

2007 LEGISLATIVE CHANGES TO THE TEXAS FAMILY CODE

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The following is a summary of the changes to the Texas Family Code, effective, in most cases, beginning September 1, 2007.

All references to a section are to the Texas Family Code, unless otherwise indicated.

TITLE 1: THE MARRIAGE RELATIONSHIP

CHAPTER 2 - The Marriage Relationship

HB 2685 - § 2.013 "[Pre-marital Education Courses](#)" and § 2.204 "[72-Hour Waiting Period: Exceptions](#)"

SB 432 - [changes to underage marriage provisions](#), namely § 2.102, "Parental Consent for Underage Applicant"; § 2.103, "Court Order for Underage Applicant"; § 6.101 repealing "Annulment of Marriage of Person Under Age 16"; and § 6.205 "Marriage to Minor" and related changes.

CHAPTER 3 - Property Rights & Liabilities

SB 430 - [party seeking an offset has burden of proof](#), § 3.408, "Claim for Reimbursement."

CHAPTER 6 - Suit for Dissolution of Marriage

SUBCHAPTER B. GROUNDS FOR ANNULMENT

SB 432 - Eliminated as unnecessary § 6.101 [repealing "Annulment of Marriage of Person Under Age 16"](#) (see related Chapter 2 changes).

TITLE 2: CHILD IN RELATION TO THE FAMILY

CHAPTER 32 - Consent to Treatment of Child by Non-Parent or Child

HB 2389 - [minors consenting to medical or psychological treatment](#) § 32.003 "Consent to Treatment by Child" ([adding provision for incarcerated children](#)).

TITLE 3: JUVENILE JUSTICE CODE

CHAPTER 51 - General Provisions

HB 2884 - changes to Juvenile Proceedings, including changes to § 51.0412 "Jurisdiction Over Incomplete Proceedings" (determinate sentencing added); § 51.073 "Transfer of Probation Supervision Between Counties: Permanent Supervision" (improved language to avoid unnecessary hearings and proceedings); § 51.074 "Transfer of Probation Supervision Between Counties: Deferred Prosecution;" § 51.095, "Admissibility of a Statement of a Child" (now requiring a magistrate to reduce to writing his determination of voluntariness); § 51.17, "Procedures and Evidence." and § 54.04(a), (b), (d), and (v) "Disposition Hearing"

SB 103 - standards of juvenile facilities & juvenile programs, including: § 51.12 "Place and Conditions of Detention"; § 51.125, "Post-adjudication Correctional Facilities"; § 54.04 "Disposition Hearing" (subsections (s) and (t) deleted which had prohibited a commitment to TYC without a determinate sentence for misdemeanor conduct." - Sampsons Eds.); § 54.0401 Community Based Programs.

CHAPTER 52 - Proceedings Before & Including Referral to Juvenile Court

SB 2237 - taking a juvenile into custody for purpose of returning the child to school when the law-enforcement officer has probable cause to believe the child is in violation of the compulsory school attendance law, § 52.01 "Taking into Custody; Issuance of Warning Notice."

HB 776 - returning a child to school after a hearing, § 52.02 "Release or Delivery to Court" and § 52.026, "Responsibility for Transporting Juvenile Offenders."

CHAPTER 54 - Judicial Proceedings

HB 2884 - changes to juvenile proceedings, restitution for juveniles, and release on furlough, including changes to § 54.04(a), (b), (d), and (v) "Disposition Hearing" (see Chapter 51 for related changes);

HB 1121 - rights a judge has in a juvenile proceeding, § 54.04(v) and (w) "Disposition Hearing"

SB 103 - community based programs, modification of a disposition, and credit for time spent in Juvenile Detention, including: § 54.0401 "Community Based Programs" and § 54.05, "Hearing to Modify Disposition" (repealing subsection (k), thus prohibiting a modification of probation to commitment to TYC based on an original adjudication of a misdemeanor).

HB 2151 - probation and restitution for graffiti charges, including § 54.046 "Conditions of Probation for Damaging Property With Graffiti and § 54.0481 "Restitution For Damaging Property With Graffiti." [first of two] and "Treatment of Restitution Payments." [second of two]

CHAPTER 55 - Children with Mental Illness or Mental Retardation

HB 2884 - release on furlough, including changes to § 55.45 “Standards of Care; Notice of Release or Furlough.”

CHAPTER 58- Records; Juvenile Justice Information System

HB 2884 - interagency agreements to share information, § 58.005(e) “Interagency Sharing of Records.

HB 1960 - redacting certain law enforcement information before releasing files to a child or parent, § 58.007 “Physical Records or Files.”

Bill added Subchapter D-1 “REPORTS ON COUNTY INTERNET WEBSITES.

§ 58.351 - § 58-353, which requires a juvenile judge to report total number of children committed by the judge, etc.

Bill added Subchapter E - “ STATEWIDE JUVENILE INFORMATION AND CASE MANAGEMENT SYSTEM, § 58.401 - § 58-405.

TITLE 4: PROTECTIVE ORDERS AND FAMILY VIOLENCE

CHAPTER 85 - Issuance of Protection Order

SB 44 - programs preventing or reducing the likelihood of family violence, § 85.022 “Requirements of Order Applying to Person Who Committed Family Violence.”

TITLE 5: THE PARENT-CHILD RELATIONSHIP & THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP

CHAPTER 102 - Filing Suit

SB 758 - standing of relatives to file suit, § 102.004 “Standing for Grandparent or Other Person” (now a person related to the third degree has standing); and § 102.005 “Standing to Request Termination and Adoption” (adoptive parents or foster parents of siblings have standing to adopt).

HB 1481 - relatives having standing for 90 days after termination of parental rights, § 102.006, “Limitations on Standing.”

CHAPTER 107 - Special Appointments & Social Studies

HB 1972 - allowing Attorneys [Ad Litem to confer with a child by telephone or video conference](#), § **107.004(e)** “Additional Duties of Attorney Ad Litem for Child.”

SB 813 - [indigent parents required to file an affidavit of indigence](#) before a court can conduct a hearing determining indigence, § **107.013** Mandatory Appointment of Attorney Ad Litem for Parent.”

SB 772 - Significant [enhancement of the “Social Studies” subchapter](#) providing definitions, Elements of Social Study, Pre- and Post-Adoptive Social Studies, and other guidelines regarding reports and social studies. § **107.0501 - 107.056**

CHAPTER 153 - Conservatorship, Possession, and Access

HB 555 - giving the [court authority under limited circumstances](#), after notice and hearing, [to require a parenting plan](#), § **153.007** “Agreed Parenting Plan.”

SB 228 - [e-mail, video conferencing, and text messaging between child and parent](#) not-in-possession, § **153.015** “Electronic Communication with Child by Conservator.”

HB 1864 - [beginning and start time on 1st, 3rd and 5th weekends during the school term is different from summer weekends](#), beginning time is at time school dismisses during the school year, otherwise 6:00p.m. Friday and Sunday, during summers, § **153.312** “Parents Who Reside 100 Miles or Less Apart.”

HB 1864 - giving grandparents (and other relatives) [possession of the child while a parent is deployed for military purposes](#) for more than 6 months; §**153.3161**, “Possession During Military Deployment.”

HB 555 - [modifying definitions](#) of “Dispute Resolution Process,” “High-Conflict Case,” “Parenting Coordinator,” and “Parenting Plan.” § **153.601**, “Definitions.”

HB 555 - [when Parenting Plan required](#): § **153.602** “Parenting Plan **Not Required in Temporary Order**;” § **153.603** “Requirement of Parenting Plan in Final Order.” (requiring a parenting plan in final divorce decree and SAPCR, but not modification, termination, adoption, or an order finding that a person is not the father).

HB 555 - § **153.6031** “[Exception to Dispute Resolution Process Requirement](#)” in a Parenting Plan.

HB 555 - [Parenting Coordinator issues modified](#), including § **153.605** “Appointment of Parenting Coordinator” (slightly higher standard); § **153.606** “Duties of Parenting Coordinator;” § **153.607** “Removal of Parenting Coordinator” ([removal was made mandatory when both parents agree](#)); § **153.608** “Report of Parenting Coordinator;” and § **153.609** “Compensation of Parenting Coordinator.”

CHAPTER 154 - Child Support

HB 228 - automatic termination of child support now includes when minor begins active service in armed forces, § **154.006** “Termination of Duty of Support.”

HB 617 - Obligor’s estate responsible for unpaid child support and Obligor can be ordered to purchase life insurance (new), § **154.015** “Acceleration of Unpaid Child Support Obligation” and § **154.016** “Provision of Support in Event of Death of Parent.”

SB 303 & HB 448 - guidelines for determining health insurance or cash medical support costs when calculating “net resources;” § **154.063** “Net Resources.”

HB 448 - Maximum net resources raised from \$6,000.00 to \$7,500.00, § **154.125** “Application of Guidelines to Net Resources;” § **154.126** “Application of Guidelines to Additional Net Resources,” and § **154.130** “Findings in Child Support Order.”

HB 228 - clarification of what must be included on decree when there is a “step-down” calculation on child support for more than one child, § **154.127** “Partial Termination of Support Obligation.”

HB 228 - new limitation of filing suit for retroactive child support (4 years after child turns 18 years), § **154.131** “Retroactive Child Support.” (Different from § 157.005 dealing with enforcement of child support, which is 2 years.)

SUBCHAPTER D. MEDICAL SUPPORT FOR CHILD

HB 303 - changes to health care coverage provisions, including § **154.181 (d)(1)** “Medical Support Order” (REQUIRING specific findings in the order regarding health care coverage), § **154.181 (e)** reducing the “reasonable cost” of health insurance coverage from 10 percent to 9 percent of the responsible parent’s annual income), § **154.182** “Health Care Coverage for Child” (providing substantial changing of options for the parties); and § **154.183** “Medical Support Additional Support Duty of Obligor.”

SB 228 - clarifies that a “child support agency of this state or another state” may send a copy of the order requiring an employee to provide health insurance coverage § **154.186** “Notice to Employer Concerning Medical Support.”

CHAPTER 156 - Modification

HB 8 - adding a new(?) Penal Code provision, Section 21.02, related to continual sexual abuse of a child, which gives rise to modification of possession and child support during temporary orders, § **156.104** “Modification of Order on Conviction for Child Abuse; Penalty.”

HB 1864 - defining “military deployment” (i.e., gone for 6 months) which would give rise to a modification, § **156.105** “Modification of Order Based on Military Deployment.”

SB 303 - clarifies that modification of child support includes an order for health care coverage, § **156.401** “Grounds for Modification of Child Support.”

SB 228 - adds two, new “relinquishment” grounds ((1) obligee incarcerated or sentenced to be incarcerated for 90 days and (2) when CPS or Juvenile system assumes “control” of child) justifying modification of possession and child support, in addition to the voluntarily relinquishment for six months, § **156.409** “Change in Physical Possession.”

CHAPTER 157 - Enforcement

SB 228 - increases time limitations from 6 months to 2 years after the child turns 18 years of age or the child support obligation terminates under the order for a party seeking enforcement **by contempt**; § **157.005** “Time Limitations; Enforcement of Child Support.” (The ebb and flow of limitations continues - this provision is not the same as the *10 years* limitations the court currently has to **confirm arrearages**, resulting in a judgment, which was a change from *no limitation* in the prior session of the legislature, which was a change from the *4 years* that it was for many years).

SB 228 - in addition to a *capias*, an “arrest warrant” ordered in civil court is to be treated the same as an “arrest warrant for a criminal offense” by law enforcement, § **157.102** “Capias or Warrant; Duty of Law Enforcement Officials.”

HB 779 - adds common-sense requirement that a “court may not find a respondent in contempt of court for failure to pay child support if the respondent appears at the hearing with a copy of the payment record or other evidence satisfactory to the court showing that the respondent is current in the payment of child support as ordered by the court.” § **157.162** “Proof.”

SB 228 - authorizes the court to continue “community supervision” for more than 10 years, § **157.212** “Term of Community Supervision.”

SB 228 - changes from one day to three days for the court to hold a hearing when a respondent is arrested § **157.216** “Hearing on Motion to Revoke Community Supervision.”

SB 228 - clarifies tax refund adjustments and other adjustments that could affect the amount of arrearages on child support, § **157.263** “Confirmation of Arrearages.”

SB 228 - changes “may” to “shall” order periodic payments on the judgment, including by income withholding, § **157.264** “Enforcement of Judgment.”

SB 228 - adds Title IV-D “service fees” to “attorney’s fees or costs” when prioritizing application of child support payment, § **157.268** “Application of Child Support Payment.”

SB 228 - broadened (slightly) the courts jurisdiction to adjust the periodic payments to be made by the obligor, § **157.269** “Retention of Jurisdiction.”

SB 228 - added some language to include in Lien Notice, § **157.313** “Contents of Child Support Lien Notice;” and clarified to what the lien attaches (“all property owned or acquired”), § **157.317** “Property to Which Lien Attaches;” and includes the “service fees” as what items must be paid, in addition to child support, costs and attorney’s fees, before the lien becomes ineffective, § **157.318** “Duration and Effect of Child Support Lien;” and broadened what to include on the notice of levy delivered to a financial institution of an obligor and added deductions that a financial institution may make before paying the claimant, § **157.327** “Execution and Levy on Financial Assets of Obligor.”

CHAPTER 158 - Withholding from Earnings for Child Support

SB 228 - New provisions to include withholding from Severance Pay § **158.214** “Withholding from Severance Pay” and from Lump-Sum Payment, § **158.215** “Withholding from Lump-Sum Payment.”

SB 228 - includes the “service fees” on what items may be unpaid, in addition to child support, medical support and arrearages, when issuing an administrative writ of withholding § **158.502** “When Administrative Writ of Withholding May be Issued” and § **158.507** “Administrative Writ Terminating Withholding.”

SB 228 - clarified when an obligor may file a motion to withdraw the administrative writ of withholding, § **158.506** “Contest by Obligor to Administrative Writ of Withholding.”

CHAPTER 160 - Uniform Parentage Act

SB 228 - new provisions regarding paternity in assisted reproduction for unmarried couples, § **160.7031** “Unmarried Man’s Paternity of Child of Assisted Reproduction,” plus a requirement that licensed physicians keep copies of consents, § **160.7031** “Consent to Assisted Reproduction,” § **160.706** “Effect of Dissolution of Marriage,” § **160.707** “Parental Status of Deceased Spouse.”

CHAPTER 161 - Termination of the Parent-Child Relationship

HB 8 - adding a new(?) Penal Code provision, Section 21.02, related to continuous sexual abuse of a child under the list of grounds for terminating parental rights, § **161.001** “Involuntary Termination of Parent-Child Relationship.”

HB 3997 - making several changes when an alleged biological father’s rights may be terminated, including adding a provision distinguishing the requirements when a child is one year old or less and the father has not registered with the paternity registry (due diligence not required); also, no

requirement of personal service if the father if no registration, and what evidence the petitioner must show about searching the paternity registry (sworn affidavit is not enough anymore), § 161.002 “Termination of the Rights of an Alleged Biological Father.”

HB 3997 and 568 - changed requirements on affidavit of relinquishment to include only county of residence (as opposed to address) and eliminated the assertion that an affidavit of status of the child has been executed, § 161.003 “Affidavit of Voluntary Relinquishment of Parental Rights.” (Also changed name of DPRS to DFPS.)

HB 3997 - eliminated the requirement of an Affidavit of Status ~~§ 161.003~~ “Affidavit of Status of Child.”

HB 3997 - made all Affidavits of Waiver of Interest irrevocable, not just ones designating DFPS or licensed child-placing agencies, § 161.106 “Affidavit of Waiver of Interest in Child.”

HB 3997 - eliminated from definition of “parent” a man who does not have a parent-child relationship established under Chapter 160, § 161.107 “Missing Parent or Relative.”

HB ? - changed when a Paternity Registry Certificate must be presented, no longer tied to affidavit of status, now when a parent-child relationship does not exist between man and child, § 161.109 “Requirement of Paternity Registry Certificate.”

SB 228 - order must include new findings that (1) a request for identification of court of continuing, exclusive jurisdiction and (2) all parties entitled to notice, including Title IV-D agency, have been notified, § 161.206 “Order Terminating Parental Rights.”

CHAPTER 162 - Adoption

HB 8 - added new requirement that a court cannot consider as a negative factor that a petitioner is in the military, § 162.0025 “Adoption Sought by Military Service Member.”

SB 772 - changed name of “Reports” to “Social Studies,” § 162.003 “Pre-Adoptive [Home Screening] and Post-Placement Social Studies [Report].

HB 3997 - eliminates “affidavit of status of child” from list of documents that trigger the requirement of vital statistics information to be provided to biological parent, § 162.018 “Access to Information.”

HB 2702 and SB 758 - provides more specific language about health benefits and other subsidies that can be provided to adoptive parents § 162.304 “Financial and Medical Assistance.”

CHAPTER 201 - Associate Judge

SB 271 - modified qualifications of associate judges in Title IV-D and CPS cases, §§ **201.002**, **201.1021**, and **201.2021** “Qualifications,” and § **201.002** “Application of Law Governing Associate Judges.”

SB 758 - modified authority of associate judge to summon parents who fail to appear in a CPS investigation and clarified what orders the associate judge may sign, § **201.007** “Power of Associate Judge.”

HB 2501 - clarified when a court can tape record hearings and re-labeled appeal to “de novo hearing,” § **201.009** “Court Reporter; Record.”

HB 2501 - maybe eliminated ability of Associate Judge’s “reports” to simply be a “notation on the referring court’s docket sheet,” (unless the referring court directs such a form), § **201.011** “Reports.”

HB 2501 - changed name of hearing, § **201.012** “Notice of Right to De Novo Hearing Before Referring Court [~~Appeal~~], § **201.013** “Order of Court,” § **201.015** “De Novo Hearing Before [~~Appeal To~~] Referring Court,” § **201.016** “Appellate Review,” and § **201.1041**, “Judicial Action on Associate Judge’s Proposed Order or Judgment [~~Report~~], § **201.1042** and § **201.2042** “De Novo Hearing Before [~~Appeal To~~] Referring Court,”

HB 2501 - proposed order or judgment in a DFPS case is considered a final order for certain purposes, regardless if a de novo appeal is filed, § **201.014**, and § **201.2041** “Judicial Action on Associate Judge’s Proposed Order or Judgment [~~Report~~].

PRIOR TO THIS POINT OF THIS HANDOUT, VIRTUALLY ALL OF THE CHANGES MADE BY THE 80TH LEGISLATURE ARE INCLUDED, EXCEPT FOR MINOR, NON-SUBSTANTIVE CHANGES. AFTER THIS POINT, ONLY A FEW, LESS ESOTERIC CHANGES ARE INCLUDED. I SKIPPED CHANGES TO CHAPTER 231 “TITLE IV-D SERVICES,” CHAPTER 232 “SUSPENSION OF LICENSE,” CHAPTER 233 “CHILD SUPPORT REVIEW PROCESS,” CHAPTER 234 “STATE CASE REGISTRY,” CHAPTER 261 “INVESTIGATION OF REPORT OF CHILD ABUSE OR NEGLECT,” CHAPTER 263 “REVIEW OF PLACEMENT OF CHILDREN,” CHAPTER 264 “CHILD WELFARE SERVICES,” CHAPTER 265 “PREVENTION AND EARLY INTERVENTION SERVICES,” CHAPTER 266 “MEDICAL CARE AND EDUCATIONAL SERVICES FOR CHILDREN” EXCEPT AS INDICATED.

CHAPTER 232 - SUSPENSION OF LICENSE

HB 228 - a licensing authority shall deny renewal of a license if obligor is behind on child support payments for 6 months or more and the child support agency requests the authority to suspend a license, § **232.0135** “Denial of License Renewal.”

CHAPTER 235 - SHARING INFORMATION IN STATE CASE REGISTRY [REPEALED]

HB 228 - repealed section, but see new § **234.012** “Release of Information From State Case Registry.”

CHAPTER 261 “INVESTIGATION OF REPORT OF CHILD ABUSE OR NEGLECT”

SB 758 - authorizes a medical facility and a utility company to release confidential information to CPS (DFPS), § **261.303** “Interference With Investigation; Court Order.”

SB 758 - a persons refusal to cooperate with investigation of abuse or neglect of a child may result in a summons, § **261.3031** “Failure to Cooperate With Investigation; Department Response.”

SB 9 - in certain situations (“substantial and immediate risk of harm”) DFPS shall release information about persons alleged to have committed abuse or neglect to the child’s school principal, superintendent, school board, TEA, etc., § **261.308** “Submission of Investigation Report.”

CHAPTER 263 “REVIEW OF PLACEMENT OF CHILDREN”

SB 759 - 10 days’ notice to be given to administrator of child-placing agency, children are to attend review hearings, unless the judge excuses the child, and the court “shall consult with the child” about a plan of placement, § **263.501** “Placement Review After Final Order.”