PUBLICATION UPDATE

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Texas Family Law Practice and Procedure

Publication 705 Release 57 May 2008

HIGHLIGHTS

Pub Update

- This release updates *Texas Family Law Practice and Procedure* in light of all relevant case law developments since Release 56.

Growth

- Included with this release is a new binder, Volume 5, to physically accommodate the expanded coverage of emerging and revisited issues in the practice of Family Law in Texas. Please follow the detailed filing instructions accompanying this update of *Texas Family Law Practice and Procedure* to shift pages between all the volumes for your convenient access.

Selected Recent Developments

- See summaries of analysis below.

Primary possession. Whether the statutory parental preference applies to the issue of primary possession when a parent and a nonparent are joint managing conservators is the subject of new analysis.. *See* Task B2, Determining Custody of Children; Task F1, Preparing the Final Decree.

Specificity of visitation orders. The question of whether one party may be given complete discretion to determine the other party's access to the child is now subject to a split of authority. *See* Task B2, Determining Custody of Children; Task F1, Preparing the Final Decree.

Alternative possession times in SPO. A possessory conservator must make the election for extended visitation times before or at the time of rendition of the original or modification order. There is no independent cause of action seeking extended visitation under Section 153.317. *See* Task B2, Determining Custody of Children.

Constructive fraud. The fiduciary duty that exists between spouses terminates when divorce proceedings begin and each spouse is independently represented by counsel. *See* Task B7, Dividing Community Property.

Affidavit of indigence. If the affidavit of indigence is not filed with or before the notice of appeal, the court of appeals must

allow the litigant a reasonable time to correct the defect before dismissing the appeal for noncompliance. *See* Task G3, Bringing Appeal in Court of Appeals.

Offset or reimbursement. When the primary conservator has voluntarily relinquished custody to the obligor but the obligor is not the child's sole source of support, the obligor seeking reimbursement or offset must provide some evidence of the amount of actual support paid. *See* Task N1, Defending Against SAPCR Enforcement.

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Texas Family Law Practice and Procedure

Publication 705 Release 57 May 2008

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☐ 2. Separate this Release Number 57 package into the following groups of material:

- Tab Card
- Tan Publication Table of Contents
- White Revision pages
- Sticker envelope
- Binder

☐ Arrange these groups of material next to each other so that you can take material from each group as required and proceed with the filing of this release.

☐ 3. Circulate the "Publication Update" among those individuals interested in the contents of this release.

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☐ Apply the "OBJECTIVES A–D" sticker to the side panel that now reads "OBJECTIVES A–E".

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VOLUME 3

☐ Apply the "OBJECTIVES G–M, POST-TRIAL, MODIFICATION, ENFORCEMENT" sticker to the side panel that now reads "OBJECTIVES M–X, ENFORCEMENT (cont'd), POST-DISSOLUTION, PROTECTIVE ORDERS, ANNULMENT, CHILDREN'S ISSUES, AGREEMENTS".

VOLUME 4

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SHIFT OF MATERIAL INVOLVING VOLUMES 1, 2, 3, AND 4 AND CREATION OF A NEW VOLUME 5

☐ 1. Remove from Volume 4 all of the material from and including the white "Y. Guardianship" Tab card thru page Tax-5 (including all intervening tab cards) and insert into the new Volume 5 binder provided after the "Volume Five" Tab card.

☐ 2. Remove from Volume 3 all of the material from and including the white "W. Cohabitation" Tab card thru page X4–25 (including all intervening tab cards) and insert into the new Volume 5 binder after the Volume 5 tab card preceding the white "Y. Guardianship" Tab card.

☐ 3. Remove from Volume 3 all of the material from and including the white "N. Defending Enforcement" Tab card thru page V2–11 (including all intervening tab cards) and insert into your Volume 4 binder after the Volume 4 tab card preceding the white "W. Cohabitation" Tab card.

☐ 4. Remove from Volume 2 all of the material from and including the white "G. Appellate Review" Tab card thru page L3–13 and insert into your Volume 3 binder after the Volume 3 tab card preceding the white "M. Interstate Proceedings" Tab card.

☐ 5. Remove from Volume 1 all of the material from and including the white "E. Settlement; Trial" Tab card thru page E7–37 and insert into your Volume 2 binder after the Volume 2 tab card preceding the white "F. Finalizing Case" Tab card.

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VOLUME 1

Publication Table of Contents

☐	Tan Publication Table of Contents page 1 thru 7	Tan Publication Table of Contents pages 1 thru 7

Revision

☐	Title page thru xv	Title page thru xxiii in front of the volume tab card
☐	B2-13 thru B2-21	B2-13 thru B2-22.1
☐	B2-36.3 thru B2-47	B2-36.3 thru B2-36.17
☐	B7-10.1 thru B7-15	B7-11 thru B7-16.1

VOLUME 2

Revision

☐	Title page thru iii	Title page thru xix in front of the volume tab card
☐	E2-17 thru E2-18.1	E2-17 thru E2-18.1
☐	F1-51	F1-51 thru F1-52.1

VOLUME 3

Revision

☐	Title page thru v	Title page thru xix in front of the volume tab card
☐	G3-7 thru G3-16.1	G3-7 thru G3-16.1
☐	I2-5 thru I2-6.1	I2-5 thru I2-6.1

VOLUME 4

Revision

☐	Title page thru iii	Title page thru xvii in front of the volume tab card
☐	N1-19 thru N1-20.1	N1-19 thru N1-20.1
☐	N1-29 thru N1-36.1	N1-29 thru N1-36.1
☐	N1-47 thru N1-48.1	N1-47 thru N1-48.1
☐	P2-31 thru P2-32.1	P2-31 thru P2-32.1
☐	Q1-1 thru Q1-9	Q1-1 thru Q1-9
☐	Q2-3 thru Q2-6.1	Q2-3 thru Q2-5
☐	Q2-21 thru Q2-27	Q2-21 thru Q2-27
☐	R1-1 thru R1-22.1.	R1-1 thru R1-22.1
☐	R2-5 thru R2-6.1	R2-5 thru R2-6.1

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☐	R3-6.1 thru R3-6.3	R3-6.1 thru R3-6.3
☐	R3-13 thru R3-20.1	R3-13 thru R3-20.1
☐	R4-5 thru R4-22.1	R4-5 thru R4-21
☐	S1-1 thru S1-73	S1-1 thru S1-71
☐	S2-7 thru S2-45	S2-7 thru S2-43
☐	S3-25 thru S3-57	S3-25 thru S3-57
☐	S4-9 thru S4-16.7	S4-9 thru S4-16.7
☐	S5-1 thru S5-19	S5-1 thru S5-19
☐	T1-17 thru T1-20.1	T1-17 thru T1-20.1
☐	T2-3 thru T2-11	T2-3 thru T2-11
☐	T3-11 thru T3-41	T3-11 thru T3-39
☐	T4-1 thru T4-17	T4-1 thru T4-15
☐	T5-9 thru T5-23	T5-9 thru T5-23
☐	T6-3 thru T6-4.1	T6-3 thru T6-4.1
☐	U1-5	U1-5
☐	V1-25 thru V1-28.1	V1-25 thru V1-27
☐	V1-61 thru V1-62.1	V1-61 thru V1-62.1

VOLUME 5

Revision

☐	No material removed	Title page thru ix in front of the volume tab card
☐	W3-1 thru W3-4.1	W3-1 thru W3-4.1
☐	Y1-11 thru Y1-16.1	Y1-11 thru Y1-16.1
☐	Y2-13 thru Y2-16.1	Y2-13 thru Y2-16.1
☐	Y2-35 thru Y2-36.1	Y2-35 thru Y2-36.1
☐	Y3-19 thru Y3-22.1	Y3-19 thru Y3-22.1
☐	Y3-41 thru Y3-42.1	Y3-41 thru Y3-42.1
☐	Y4-7 thru Y4-12.1	Y4-7 thru Y4-12.1
☐	Y4-21 thru Y4-26.1	Y4-21 thru Y4-26.1
☐	Z2-5 thru Z2-11	Z2-5 thru Z2-11
☐	TC-1 thru TC-59	TC-1 thru TC-85
☐	TS-1 thru TS-81	TS-1 thru TS-81
☐	I-1 thru I-203	I-1 thru I-203

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