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What is Mediation

Frequently when the court awards joint custody of children, there is a provision in the court order or Joint Parenting Agreement for mediation. If the Joint Parenting Agreement has been entered in your case or there is any type of court order which contains the mediation provision, you should carefully review that document if you have not done so already. The Illinois Supreme Court has made mediation mandatory when there is a dispute regarding custody, visitation or moving out of state in all cases. Mediation should be completed at the beginning of the case and can only be waived by the Court. Parties can also agree to mediation without a court order. The mediator can be a lawyer, social worker or psychologist. There can be more than one mediation session and ordinarily there are no more than three separate sessions.

Mediation is a confidential process between the parties and typically what is said in mediation, stays in mediation (just like what happens in Vegas, stays in Vegas). New spouses, third parties and attorneys do not attend the mediation sessions because the goal is for the parties to reach an agreement on all disputed issues. Frequently parties will reach an agreement on a few issues and reach an agreement on the physical care schedule until the court makes the decision regarding permanent custody. Mediation provides an opportunity for the parties to discuss other parenting issues which may not be addressed by the court. Financial issues are generally mediated by agreement and not by the order of the Court or the Illinois Supreme Court rules.

If an agreement can be reached, the mediator can prepare the agreement and proposed order for the parties to review or the mediator may send a letter to the attorneys to advise them of the agreement. The mediator may also prepare a written report outlining the agreement of the parties. If no agreement can be reached on any issue, the mediator may also file a written report with the Court stating that further mediation would not be successful, in the opinion of the parties and the mediator. The mediator and the parties will decide the best course of action and will advise the parties of the next step.

The mediator will charge his or her hourly rate to prepare for the mediation and to conduct the mediation sessions. Once again if the Joint Parenting Agreement or other order has been entered in your case, then you should check that document to see how the mediator is to be paid. Most mediators will want a down payment or an initial payment