

PUBLICATION UPDATE

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Texas Family Law Practice and Procedure

Publication 705 Release 59

March 2009

HIGHLIGHTS

Pub Update

- This release updates *Texas Family Law Practice and Procedure* in light of all relevant case law developments since Release 58.

Selected Recent Developments

- See summaries of analyses below.

Residency restrictions. An order restricting a child's residency to a particular geographical area does not interfere with the primary custodian's fundamental right to make decisions regarding the care, custody, and control of the child. *See* Task B2, Determining Custody of Children.

Standing. Several recent decisions on the issue of grandparent standing have been incorporated into an expanded discussion of this topic. *See* B2, Determining Custody of Children.

Parental presumption in grandparent access statute. A grandparent seeking ac-

cess to a child for whom non-parent conservators have been appointed is not required to overcome the parental presumption in Family Code Section 153.433(2). *See* Task B2, Determining Custody of Children.

Characterization of stock options. If a party signs a decree that he or she has approved and consented to as to both form and substance, that party may not appeal from the judgment absent fraud, collusion, or misrepresentation. A divorce decree that awards "stock options in existence" as of a certain date covers stock options that were contingent on that date as well as stock options that were vested on that date. *See* Task B5, Characterizing Property of Parties.

Valuation of partnership interest. One court of appeals has held that the value of a partner's interest in the partnership should be based on the present value of the partnership entity as a going business, which would include consideration of the partner-

ship's commercial goodwill. *See* Task B6, Valuing Assets.

Valuation of law practice. When assessing the value of a law firm that has a mixture of settled cases and pending but unsettled cases, only the value of the settled cases may be included. *See* Task B6, Valuing Assets.

Venue. The Family Code does not impose limits on the number of residences a party may maintain at any one time for purposes of determining venue. *See* Task C1, Determining Jurisdiction and Venue.

Special appearance. An order granting or denying a special appearance motion is not subject to interlocutory appeal in a suit brought under the Family Code. *See* Task D1, Assessing Responsive Options.

Transfer. A child who is living with a foster parent resides in the foster parent's home for purposes of the Family Code's transfer provisions. *See* Task H3, Conducting SAPCR Modification Proceedings.

Enforcement of conservatorship order. If the parents agree to a modification of conservatorship or possession, the court must approve the modification for it to be enforceable by habeas. *See* Task K1, Obtaining Writ of Habeas Corpus Compelling Return of Child.

Termination of parental rights. In DFPS-initiated termination cases, the trial court may extend the 15-day deadline for filing a statement of points for appeal by up to 15 days for good cause. *See* Task S5, Obtaining Final Order in Termination Suit.

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March 2009

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Publication 705, Release 59, March 2009

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