

PUBLICATION UPDATE

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Texas Family Law Practice and Procedure

Publication 705

Release 65

April 2012

HIGHLIGHTS

Pub Update

- This release updates the set in light of recent case law developments and amendments to the Texas Rules of Civil Procedure and Texas Rules of Appellate Procedure.

Same-sex marriage. A Texas court lacks subject-matter jurisdiction over a divorce suit brought by a party to a same-sex marriage, even if the marriage was entered into in a state that recognizes same-sex marriages. See Task B1, Establishing the Marriage Relationship, § B1.01[3].

Standing based on six months of “care, control, and possession.” The coverage of Family Code Section 102.003(a)(9), which gives standing to a person who has had actual care, control, and possession of a child for at least six months, has been updated to reflect the differing approaches taken by various courts of appeals in recent cases. See Task B2, Determining Custody of Children, § B2.07[2][b][iv].

Medical support order. If a court orders Parent A to provide health insurance coverage for a child and orders Parent B to reimburse Parent A for the cost of that insurance, Parent B is required to make those payments even if Parent A fails to provide insurance coverage. See Task B3, Calculating Child Support, § B3.03[1][a].

Spousal maintenance. The amount of spousal maintenance does not have to equal the shortfall between the supported spouse’s income and his or her expenses. See Task B4, Determining Spousal Support and Maintenance, § B4.02[4].

Recusal and disqualification of judges. The discussion of recusal and disqualification of judges has been updated in light of recent amendments to Texas Rules of Civil Procedure 18a and 18b. Under amended Rule 18a, a judge’s rulings may not be the sole basis for a motion to recuse or disqualify the judge. However, when one or more other bases are raised, the judge hearing the motion may consider evidence of rulings when considering whether to grant the motion. See Task E5, Pretrial

Motions and Preliminary Matters, § E5.05.

Electronic filing. New rules concerning electronic filing of documents [see Tex. R. App. P. 9.2, 9.3] have been incorporated into the coverage of filing and responding to a petition for review in the Texas Supreme Court and filing a petition for writ of mandamus. See Task G4, Proceeding on Appeal in Supreme Court, § G4.01[2][b], [3]; Task G5, Seeking Writ of Mandamus, § G5.02[2].

Termination. Once a trial court has denied a petition to terminate, a second termination petition must either (1) satisfy the criteria set out in Family Code Section 161.004, or (2) be based on acts that occur after rendition of the earlier order

Appeal of termination order. An indigent parent who raises an ineffective assis-

tance of counsel claim on appeal in a termination case initiated by DFPS is entitled to a complete reporter's record from the termination trial. See Task S5, Obtaining Final Order in Termination Suit, § S5.04[5][d].

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VOLUME 5

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<input type="checkbox"/>	TC-1 thru TC-147.	TC-1 thru TC-151
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