

Mediation in Divorces

Divorce can be one of the most emotionally and financially challenging events in a person's life. In Wisconsin, mediation is another way for couples to solve problems without going to court. It gives them a chance to talk things out in a more peaceful and private way. Sometimes couples choose mediation on their own, and other times the court asks them to try it. Mediation helps couples make important decisions about their future and their family.

This article explains how mediation works in Wisconsin divorce cases, including when it's voluntary, when it's court-ordered, what types of issues it can solve, and the benefits it can offer.

What is Mediation?

Mediation is a type of alternative dispute resolution (ADR) where a neutral third party—called a mediator—helps divorcing spouses reach agreement on the terms of their divorce. The mediator does not represent either spouse and does not make decisions. Instead, they guide discussions, help clarify issues, and encourage cooperation.

Mediation can address many parts of a divorce, including:

- Child custody and placement
- Child support
- Spousal support (maintenance)
- Property and debt division
- Parenting plans and schedules

Voluntary Mediation in Divorce

Couples in Wisconsin can choose to enter mediation voluntarily, either before or after filing for divorce. Voluntary mediation can be a great option when both spouses

are open to cooperation and want to avoid the stress and cost of litigation. Voluntary mediation may be used on its own or as part of a collaborative or cooperative divorce process.

Court-Ordered Mediation

In Wisconsin, the court may require couples to try mediation, especially when there are disagreements over child custody or placement. One or both spouses can also request court-ordered mediation if the court does not order it, using the [Request for Court-Ordered Mediation](#). Each county handles family case mediation slightly differently. Check with your family court to get information on required forms, fees and processes.

Key Features of Court-Ordered Mediation

- The mediation is usually limited to custody and placement issues, but the court may order financial mediation if the parties are unable to agree to a division of property.
- Parents must submit proposed parenting plans to the mediator ten days before the first mediation session.
- Sessions usually happen through the county's Family Court Services program.
- Mediators may be court-appointed or drawn from a list of approved professionals.
- If custody and placement mediation fails, the court may appoint a Guardian ad Litem (GAL) to represent the child's best interests. See our article on [Guardian ad Litem](#) for more information.

Exemptions from Mediation:

A spouse can ask the court to waive mediation due to:

- Domestic abuse or safety concerns
- Inability to participate effectively (mental health issues, language barriers, etc.)
- Long-distance or other logistical barrier

What to Expect in Mediation

1. **Choosing a Mediator:** The spouses pick a mediator who is experienced in family law. The mediator can be a lawyer, therapist, or trained professional mediator.
2. **Introduction and Ground Rules:** The mediator meets with both spouses to explain the mediation process, talk about the issues that need to be fixed, and set guidelines.
3. **Information Gathering:** Both spouses provide necessary information, which often includes financial information such as income, expenses, assets, and debts.
4. **Discussion and Negotiation:** The mediator helps guide the conversation and works with both people to find possible solutions.
5. **Agreement or Litigation:** If an agreement is reached, it may be written and submitted to the court. If not, the case may go to litigation.
6. **Review by Attorneys:** Both spouses are encouraged to have their attorneys review the mediated agreement to make sure their rights are protected and the agreement is legally sound.
7. **Court Approval:** The mediated agreement is submitted to the court for approval. If the court finds the agreement to be fair and reasonable (maintenance, property division) or in the best interests of the child (custody, placement, child support), it will incorporate it into the final divorce decree.

Legal Considerations

Modification: The agreement can include terms allowing for future changes based on changes in circumstances, such as changes in income or financial needs.

Court's Role: The court will look over the agreement made in mediation. If the agreement includes money matters, like dividing property or spousal support, the court must make sure it is fair and follows Wisconsin law. If the agreement involves child custody or placement, the court must make sure it is best for the child or children. In the end, the court has the final say and must approve the agreement.

Enforceability: A mediated agreement, whether it is for spousal maintenance, child placement, child support, property division, or all contested issues in the divorce, is legally binding once it is approved by the court. Both spouses must comply with its terms.

Is a Lawyer Required in Mediation?

No, lawyers are not required to attend mediation sessions, but legal advice is still strongly recommended. Some courts prohibit attorneys from attending custody and placement mediations. Many people choose to talk with an attorney before or after mediation to:

- Understand their rights and responsibilities
- Prepare for discussions
- Review the final agreement before signing

Some attorneys also offer limited scope representation, where they assist with specific parts of the case, such as reviewing a mediation agreement, without taking on full representation.

Benefits of Mediation in Divorce

- **Custom Solutions:** You can craft an agreement that fits your family's unique needs.
- **Reduces Conflict:** Mediation promotes communication, which can ease tensions.
- **Child-Focused:** It encourages parents to work together in the best interest of their children.
- **Privacy:** Court battles are public, but mediation is confidential.
- **Control:** You and your spouse make the decisions—not a judge.
- **Cost-Effective:** Typically much less expensive than a drawn-out court battle.
- **Efficiency:** Mediation can resolve disputes faster than litigation.
- **Preserves Relationships:** Especially important when co-parenting children after divorce.

What if Mediation Fails?

If you can't reach an agreement in mediation, you still have options:

- Try a different mediator or method (e.g., collaborative divorce).
- Go ahead with a traditional court hearing where the judge will decide unresolved issues.

- Consider involving professionals like a Guardian ad Litem, parenting coordinator, or financial expert to help clarify complex issues.

What Mediators Can and Cannot Do in Wisconsin Divorces

In Wisconsin, divorce mediators play an important but limited role in helping couples reach agreement. Here's what mediators are allowed and not allowed to do under Wisconsin law:

What Mediators Can Do

- Serve as a neutral facilitator to help both spouses communicate and reach mutual agreements during the divorce process.
- Provide general legal information about divorce laws in Wisconsin to help both spouses understand their rights and responsibilities.
- Offer tools and resources to aid decision-making, such as court-approved forms or financial calculators for dividing assets and debts.
- Prepare and file divorce documents with the court—if both spouses give informed, written consent

What Mediators Cannot Do

- Give legal advice to either spouses (beyond explaining the law in a neutral way).
- Advocate for or represent either spouse—the mediator must remain completely impartial.
- Guarantee fairness or make sure the agreement is fair and would hold up in court if the divorce were challenged.
- Act as a lawyer for either spouse or appear in court on their behalf.
- Communicate directly with the judge or participate in court proceedings.

Note: Because mediators cannot offer legal advice or represent either spouse, many people choose to talk with a separate attorney during or after mediation to review the final agreement and make sure their individual rights are protected.

Conclusion

Mediation is a powerful option in Wisconsin divorces, offering couples a respectful, cost-effective, and flexible way to resolve disputes—especially when children are involved. Whether entered voluntarily or ordered by the court, mediation gives families the chance to make their own decisions with the help of a neutral guide.

If you're considering mediation, it's a good idea to speak with a Wisconsin family law attorney or mediator to understand how it might work in your situation.

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