

PUBLICATION UPDATE

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Texas Family Law Practice and Procedure

Publication 705 Release 77

April 2018

HIGHLIGHTS

Pub Update

- This release updates the set to incorporate recent case law developments. The tax charts in Volume 5 have been updated.

Grandparent Standing. There is some disagreement among the courts of appeals as to the legal standard for determining standing for grandparents and other close relatives under Family Code Section 102.004, as well as the standard by which an appellate court reviews the gatekeeper ruling. See Task B2, Determining Custody of Children, § B2.07[2][c][ii].

Family Violence Protective Order. Under the collateral-consequences doctrine, the subject of a family violence protective order may appeal the order even if it has already expired. See Task C6, Obtaining Temporary Orders, § C6.09[1].

Alternative Dispute Resolution. The parties to a family law dispute may opt for an expedited trial by a privately-

compensated special judge. A discussion of special judges is included in Task E3, Using Alternative Dispute Resolution Methods, § E3.02[6].

SAPCR Modification. When parents agree to an order that allows a third party to have possession of their child, the third party may acquire standing to file a modification suit as a person “affected by the order” under Family Code Section 156.002(a). See Task H2, Initiating SAPCR Modification Proceedings, § H2.01[1].

Modification Within One Year. Family Code Section 156.102’s affidavit requirement applies to suits to modify a *final* order, not to motions to modify *temporary* orders. See Task H4, Establishing Grounds for Modification of Conservatorship, § H4.02[6][a].

Right to Effective Assistance in Termination Suit. A court of appeals has held that a non-indigent parent has a statutory right to be represented by counsel in a termination suit initiated by DFPS, and

therefore the parent may challenge a termination judgment by asserting that the parent's retained counsel provided ineffective assistance. See Task S2, Conducting Termination Suit, § S2.05[1A], [2].

Affidavits of Relinquishment. Resolving a split of authority among the courts of appeals, the Texas Supreme Court has held that, in the ordinary case, a voluntary relinquishment of parental rights satisfies the requirement that the trial court's best-

interest finding be supported by clear and convincing evidence [In Interest of K.S.L., — S.W.3d —, 2017 Tex. LEXIS 1183 (Texas Supreme Court Dec. 22, 2017)]. See Task S3, Establishing Grounds for Termination, § S3.03[3].

Name Change of Adult. A charge of reckless driving is a Class B misdemeanor and thus must be disclosed in a petition for change of name of an adult. See Task Z1, Changing Name of Adult, § Z1.02[1].

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