

**PUBLICATION UPDATE**

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# Texas Family Law Practice and Procedure

Publication 705

Release 73

May 2016

## HIGHLIGHTS

### Pub Update

- This release updates the set to incorporate recent case law developments.

**Foreign divorce decree.** The Houston First Court of Appeals has upheld a trial court's recognition of a Pakistani divorce decree [*Ashfaq v. Ashfaq*, 467 S.W.3d 539 (Tex. App.—Houston [1st Dist.] 2015, no pet. h.)]. *See* Task B1, Establishing the Marriage Relationship, § B1.07.

**Support for adult disabled child.** When determining the amount of child support a parent must pay for an adult disabled child, the court must give "special consideration" to the statutory factors set out in Family Code Section 154.306 *in addition to*, not in lieu of, applying the general rules governing the determination of the amount of child support. *See* Task B3, Calculating Child Support, § B3.02[13].

**Spousal maintenance.** The court must consider a spouse's eligibility for maintenance

as of the time of divorce, not whether he or she will be able, with additional training or education, to provide for his or her minimum reasonable needs at some point in the future. *See* Task B4, Determining Spousal Support and Maintenance, § B4.02[3].

**Enforcement of agreement for post-majority support for child.** An agreement to pay support for a child after the child has become an adult is enforceable in a suit for breach of contract. If the agreement is subject to conditions precedent, the petitioner bears the burden of proving that the condition precedents have been satisfied. If the petitioner pleads that all conditions precedent have been performed and the respondent fails to specifically deny their performance, the petitioner is relieved of the burden of proving the performance of any condition precedent to recovery. *See* Task E2, Settling the Case; Agreements Incident to Divorce, § E2.13[7].

**Retrieval of personal property from residence.** If a person has been denied entry into his or her current or former

residence, new Texas Property Code provisions allow the person to apply for an order authorizing him or her to enter the residence, accompanied by a peace officer, to retrieve specific items of personal property. *See* Task P1, Determining Whether To Seek Protective Order, § P1.01[3].

**Termination of parental rights based on affidavit of relinquishment.** A party seeking termination of parental rights based on an affidavit of relinquishment must establish by clear and convincing evidence that termination is in the child's best interest. A statement in the affidavit that termination is in the child's best interest is relevant to the best interest inquiry, but is

not *ipso facto* evidence that termination is in the child's best interest. *See* Task S3, Terminating Parental Rights, § S3.03[3].

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# **Texas Family Law Practice and Procedure**

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Publication 705 Release 73

May 2016

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