

PUBLICATION UPDATE

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Texas Family Law Practice and Procedure

Publication 705 Release 79 April 2019

HIGHLIGHTS

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

Child Support. In a concurring opinion, Justice Guzman has outlined some of the evidentiary issues raised by the Family Code provision allowing a trial court to order a parent to support an adult disabled child [In Interest of D.C., 549 S.W.3d 136, 137 (Tex. 2018)]. See Task B3, Calculating Child Support, § B3.02[13][a].

Spousal Maintenance. A court order incorporating a voluntary support obligation that does not qualify as Chapter 8 spousal maintenance creates a debt that is enforceable as a contract but does not create a court-ordered obligation that is enforceable by income withholding [Dalton v. Dalton, 551 S.W.3d 126, 134 (Tex. 2018)]. See Task B4, Determining Spousal Support and Maintenance, § B4.02[8][c].

Property Division. The Texas Supreme Court has addressed the question of the

limits of a trial court’s discretion in making a just and right property division when presented with extreme fault situations [Bradshaw v. Bradshaw, 555 S.W.3d 539 (Tex. 2018)]. See Task B7, Dividing Community Property, § B7.03[1].

De Novo Review. When the trial court conducting a de novo review is willing to consider the record from the hearing before the associate judge, the party with the burden of proof is not required to reproduce evidence it previously produced at the underlying hearing or produce additional evidence [In Interest of N.V., 554 S.W.3d 217, 221 (Tex. App.—Amarillo 2018, pet. denied)]. See Task E5, Making Pretrial Motions and Other Preliminary Matters, § E5.09[3][b][i].

Interference With Possessory Rights. Liability for aiding or assisting in the interference with possessory rights is derivative of liability for interfering. The parent suing under Family Code Section 42.003 must prove each violation of court-ordered periods of possession as a predicate to proving that the third party aided those violations

[Bos v. Smith, 556 S.W.3d 293, 300–302 (Tex. 2018)]. See Task K-4, Bringing Suit for Interference with Possessory Rights, § K4.01[1][c].

Termination of Parental Rights. When a parent enters into a mediated settlement agreement that stipulates that termination of parental rights is in the child’s best interest, the stipulation, and the reasonable

inferences that may be drawn from it, have evidentiary value for purposes of an evidence-sufficiency review under the clear-and-convincing standard. The trial court may, but is not required to, give some weight to the stipulation [In Interest of A.C., 560 S.W.3d 624, 632–635 (Tex. 2018)]. See Task S3, Establishing Grounds for Termination, § S3.03[1].

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April 2019

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