PUBLICATION UPDATE

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Texas Family Law Practice and Procedure

Publication 705 Release 60 December 2009

HIGHLIGHTS

Pub Update

- This release updates *Texas Family Law Practice and Procedure* in light of the Family Code amendments enacted by the 81st Texas Legislature and recent case law developments.

Selected Recent Developments

- See summaries of analyses below.

Temporary orders for parent away on military duty. New Family Code Section 153.701 et seq. provide for temporary custody and child support orders to be rendered if either parent is ordered to a military deployment, military mobilization, or temporary military duty at a distant location. These new statutes replace the 2007 provisions for SAPCR orders in the event of a possessory conservator's military deployment. See Task B2, Determining Custody of Children, §§ B2.11, B2.100-B2.103.

Agreed parenting plan. Parents who enter into a written agreement for joint managing conservatorship now have the option of agreeing that the child's primary residence will be within a specified geographic area, rather than designating the conservator who has the exclusive right to designate the child's primary residence. See Task B2, Determining Custody of Children, § B2.03[4][b].

Standard possession order. The standard possession order has been amended to clarify that all pick-up and drop-off times are at 6:00 p.m. unless the possessory conservator has elected an alternative time. Section 153.317, covering elections of alternative pick-up and drop-off times, has been expanded to treat each category of visitation separately to clarify when elections are available. See Task B2, Determining Custody of Children, §§ B2.05[1], [2], C3.150[2], C8.100, C8.101.

Grandparent access. A grandparent's petition for possession of or access to a grandchild must now include an affidavit with facts to support the allegation that denial of grandparent possession or access

would significantly impair the child's physical health or emotional well-being. See Task B2, Determining Custody of Children, § B2.08[4].

Findings in support order. When a party asks the trial court to make findings of fact in a child support order, the court must make the findings within 15 days. See Task B3, Calculating Child Support, § B3.02[8].

Dividing stock options. For employer-provided stock option plans, amendments clarify the figures used to determine the fraction of the option or stock to which the nonemployee spouse is entitled on divorce. See Task B5, Characterizing Property of Parties, § B5.05[1][a][x].

Reimbursement. The statutes covering economic contribution and reimbursement have been substantially revised. The former system of economic contribution is now a system of reimbursement and offset based on equitable principles. See Task B7, Dividing Community Property, § B7.04.

Long-arm jurisdiction. A Texas court may now exercise personal jurisdiction over a nonresident who has signed an acknowledgment of paternity of a child born in Texas. See Task C1, Determining Jurisdiction and Venue, § C1.04[3][c][vi].

Waiting period for divorce. The usual 60-day waiting period for a divorce decree does not apply if the respondent has been convicted of a family violence offense or if the petitioner has a family violence protective order against the respondent. See Task C4, Filing and Serving the Petition, § C4.01[3].

Parenting facilitators. New Family Code Section 153.6051 et seq. provide for the appointment of a social worker, counselor, marriage and family therapist, psychologist, or attorney to serve as a parenting facilitator in a high-conflict SAPCR to assist parties in resolving parenting issues through nonconfidential procedures. See Task C8, Establishing Parenting Plans, §§ C8.03, C8.120, C8.121.

Disabled child support obligor. Under new Section 157.009, a child support obligor is entitled to a credit against arrearages if the child receives a lump-sum payment as a result of the obligor's disability. See Task J1, Choosing Which Remedies To Seek in Motion to Enforce Child Support, § J1.03[1][a].

Child support lien. New Family Code Section 157.3171 sets out the procedure for releasing a child support lien that has attached to homestead real property. See Task J5, Enforcing Child Support Through Child Support Lien, § J5.02[3].

Error preservation in DFPS termination cases. The Texas Supreme Court has held Family Code Section 263.405(i) unconstitutional when it precludes a parent from raising a meritorious complaint about the insufficiency of the evidence supporting the termination order. See Task S2, Conducting Termination Suit, § S2.07.

Grounds for termination. Parental rights may now be terminated if the parent has been convicted of criminal attempt or criminal solicitation to murder the child's other parent. See Task S3, Establishing Grounds for Termination, § S3.02[22].

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Publication 705 Release 60 December 2009

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- White Publication Table of Contents
- White Revision pages
- Tab Card

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