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Texas Family Law Practice and Procedure

Publication 705 Release 63

April 2011

HIGHLIGHTS

Pub Update

- This release updates the set in light of recent case law developments.

Civil case information sheet. New Texas Rule of Civil Procedure 78a requires that a civil case information sheet be filed along with every petition as well as with every motion to enforce or modify in cases arising under the Family Code. Coverage of Rule 78a has been added throughout the set.

Standard possession order. Once the trial court finds that the standard possession order is in the child’s best interest, the noncustodial conservator has an absolute right to have his or her elections incorporated into the order unless the trial court affirmatively finds that the extended possession is not in the child’s best interest. See Task B2, Determining Custody of Children, § B2.05[1][d][ii].

Standing to file SAPCR. The courts of appeals are not in agreement as to the

meaning of the statutory “actual care, control, and possession” language in Family Code Section 102.003(a)(9). See Task B2, Determining Custody of Children, § B2.07[2][b].

Service of citation. The Texas Supreme Court has held that a new citation is not required for service of a more onerous amended petition on a nonanswering party. See Task C4, Filing and Serving the Petition, § C4.02[1].

Discovery. In a custody case, a mother adequately identified her witnesses’ connection to the case or their identity as relevant to the lawsuit when she described them as “Petitioner’s father” and “Petitioner’s sister.” See Task E1, Conducting Discovery, § E1.11[1][b][i].

Child support lien. A child support lien may attach to a bank account containing the disposable earnings of a self-employed obligor. See Task J5, Enforcing Child Support Through Child Support Lien, § J5.02[3].

Foreign judgments. The Uniform Foreign Country Money-Judgments Recogni-

tion Act does not apply to a foreign-country judgment, even if the judgment grants or denies recovery of a sum of money, to the extent that the judgment is one for divorce, support, or maintenance, or is rendered in connection with domestic relations. See Task L3, Pursuing Alternative Enforcement Proceedings, § L3.06.

Statement of appellate points in DFPS termination cases. The coverage of the statement of points required in appeals of termination judgments in DFPS cases has been updated to reflect the current state of this rapidly-evolving topic. See Task S5, Obtaining Final Order in Termination Suit, § S5.04[5][a].

Frivolousness hearing in DFPS termination cases. The Texas Supreme Court has held that when an indigent parent's appeal of a termination judgment is found to be frivolous on the ground that the statement of points was late-filed, the parent is entitled to a complete appellate

record. See Task S5, Obtaining Final Order in Termination Suit, § S5.04[5][d].

Adoption. In order to warrant a hearing on a managing conservator's refusal to give consent to adopt under Family Code Chapter 162, the petitioner must first establish standing under Chapter 102. See Task T3, Initiating Child Adoption Proceedings, § T3.03[2][b].

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