anxiety of going through the litigation process a second time. Child support modifications provide a good fit for mediation because mediation offers [flexible, custom solutions for parents](#) experiencing financial challenges. Mediation also keeps the [focus on the needs of the children](#) by helping to defuse personal animosity that can arise when parents feel financial stress.



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Modifying Alimony Through Mediation

Finally, alimony can often be modified post-divorce, so long as the original agreement includes a “merger clause” making alimony modifiable. The most common grounds for modifying alimony is job loss or a significant decrease in the paying spouse’s income. However, other issues, such as the emancipation of children (i.e. child support ending) can give rise to a request for alimony to start or increase after the judgment. Because of the potential for animosity, utilizing the mediation process to resolve post-divorce alimony disputes and modifications may be the best way to ensure that tensions do not get out of hand. By resolving your alimony modification through mediation, both you and your former spouse can use the opportunity to come to a full understanding of each other’s needs, and come to a resolution that helps you both reach your full potential following the divorce. Mediate your prenuptial agreement.

Carmela is a divorce mediator and mediation coach for South Shore Divorce Mediation, with offices in Hingham, Massachusetts and East Sandwich, Massachusetts. She is also a Senior Associate Attorney for Lynch & Owens, P.C., where she specializes in divorce and family law issues. Carmela is a statutory mediator under M.G.L. Ch. 233, s. 23C and a proud member of the Massachusetts Council on Family Mediation. To read more from Carmela Miraglia, check out her author page on the Lynch & Owens Blog. **Disclaimer:** *The information you obtain at this site is not, nor is it intended to be, legal advice. You should meet with an attorney for advice regarding your individual situation. You are invited to contact our office. Contacting the office does not create an attorney-client or mediator-client relationship. Please do not send any confidential information to the office until such time as an attorney-client or mediator-client relationship has been established. This blog is considered an advertisement for the Law Office of Lynch & Owens, P.C. d/b/a South Shore Divorce Mediation. The Massachusetts Rules of Professional Conduct broadly govern all advertisements and communications made by attorneys and law firms in the Commonwealth. Generally, legal websites and any other content published on the internet by lawyers are considered a type of communication and an advertisement, according to the Comments to Rule 7.2.*

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