

# Family Law Arbitration as Concierge Divorce Court

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Arbitration in family law matters including divorce and child custody suits is a growing trend in Texas. Concierge services are popular and trendy to give people a bespoke experience tailored to fit their needs. Arbitration is the concierge court for divorce and child custody suits.

## What is Arbitration?

Family law arbitration is where spouses or parents agree to submit contested issues regarding their breakup or children to a neutral third party for resolution that will be binding and final. It is a hybrid of the negotiation process and a contested trial. Parties remain free to settle issues between them in arbitration, but also have a neutral third party to make a decision that is binding when the parties cannot agree. Arbitration provides a flexible, concierge system to resolve disputes privately.

## Who should serve as the Arbitrator?

Part of the agreement to submit to arbitration includes selecting the arbitrator. While an arbitrator can really be anyone agreeable to the parties, the best option for a family lawsuit is to select a knowledgeable and experienced family law attorney who has been trained by a reputable organization in arbitration in the family law process. The American Academy of Matrimonial has the most reputable training program in the U.S. for family law arbitrators. AAML Arbitrators are specially trained in divorce arbitration and child custody arbitration.

## Five reasons to arbitrate divorce and child custody suits.

There are benefits to arbitration that do not exist even in the traditional litigation model. Here are five reasons why arbitration might be a good alternative for your divorce or child custody suit:

### 1. Select an arbitrator with special knowledge about your issues.

In the court system, parties get stuck with the judge over the randomly selected court. That judge may not have expertise in the particular disputes involved in the specific case. With arbitration, the parties can select a person who is skilled and experienced in the particular issues involved in their case. For example, if the dispute involves valuation and division of a marital property business, the parties can choose an arbitrator who has handled divorces involving business disputes during her career.

### 2. Arbitration is more efficient than court.

Arbitration is designed to speed up the process of divorce while still providing each party the opportunity to present their case. After the pandemic, the court system has suffered great backlogs and elected judges are still sorting out their case load. This has resulted in years-long delays in some courts to get a case finished. On the other hand, arbitration provides more of a concierge service where the arbitration has more availability to determine issues and reach final resolution quicker than the courts. Interim matters can be addressed efficiently, and a final hearing reached quicker than in court.

### 3. Arbitration is a private matter.

The traditional court system is a function of the government which requires court hearings to be open to the public. Courts also are required to keep a record of the proceedings which anyone can request. Some spouses may have reasons to keep things out of the public eye. For example, if the parties have high net worth and a lot of assets, they may not want that information available to scammers. Also, high profile people who attract public attention such as celebrities, influencers, or athletes will not want their private matters aired in public. The public nature of the court system can also place children at risk for victimization by bad people. Arbitration is a private proceeding, held in a private location such as an office or hotel conference room. There is no record kept of the proceedings and the public cannot attend.

### 4. Arbitration is less formal and intimidating.

Going to court can be intimidating and scary. There is a dress code that many people are not accustomed to meeting. Judges can show impatience and be temperamental. Lawyers may treat the courtroom like a battlefield, which raises the hostilities between the parties. But, with arbitration, the parties can be more comfortable having a meeting. The proceedings take a less-formal tone and more conversational problem-solving approach. Arbitration can be a kinder version of dispute resolution than the court system. Lawyer advocacy remains an important part of arbitration, just with less weapons and more collaboration. The arbitrator will conduct an initial conference to lay out the issues and get an understanding of each side's perspective before holding the final hearing, making the process less about being adversaries and more about dispute resolution.

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### **5. Arbitration is more flexible in the process than the courtroom.**

Courts are bound by certain rules about how the proceedings are conducted. Also, many courts have returned to in-person proceedings, causing parties to suffer from time off work and increased attorney's fees for traveling to a day in court. Where the courthouse may be a long way from where the parties live and work, arbitration can be held in any location, even by remote videoconferencing, to provide flexibility for the parties, lawyers, and witnesses.

### **Are there any detriments?**

Arbitration has its detriments as well. Cost is the main impediment to arbitration. Because an arbitrator is a private individual, the parties must pay that person to serve just like they pay their lawyers. Because the arbitrator may be selected for her special experience or knowledge, she may cost as much or more than the lawyers representing the parties. Only the parties can balance the need for an efficient, private method of resolving their situation compared to the cost of the process.

Another often-cited downside to arbitration is the fact that it is a binding process with no review or appeal by another court or person. Parties place a great deal of trust and confidence in the arbitrator to decide their issues once and for all. But, if the parties are concerned about an arbitrator who goes rogue or fails to follow the law, they can build in a review process to the arbitration where a second arbitrator can be selected to review the decision and compare it to the law for accuracy. This appellate arbitration remains a private proceeding outside the court system balancing the review process with the finality and expediency of arbitration.

### **Is arbitration right for me?**

Only the parties to a dispute can determine if the arbitration process is right for their situation. Because arbitration requires agreement of both parties to the binding resolution process, the court system remains their only alternative if they cannot agree. But for many people seeking a private, more efficient method of getting to the other side of their dispute, arbitration can be a perfect solution. With the selection of a trained and highly experienced arbitrator matched to the issues related to the case, the outcome can be more particularized to complex issues or the need for expediency in the outcome.

### **How to pick the right arbitrator.**

1. Expertise: Look for an arbitrator who has relevant expertise and experience in the subject matter of your dispute. Consider their background, professional qualifications, and knowledge in the specific industry or area related to your case.

2. Neutrality and Impartiality: Ensure that the arbitrator is impartial and unbiased. Look for someone who has no conflicts of interest with the parties involved and can approach the case objectively.

3. Reputation and Track Record: Research the arbitrator's reputation and track record. Consider their experience in handling similar cases, the quality of their awards or decisions, and any feedback or recommendations from previous parties they have arbitrated for.

4. Procedural Knowledge: Assess the arbitrator's familiarity with arbitration procedures and rules. An experienced arbitrator should have a good understanding of the applicable laws and be well-versed in the relevant arbitration rules and practices.

5. Availability and Timelines: Consider the arbitrator's availability to ensure that they can commit sufficient time to your case. Verify that their schedule aligns with the expected timeline of your arbitration proceedings.

6. Communication and Interpersonal Skills: Look for an arbitrator who demonstrates effective communication skills and the ability to manage the arbitration process efficiently. A good arbitrator should be able to facilitate constructive dialogue, ensure equal opportunity for both parties to present their case, and maintain a respectful and professional atmosphere.

7. Cost Considerations: Assess the arbitrator's fee structure and ensure it aligns with your budget and expectations. Discuss the expected costs and clarify any financial arrangements in advance.

8. Compatibility: Consider the compatibility between the arbitrator and the parties involved. Assess whether the arbitrator's style, approach, and values align with your preferences and expectations for the arbitration process.

(Michelle May O'Neil with O'Neil Wysocki, P.C. in Dallas, Texas is AAML trained family law arbitrator who handles arbitration matters in-person and remotely all over Texas. See [www.oneilattorneys.com/arbitration](http://www.oneilattorneys.com/arbitration))