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Texas Legislative Update

By Brandon Joseph

During its most recent session, Texas lawmakers adopted and passed several amendments and updates to the Texas Family Code, which were then formally signed into law by the Governor.

These revisions and additions to the Texas Family Code impact numerous areas of family law, including but not limited to: (1) suits for the dissolution of marriage; (2) suits affecting the parent-child relationship; (3) protective orders; and (4) discovery in cases filed under the Texas Family Code.

Ranging from modifications to elements necessary to prove a claim, clarifications to existing codified law, and the removal of automatically triggered disclosure requirements, family law practitioners throughout the State of Texas should familiarize themselves with these changes and how such changes impact their practice.

Some of these changes include the following:

Claims for Reimbursement: The Texas Legislature has overhauled the claim for reimbursement statute, which will now provide that “[a] claim for reimbursement exists when one or both spouses use property of one marital estate to confer on the property of another marital estate a benefit which, if not repaid, would result in unjust enrichment to the benefited estate.” Tex. Fam.

Code § 3.402(a); Eff. Date: 9/1/2023 and applies to a claim for reimbursement that is pending in a trial court or that is filed on or after 9/1/2023.

The Legislature has also revised Section 3.402(b) to include a list of elements that must be proved by a party seeking reimbursement to a marital estate. See Tex. Fam. Code § 3.402(b); Eff. Date: 9/1/2023 and applies to a claim for reimbursement that is pending in a trial court or that is filed on or after 9/1/2023.

Temporary Restraining Orders: Texas Family Code § 6.501 will now provide that a court may restrain one or both parties from tracking or monitoring personal property or a motor vehicle without that party's effective consent, including by using a tracking application on a personal electronic device in the possession of the party or using a tracking device; or physically following that party or causing another to physically follow that party. Tex. Fam. Code 6.501(a)(27); Eff. Date: 9/1/2023.

Practitioners should pay close attention to changes in Standing Orders that may include this new provision. Remember to make appropriate considerations regarding the use of car manufacturer phone applications and private investigators.

Child Support: Get a job! Texas Courts now may render an order required an unemployed or underemployed child support obligor to enroll and participate fully in a program in the obligor's community that provides employment assistance, skills training, or job placement services; or work, have a plan to pay child support, or participate in work activities appropriate to pay the support obligation. See Tex. Fam. Code 154.017; Eff. Date: 9/1/2023.

Protective Orders: Under the new provisions of the Texas Family Code, "the court shall find whether family violence occurred. If the court finds that family violence has occurred, the court shall render a protective order..." Tex. Fam. Code § 85.001; Eff. Date: 9/1/2023.

Beginning September 1, 2023, the court is no longer required to make a finding that family violence is likely to occur in the future before rendering a protective order

Discovery Rules: The Legislature has added Title 6 to the Texas Family, which deals with Civil Procedure. Specifically, Chapter 301 applies to a civil action brought under the Texas Family Code. Under this Chapter, a party may obtain disclosure from another party of the information or material described by Section 301.052 by serving the other party with a request for disclosure. See Tex. Fam. Code § 301.051; Eff. Date: 9/1/2023.

Beginning September 1, 2023, civil actions brought under the Texas Family Code are no longer subject to the required initial disclosure procedure set forth in the Texas Rules of Civil Procedure. Title 6, Chapter 301 of the Texas Family Code mirrors, in several aspects, the pre-2021 Rule 194 Requests for Disclosure previously found in the Texas Rules of Civil Procedure.

[The most recent Texas Legislative Report may be accessed here](#)

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