

FAMILY CODE

TITLE 5. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE
PARENT-CHILD RELATIONSHIP

SUBTITLE A. GENERAL PROVISIONS

CHAPTER 105. SETTINGS, HEARINGS, AND ORDERS

Sec. 105.001. TEMPORARY ORDERS BEFORE FINAL ORDER. (a) In a suit, the court may make a temporary order, including the modification of a prior temporary order, for the safety and welfare of the child, including an order:

- (1) for the temporary conservatorship of the child;
- (2) for the temporary support of the child;
- (3) restraining a party from disturbing the peace of the child or another party;
- (4) prohibiting a person from removing the child beyond a geographical area identified by the court; or
- (5) for payment of reasonable attorney's fees and expenses.

(b) Except as provided by Subsection (c), temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. Except as provided by Subsection (h), an order may not be rendered under Subsection (a)(1), (2), or (5) except after notice and a hearing. A temporary restraining order or temporary injunction granted under this section need not:

- (1) define the injury or state why it is irreparable;
- (2) state why the order was granted without notice; or
- (3) include an order setting the cause for trial on the merits with respect to the ultimate relief requested.

(c) Except on a verified pleading or an affidavit in accordance with the Texas Rules of Civil Procedure, an order may not be rendered:

- (1) attaching the body of the child;
- (2) taking the child into the possession of the court

or of a person designated by the court; or

(3) excluding a parent from possession of or access to a child.

(d) In a suit, the court may dispense with the necessity of a bond in connection with temporary orders on behalf of the child.

(e) Temporary orders rendered under this section are not subject to interlocutory appeal.

(f) The violation of a temporary restraining order, temporary injunction, or other temporary order rendered under this section is punishable by contempt and the order is subject to and enforceable under Chapter 157.

(g) The rebuttable presumptions established in favor of the application of the guidelines for a child support order and for the standard possession order under Chapters 153 and 154 apply to temporary orders. The presumptions do not limit the authority of the court to render other temporary orders.

(h) An order under Subsection (a)(1) may be rendered without notice and an adversary hearing if the order is an emergency order sought by a governmental entity under Chapter 262.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1997, 75th Leg., ch. 575, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1390, Sec. 3, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1036, Sec. 1, eff. Sept. 1, 2003.

Sec. 105.0011. INFORMATION REGARDING PROTECTIVE ORDERS. At any time while a suit is pending, if the court believes, on the basis of any information received by the court, that a party to the suit or a member of the party's family or household may be a victim of family violence, the court shall inform that party of the party's right to apply for a protective order under Title 4.

Added by Acts 2005, 79th Leg., Ch. 361 (S.B. 1275), Sec. 3, eff. June 17, 2005.

Sec. 105.002. JURY. (a) Except as provided by Subsection (b), a party may demand a jury trial.

(b) A party may not demand a jury trial in:

(1) a suit in which adoption is sought, including a

trial on the issue of denial or revocation of consent to the adoption by the managing conservator; or

(2) a suit to adjudicate parentage under Chapter 160.

(c) In a jury trial:

(1) a party is entitled to a verdict by the jury and the court may not contravene a jury verdict on the issues of:

(A) the appointment of a sole managing conservator;

(B) the appointment of joint managing conservators;

(C) the appointment of a possessory conservator;

(D) the determination of which joint managing conservator has the exclusive right to designate the primary residence of the child;

(E) the determination of whether to impose a restriction on the geographic area in which a joint managing conservator may designate the child's primary residence; and

(F) if a restriction described by Paragraph (E) is imposed, the determination of the geographic area within which the joint managing conservator must designate the child's primary residence; and

(2) the court may not submit to the jury questions on the issues of:

(A) support under Chapter 154 or Chapter 159;

(B) a specific term or condition of possession of or access to the child; or

(C) any right or duty of a conservator, other than the determination of which joint managing conservator has the exclusive right to designate the primary residence of the child under Subdivision (1)(D).

(d) Repealed by Acts 2003, 78th Leg., ch. 1036, Sec. 22. Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 12, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 180, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 556, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 821, Sec. 2.10, eff. June 14, 2001; Acts 2003, 78th Leg., ch. 1036, Sec. 2, 22, eff. Sept. 1, 2003.

Sec. 105.003. PROCEDURE FOR CONTESTED HEARING. (a) Except as otherwise provided by this title, proceedings shall be as in civil cases generally.

(b) On the agreement of all parties to the suit, the court may limit attendance at the hearing to only those persons who have a direct interest in the suit or in the work of the court.

(c) A record shall be made as in civil cases generally unless waived by the parties with the consent of the court.

(d) When information contained in a report, study, or examination is before the court, the person making the report, study, or examination is subject to both direct examination and cross-examination as in civil cases generally.

(e) The hearing may be adjourned from time to time.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 105.004. PREFERENTIAL SETTING. After a hearing, the court may:

(1) grant a motion filed by a party or by the amicus attorney or attorney ad litem for the child for a preferential setting for a trial on the merits; and

(2) give precedence to that hearing over other civil cases if the court finds that the delay created by ordinary scheduling practices will unreasonably affect the best interest of the child.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 172 (H.B. 307), Sec. 16, eff. September 1, 2005.

Sec. 105.005. FINDINGS. Except as otherwise provided by this title, the court's findings shall be based on a preponderance of the evidence.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Sec. 105.006. CONTENTS OF FINAL ORDER. (a) A final order, other than in a proceeding under Chapter 161 or 162, must contain:

(1) the social security number and driver's license number of each party to the suit, including the child, except that the child's social security number or driver's license number is not required if the child has not been assigned a social security number or driver's license number; and

(2) each party's current residence address, mailing address, home telephone number, name of employer, address of employment, and work telephone number, except as provided by Subsection (c).

(b) Except as provided by Subsection (c), the court shall order each party to inform each other party, the court that rendered the order, and the state case registry under Chapter 234 of an intended change in any of the information required by this section as long as any person, as a result of the order, is under an obligation to pay child support or is entitled to possession of or access to a child. The court shall order that notice of the intended change be given at the earlier of:

(1) the 60th day before the date the party intends to make the change; or

(2) the fifth day after the date that the party knew of the change, if the party did not know or could not have known of the change in sufficient time to comply with Subdivision (1).

(c) If a court finds after notice and hearing that requiring a party to provide the information required by this section to another party is likely to cause the child or a conservator harassment, abuse, serious harm, or injury, or to subject the child or a conservator to family violence, as defined by Section 71.004, the court may:

(1) order the information not to be disclosed to another party; or

(2) render any other order the court considers necessary.

(d) An order in a suit that orders child support or possession of or access to a child must contain the following prominently displayed statement in boldfaced type, capital letters, or underlined:

"FAILURE TO OBEY A COURT ORDER FOR CHILD SUPPORT OR FOR

POSSESSION OF OR ACCESS TO A CHILD MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS."

"FAILURE OF A PARTY TO MAKE A CHILD SUPPORT PAYMENT TO THE PLACE AND IN THE MANNER REQUIRED BY A COURT ORDER MAY RESULT IN THE PARTY NOT RECEIVING CREDIT FOR MAKING THE PAYMENT."

"FAILURE OF A PARTY TO PAY CHILD SUPPORT DOES NOT JUSTIFY DENYING THAT PARTY COURT-ORDERED POSSESSION OF OR ACCESS TO A CHILD. REFUSAL BY A PARTY TO ALLOW POSSESSION OF OR ACCESS TO A CHILD DOES NOT JUSTIFY FAILURE TO PAY COURT-ORDERED CHILD SUPPORT TO THAT PARTY."

(e) Except as provided by Subsection (c), an order in a suit that orders child support or possession of or access to a child must also contain the following prominently displayed statement in boldfaced type, capital letters, or underlined:

"EACH PERSON WHO IS A PARTY TO THIS ORDER IS ORDERED TO NOTIFY EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY OF ANY CHANGE IN THE PARTY'S CURRENT RESIDENCE ADDRESS, MAILING ADDRESS, HOME TELEPHONE NUMBER, NAME OF EMPLOYER, ADDRESS OF EMPLOYMENT, DRIVER'S LICENSE NUMBER, AND WORK TELEPHONE NUMBER. THE PARTY IS ORDERED TO GIVE NOTICE OF AN INTENDED CHANGE IN ANY OF THE REQUIRED INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY ON OR BEFORE THE 60TH DAY BEFORE THE INTENDED CHANGE. IF THE PARTY DOES NOT KNOW OR COULD NOT HAVE KNOWN OF THE CHANGE IN SUFFICIENT TIME TO PROVIDE 60-DAY NOTICE, THE PARTY IS ORDERED TO GIVE NOTICE OF THE CHANGE ON OR BEFORE THE FIFTH DAY AFTER THE DATE THAT THE PARTY KNOWS OF THE CHANGE."

"THE DUTY TO FURNISH THIS INFORMATION TO EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY CONTINUES AS LONG AS ANY PERSON, BY VIRTUE OF THIS ORDER, IS UNDER AN OBLIGATION TO PAY CHILD SUPPORT OR ENTITLED TO POSSESSION OF OR ACCESS TO A CHILD."

"FAILURE BY A PARTY TO OBEY THE ORDER OF THIS COURT TO PROVIDE EACH OTHER PARTY, THE COURT, AND THE STATE CASE REGISTRY WITH THE CHANGE IN THE REQUIRED INFORMATION MAY RESULT IN FURTHER LITIGATION TO ENFORCE THE ORDER, INCLUDING CONTEMPT OF COURT. A FINDING OF

CONTEMPT MAY BE PUNISHED BY CONFINEMENT IN JAIL FOR UP TO SIX MONTHS, A FINE OF UP TO \$500 FOR EACH VIOLATION, AND A MONEY JUDGMENT FOR PAYMENT OF ATTORNEY'S FEES AND COURT COSTS."

(e-1) An order in a suit that provides for the possession of or access to a child must contain the following prominently displayed statement in boldfaced type, in capital letters, or underlined:

"NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY USE REASONABLE EFFORTS TO ENFORCE THE TERMS OF CHILD CUSTODY SPECIFIED IN THIS ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CLAIM, CIVIL OR OTHERWISE, REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THE ORDER THAT RELATE TO CHILD CUSTODY. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS \$10,000."

(e-2) An order in a suit that orders child support must contain the following prominently displayed statement in boldfaced type, in capital letters, or underlined:

"THE COURT MAY MODIFY THIS ORDER THAT PROVIDES FOR THE SUPPORT OF A CHILD, IF:

(1) THE CIRCUMSTANCES OF THE CHILD OR A PERSON AFFECTED BY THE ORDER HAVE MATERIALLY AND SUBSTANTIALLY CHANGED; OR

(2) IT HAS BEEN THREE YEARS SINCE THE ORDER WAS RENDERED OR LAST MODIFIED AND THE MONTHLY AMOUNT OF THE CHILD SUPPORT AWARD UNDER THE ORDER DIFFERS BY EITHER 20 PERCENT OR \$100 FROM THE AMOUNT THAT WOULD BE AWARDED IN ACCORDANCE WITH THE CHILD SUPPORT GUIDELINES."

(f) Except for an action in which contempt is sought, in any subsequent child support enforcement action, the court may, on a showing that diligent effort has been made to determine the location of a party, consider due process requirements for notice and service of process to be met with respect to that party on delivery of written notice to the most recent residential or employer address filed by that party with the court and the state

case registry.

(g) The Title IV-D agency shall promulgate and provide forms for a party to use in reporting to the court and the state case registry under Chapter 234 the information required under this section.

(h) The court may include in a final order in a suit in which a party to the suit makes an allegation of child abuse or neglect a finding on whether the party who made the allegation knew that the allegation was false. This finding shall not constitute collateral estoppel for any criminal proceeding. The court may impose on a party found to have made a false allegation of child abuse or neglect any civil sanction permitted under law, including attorney's fees, costs of experts, and any other costs.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 13, 128, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 786, Sec. 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 911, Sec. 6, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(21), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 178, Sec. 5, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 133, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 184, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 972 (S.B. 228), Sec. 3, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 280 (H.B. 826), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 859 (S.B. 1726), Sec. 3, eff. September 1, 2015.

Sec. 105.007. COMPLIANCE WITH ORDER REQUIRING NOTICE OF CHANGE OF REQUIRED INFORMATION. (a) A party shall comply with the order by giving written notice to each other party of an intended change in the party's current residence address, mailing address, home telephone number, name of employer, address of employment, and work telephone number.

(b) The party must give written notice by registered or certified mail of an intended change in the required information to

each other party on or before the 60th day before the change is made. If the party does not know or could not have known of the change in sufficient time to provide 60-day notice, the party shall provide the written notice of the change on or before the fifth day after the date that the party knew of the change.

(c) The court may waive the notice required by this section on motion by a party if it finds that the giving of notice of a change of the required information would be likely to expose the child or the party to harassment, abuse, serious harm, or injury.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Amended by Acts 1995, 74th Leg., ch. 751, Sec. 14, eff. Sept. 1, 1995.

Sec. 105.008. RECORD OF SUPPORT ORDER FOR STATE CASE REGISTRY. (a) The clerk of the court shall provide the state case registry with a record of a court order for child support. The record of an order shall include information provided by the parties on a form developed by the Title IV-D agency. The form shall be completed by the petitioner and submitted to the clerk at the time the order is filed for record.

(b) To the extent federal funds are available, the Title IV-D agency shall reimburse the clerk of the court for the costs incurred in providing the record of support order required under this section.

Added by Acts 1997, 75th Leg., ch. 911, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 916 (H.B. 260), Sec. 5, eff. June 18, 2005.

Sec. 105.009. PARENT EDUCATION AND FAMILY STABILIZATION COURSE. (a) In a suit affecting the parent-child relationship, including an action to modify an order in a suit affecting the parent-child relationship providing for possession of or access to a child, the court may order the parties to the suit to attend a parent education and family stabilization course if the court determines that the order is in the best interest of the child.

(b) The parties to the suit may not be required to attend the

course together. The court, on its own motion or the motion of either party, may prohibit the parties from taking the course together if there is a history of family violence in the marriage.

(c) A course under this section must be at least four hours, but not more than 12 hours, in length and be designed to educate and assist parents with regard to the consequences of divorce on parents and children. The course must include information on the following issues:

- (1) the emotional effects of divorce on parents;
- (2) the emotional and behavioral reactions to divorce by young children and adolescents;
- (3) parenting issues relating to the concerns and needs of children at different development stages;
- (4) stress indicators in young children and adolescents;
- (5) conflict management;
- (6) family stabilization through development of a coparenting relationship;
- (7) the financial responsibilities of parenting;
- (8) family violence, spousal abuse, and child abuse and neglect; and
- (9) the availability of community services and resources.

(d) A course may not be designed to provide individual mental health therapy or individual legal advice.

(e) A course satisfies the requirements of this section if it is offered by:

- (1) a mental health professional who has at least a master's degree with a background in family therapy or parent education; or
- (2) a religious practitioner who performs counseling consistent with the laws of this state or another person designated as a program counselor by a church or religious institution if the litigant so chooses.

(f) Information obtained in a course or a statement made by a participant to a suit during a course may not be considered in the adjudication of the suit or in any subsequent legal proceeding. Any

report that results from participation in the course may not become a record in the suit unless the parties stipulate to the record in writing.

(g) The court may take appropriate action with regard to a party who fails to attend or complete a course ordered by the court under this section, including holding the party in contempt of court, striking pleadings, or invoking any sanction provided by Rule 215, Texas Rules of Civil Procedure. The failure or refusal by a party to attend or complete a course required by this section may not delay the court from rendering a judgment in a suit affecting the parent-child relationship.

(h) The course required under this section may be completed by:

- (1) personal instruction;
- (2) videotape instruction;
- (3) instruction through an electronic medium; or
- (4) a combination of those methods.

(i) On completion of the course, the course provider shall issue a certificate of completion to each participant. The certificate must state:

- (1) the name of the participant;
- (2) the name of the course provider;
- (3) the date the course was completed; and
- (4) whether the course was provided by:
 - (A) personal instruction;
 - (B) videotape instruction;
 - (C) instruction through an electronic medium; or
 - (D) a combination of those methods.

(j) The county clerk in each county may establish a registry of course providers in the county and a list of locations at which courses are provided. The clerk shall include information in the registry identifying courses that are offered on a sliding fee scale or without charge.

(k) The court may not order the parties to a suit to attend a course under this section if the parties cannot afford to take the course. If the parties cannot afford to take a course, the court may direct the parties to a course that is offered on a sliding fee

scale or without charge, if a course of that type is available. A party to a suit may not be required to pay more than \$100 to attend a course ordered under this section.

(l) A person who has attended a course under this section may not be required to attend the course more than twice before the fifth anniversary of the date the person completes the course for the first time.

Text of subsection as added by Acts 2005, 79th Leg., R.S., Ch. 916
(H.B. 260), Sec. 6

(m) A course under this section must be available in both English and Spanish.

Text of subsection as added by Acts 2005, 79th Leg., R.S., Ch. 1171
(H.B. 3531), Sec. 3

(m) A course under this section in a suit filed in a county with a population of more than two million that is adjacent to a county with a population of more than one million must be available in both English and Spanish.

Added by Acts 1999, 76th Leg., ch. 946, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 916 (H.B. 260), Sec. 6, eff. June 18, 2005.

Acts 2005, 79th Leg., Ch. 1171 (H.B. 3531), Sec. 3, eff. October 1, 2005.