

PUBLICATION UPDATE

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Texas Family Law Practice and Procedure

Publication 705 Release 66 November 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.

Spousal support. When a U.S. resident sponsors a noncitizen for immigration into this country and then divorces the immigrant, the sponsor may be ordered to pay the immigrant spousal support pursuant to the Affidavit of Support (Form I-864) the sponsor signed as part of the immigration process. *See* Task B4, Determining Spousal Support and Maintenance, § B4.03A.

Property division. When one spouse's separate property was the source of a significant portion of the community estate, a disproportionate property division in favor of the providing spouse is within the court's discretion. *See* Task B7, Dividing Community Property, § B7.03[16].

UCCJEA. The UCCJEA does not apply to an unborn child. *See* Task C1, Determining Jurisdiction and Venue, § C1.03[2][b][i].

Return of service. Task C4, Filing and Serving the Petition, has been updated to reflect recent amendments to the procedural rules governing return of service. *See* §§ C4.04[3], C4.104.

Service by publication. The discussion of service by publication has been revised to reflect the recent Texas Supreme Court opinion in *In Interest of E.R.* [___ S.W.3d ___, 55 Tex. Sup. J. 1130 (Tex. 2012)]. *See* Task C4, Filing and Serving the Petition, § C4.06[2].

Cooperative law agreements. Coverage of cooperative law agreements has been added to Task E3, Using Alternative Dispute Resolution Methods. The Houston First Court of Appeals has recently held that cooperative law agreements are consistent with Texas public policy. *See* § E3.02C.

Income withholding. Income withholding for contractual alimony is discussed in Task I1, Enforcing Contractual Alimony and Spousal Maintenance. The Family Code permits income withholding to enforce contractual alimony, but a court of appeals has recently held that such a withholding order was unconstitutional. *See* § I2.01[6].

Child support lien. The discussion of child support liens has been expanded to clarify that there is no limitation period for perfecting a child support lien. *See* Task J5, Enforcing Child Support Through Child Support Lien, § J5.01[4].

Hague Convention. The procedure for notifying a respondent located in Mexico of a Hague Convention case is discussed in Ch. K5, Obtaining Remedies Under Hague Convention, § K5.04[4].

Time limit for attack on termination order. This release includes discussion of *In Interest of E.R.* [___ S.W.3d ___, 55 Tex. Sup. J. 1130 (Tex. 2012)], in which the Texas Supreme Court held that the statutory six-month time limit for attacking

a termination order applies only if the parent has been properly served with citation. Task S5, Obtaining Final Order in Termination Suit, § S5.04[1].

Appeals in termination cases. Task S5, Obtaining Final Order in Termination Suit, has been updated to reflect recent changes to the procedural rules governing accelerated appeals in termination cases. The chapter also covers the new presumption that a parent who is indigent at the trial level continues to be indigent for the duration of the suit and any subsequent appeal. *See* § S5.04[3].

Sworn documents. As pages are replaced in Texas Family Law Practice and Procedure, the forms and discussions are revised in light of the 2011 amendment to Texas Civil Practice and Remedies Code Section 132.001. That section now permits a party to use an unsworn declaration under penalty of perjury, in the language set out in the statute, in lieu of any otherwise-required affidavit or verification. *See*, for example, §§ C4.04[3], C4.104.

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November 2012

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