



# **Justice in Action Pro Bono Toolkit**

Resources for Volunteer Attorneys

Texas Family Law Section  
Pro Bono Challenge 2025



# Justice in Action Toolkit

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## *Texas Family Law Pro Bono Challenge*

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## **Toolkit Article: The Consultation & Client Communication 101**

### **Prepared for the Family Law Pro Bono Toolkit (2025 Edition)**

#### **I. Introduction**

- Give a brief introduction of yourself and set out the boundaries for the attorney-client relationship.
- It is important to emphasize the terms of the pro bono representation, what does this mean for both yourself and the client.
- Explain confidentiality: attorney-client privilege attaches even during consultation.
- Set the tone: “I’m here to help you understand your rights, your options, and the next steps.”

#### **II. Gather Case Background & Client Goals**

**Ask for basic facts:** - Relationship history (marriage, separation, children) - Current court status (active case, orders in place, etc.) - Employment/income (for support or property division issues)

Make sure you ask questions that you will need for the pleadings. If you are taking this case through a legal clinic or legal aid many times they will have questionnaire that include specific information you will need to draft the pleadings but sometimes there maybe missing information, so make sure you ask them to provide that information.

**Explore client goals:** - “What outcome are you hoping for?” - “What concerns you the most about this case?” - Identify legal issues: divorce, custody, child support, enforcement, etc.

#### **III. Educate the Client on Legal Framework**

Tailor your explanation to the case type:

**Divorce:** - No-fault vs. fault-based divorce - Division of community vs. separate property - Temporary orders - Discovery and mediation

**Custody/SAPCR:** - Best interest of the child standard - Conservatorship types (JMC vs. SMC) - Possession schedules (Standard, Expanded, or Custom)

**Support:** - Child support guideline percentages - Income calculations - Medical and dental support obligations (Make sure that they provide you with income information)

**Modifications/Enforcements:** - Material and substantial change standard (modification) - Enforceable orders; contempt remedies (enforcement)

#### **IV. Outline the Legal Process & Timeline**

- Phases: Pleadings, Temporary Orders, Discovery, Mediation, Trial
- Timeline (typical 6–12+ months for contested cases)
- Possible delays: opposing party, court scheduling, evaluations
- Importance of documentation and preparation

#### **V. Set Expectations for Communication & Client Role**

- Explain your communication policy:

- Preferred method (email, portal)
- Staff roles (who to contact for what)
- Reasonable response times
- Emphasize client responsibilities:
  - Honesty and full disclosure
  - Timely response to document requests
  - Appropriate behavior (especially on social media)
- Also check with the client to see if they have a telephone or email available that they check regularly. Sometimes clients will change their contact information and fail to communicate that to you so ensure they understand that you will need updated contact information throughout the pendency of the case.

## **VI. Identify Immediate Next Steps**

From the client: - Provide any additional requested documents. Make sure you inform the client how to upload or scan documents and provide them with resources they can use to get this done timely. i.e. FEDEX, local library

From the attorney: - Prepare and file pleadings - Draft orders or notices - Contact opposing counsel (if applicable)

## **VII. Final Questions & Close**

- Invite questions to ensure understanding
- Reiterate next steps
- Provide contact information
- Leave client with a sense of clarity and direction

## **Optional Post-Consultation Handouts**

- Process Flowchart
- Mediation Prep Guide
- Parenting Plan Worksheet
- Billing Policy Summary
- Courtroom Expectations Document



## **Toolkit Topic: How to Serve Process in a Texas Family Law Case**

### **Prepared for the Family Law Pro Bono Toolkit (2025 Edition)**

#### **A. Overview**

Service of process is the formal legal method of notifying the opposing party (“Respondent”) that a family law lawsuit has been filed against them. It is a constitutional requirement that ensures due process and gives the respondent an opportunity to respond. In Texas family law, proper service is critical—failure to serve properly may result in dismissal of the lawsuit or a void judgment.

Service arises at the beginning of each family law case from divorces, suits affecting the parent-child relationship, modifications to enforcements. Practitioners must understand the options and requirements to ensure that jurisdiction over the Respondent is established, service is “perfected” and the case proceeds smoothly.

#### **B. Substantive Legal Framework**

- **TEX. R. CIV. P. §106** – Methods of service.
- **TEX. R. CIV. P. §103** – Who may serve.
- **TEX. R. CIV. P. §109 & §109a** – Citation by publication or other substituted service.
- **TEX. FAM. CODE §6.4035/ §102.0091** – Waiver of Service
- **TEX. CONST. art. I, § 19** – Due process considerations.

Key Case:

- *In re E.R.*, 385 S.W.3d 552 (Tex. 2012) (strict compliance with service rules is mandatory; otherwise, judgment is void).

#### **C. Procedural or Practical Requirements**

##### **Step-by-step Process:**

1. **File Petition/Motion:** Initiates the lawsuit.
2. **Request Citation from the Clerk:** The clerk issues a citation, which must be attached to the Original Petition for service.
3. **Determine Service Method:**
  - **Personal Service (Preferred):** Constable or private process server delivers papers directly to the Respondent.
  - **Service by Mail:** Allowed via registered or certified mail, return receipt requested, by the clerk of the court (not the attorney’s office).

- **Substituted Service:** If you cannot accomplish personal service or service by mail, then on Motion with an Affidavit, the court can authorize substituted service.
  - i. **Substituted Service under Rule 106(b):** Motion and affidavit required; court may authorize alternative method (e.g., posting, email, social media) but generally this requires 3 attempts at personal service.
    - 1. **Forms of Alternative Service (106(b)):** Delivery to any person older than 16 at Respondent's known location; Electronically by social media, e-mail, or other technology.
  - ii. **Service by Publication (Rule 109):** Last resort and used only if (1) Respondent's location is unknown after due diligence, (2) Respondent is transient, (3) Respondent is unknown; (4) Respondent is absent from Texas and unable to be served elsewhere -- §108. Requires detailed affidavit and court approval.
    - 1. Publication is done online according to OCA website in the local newspaper. *If the Petitioner is indigent see TRCP 145 to avoid publication in newspaper.*
    - 2. Attorney must be appointed for the Respondent.
    - 3. If you are serving an Unknown Father, check the paternity registry database and provide that search to the Court.
  - iii. **Affidavit requirements for 106(b) and 109:** Respondent's usual place of business/residence/or other place to be found; how service has already been attempted (either personally or by mail); verified by the process server who attempted service.
  - iv. **Motion and Order:** The motion and affidavit(s) should describe why the alternative/substituted service method is likely to give Respondent notice. The order must be specific as to the manner and method of service.
- **Waiver of Service:** If you have a cooperative Respondent, prepare a Waiver of Service. In a divorce, the Waiver must be signed by the Respondent in ink, in front of a notary (an unsworn declaration will not work.) Tex. Fam. Code §6.4035. But see §102.0091 for SAPCRs which allows digital signatures in front of a notary (an unsworn declaration still will not work.)
- **Unique Service:**
  - i. Service on an Inmate is highly technical. You must serve an employee who has been designated as agent for service at the facility where the Respondent is confined. See TPRC §17.029(c) TDCJ has a form that

needs to be filled out that complies with TPRC 17.029(c), (d) and Tex. R. Civ. P. 107(e).

- ii. Service on an out-of-state Respondent is required to be served by a Constable or Sheriff or by an order obtained from the TX court authorizing a specified out-of-state private process server to serve TX lawsuit out-of-state. See TRCP 108.
4. **File Return of Service:** Server must complete and file a sworn return with the court. Must strictly comply with Rule 107.
5. **Wait for Answer Period:** Respondent has until the Monday following 20 days from the date of service to file an answer.

#### **Best Practices:**

- Use a reputable private process server for faster service.
- Review the return for technical compliance.
- Document all attempts to locate the respondent if alternative service is needed.

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#### **D. Remedies, Options, or Outcomes**

<u><b>Remedy / Option</b></u>	<u><b>Statutory Authority</b></u>	<u><b>Explanation and Notes</b></u>
Personal service	TEX. R. CIV. P. 106(a)	Strongest form of service; proof of delivery via signed return.
Substituted service	TEX. R. CIV. P. 106(b)	Allowed if personal service fails; must be court-authorized.
Service by publication	TEX. R. CIV. P. 109	Requires due diligence and judicial approval; last resort.
Default judgment	TEX. R. CIV. P. 239	Permissible after valid service and expiration of answer deadline.

#### **E. Obstacles, Pitfalls, or Legal Challenges**

- **Improper service** (e.g., incorrect return, unsigned, wrong method) → Can render judgment void.
- **Failure to diligently attempt personal service** before requesting alternative methods → Court may deny request for Rule 106/109.

- **Service on wrong person or at wrong address** → Jurisdiction not established.
- **Incomplete affidavits** when seeking substituted or publication service → Court may deny request for Rule 106/109.
- **Failure to update the court on service attempts** → Delay in case progression.

**Tips:**

- Always double-check Rule 107 compliance.
- Drafted a detailed affidavits when preparing motions for substituted service.
- Consider engaging investigators or skip-trace tools for difficult-to-locate Respondents and search for their online presence.

**F. Practice Strategy & Common Scenarios**

**Intake Questions:**

- Do you know where the respondent lives or works? (You should Google or use AI to search for the Respondent)
- Has the respondent been avoiding contact?
- Is there a history of family violence or protective orders?

**Prioritization Tip:**

- Start the service process immediately after filing to avoid unnecessary delays.

**Common Scenario:**

- Client does not know where the respondent lives. Practitioner attempts personal service at last known address; unsuccessful. Files motion under Rule 106 with affidavit of diligence and requests court approval for service via email or social media.

**G. Checklists, Tips, or Sample Scripts**

**☐ Pleading Checklist:**

- ☐ File petition with clerk
- ☐ Request issuance of citation
- ☐ Identify correct service address
- ☐ Attach citation to petition

**☐ Service Attempt Checklist:**

- ☐ Attempt personal service
- ☐ Document dates, times, outcomes
- ☐ If unsuccessful, prepare Rule 106 affidavit
- ☐ File motion for substituted service or publication

## **I. Appendices & External Resources**

- **Appendix A:** Sample Motion for Substituted Service with Statement in Support and Proposed Order
- **External Resources:**
  - [TexasLawHelp – Service of Process Guide](#)
  - [OCA Process Server Certification Info](#)

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## APPENDIX A

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NO. 12-34-56789

IN THE MATTER OF  
THE MARRIAGE OF

JANE DOE  
AND  
JOHN DOE

AND IN THE INTEREST OF  
DOE CHILDREN

§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

ABC JUDICIAL DISTRICT

UTOPIA COUNTY, TEXAS

### MOTION FOR ALTERNATIVE SERVICE

This Motion for Alternative Service is brought by JANE DOE, Petitioner, who shows in support:

1. Service has been attempted unsuccessfully on JOHN DOE, as shown in the attached *statement of MY PROCESS SERVER, Exhibit A hereto*, the person who attempted service by personal delivery to JOHN DOE.

2. Reasonably effective notice of the suit may be given to JOHN DOE by texting a copy to 936-123-4567 and by emailing a copy to [JOHNDOE2025@GMAIL.COM](mailto:JOHNDOE2025@GMAIL.COM). *See the attached statement of JANE DOE, Exhibit B hereto.*

JANE DOE prays that the Court grant this Motion for Alternative Service.

**STATEMENT IN SUPPORT OF METHOD OF ALTERNATIVE SERVICE**

My name is JANE DOE. I am above the age of eighteen years, and I am fully competent to make this statement. The facts stated are within my personal knowledge and are true and correct.

My husband, JOHN DOE, has been texting me almost daily over the last several months. I have asked him to cooperate and accept the divorce service papers, but he will not. At the time I filed this divorce in January 2025, JOHN was living in the home we own located at 12345 Get Over Me Drive, Houston, Texas. He has since moved out of the home and will not tell me where he is staying.

I receive regular text messages from JOHN from his phone number, which is 936-123-4567. I believe the best way to contact JOHN is thru text message and that is the most effective way to give JOHN notice of this lawsuit.

In the past few months JOHN has also been emailing our entire family about this divorce. When he was doing that, he was emailing our children and I was included on those emails. The email address that I have known JOHN to use is [JOHNDOE2025@GMAIL.COM](mailto:JOHNDOE2025@GMAIL.COM).

JOHN DOE can be given notice of this suit by texting a copy to 936-123-4567 and by emailing a copy to [JOHNDOE2025@GMAIL.COM](mailto:JOHNDOE2025@GMAIL.COM)

---

JANE DOE

My name is JANE DOE, my date of birth is 00/00/0000, and my address is \_\_\_\_\_, United States. I declare under penalty of perjury that the foregoing is true and correct.

Executed in \_\_\_\_\_ County, Texas, on \_\_\_\_\_.

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JANE DOE, Declarant

**NO. 12-34-56789**

**IN THE MATTER OF  
THE MARRIAGE OF**

**JANE DOE  
AND  
JOHN DOE**

**AND IN THE INTEREST OF  
DOE CHILDREN**

§  
§  
§  
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§

**IN THE DISTRICT COURT**

**ABC JUDICIAL DISTRICT**

**UTOPIA COUNTY, TEXAS**

**ORDER ON MOTION FOR ALTERNATIVE SERVICE**

On \_\_\_\_\_ the Court considered the Motion for Alternative Service of JANE DOE and ORDERS that service on JOHN DOE be effected by texting a copy to 936-123-4567 and by emailing a copy to [JOHNDOE2025@GMAIL.COM](mailto:JOHNDOE2025@GMAIL.COM)

Proof of service shall be made by the person executing the return, stating when the citation was served, on whom it was served, and where it was served.

SIGNED on \_\_\_\_\_.

\_\_\_\_\_  
JUDGE PRESIDING



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## Establishing Paternity in a Texas Suit to Affecting the Parent-Child Relationship

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### A. Overview

Establishing paternity is the legal process of identifying a child's legal father under Texas law. This issue commonly arises in a Suit Affecting the Parent-Child Relationship ("SAPCR"). Paternity must be established before a court can issue child support, custody, or visitation orders involving an alleged father.

Practitioners should be alert to paternity questions during pre-filing intake, especially if the parents were never married or the birth certificate does not list the child's father. The issue is typically resolved early in the litigation, often at the temporary orders stage.

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### B. Substantive Legal Framework

#### Governing Statutes:

- **Texas Family Code Chapter 160** – Uniform Parentage Act (UPA)
    - TEX. FAM. CODE § 160.204 – Establishment of the Parent-Child Relationship
    - TEX. FAM. CODE § 160.204 – Presumption of Paternity
    - TEX. FAM. CODE § 160.301–.309 – Acknowledgment and Denial of Paternity
    - TEX. FAM. CODE § 160.502 – Order for Testing (DNA)
    - TEX. FAM. CODE § 160.601–.636 – Proceeding to Adjudicate Parentage
- 

### C. Procedural or Practical Requirements

#### Filing the Case:

##### 1. Standing:

- A man alleging himself to be the father of the child pursuant to chapter 160 has standing under Tex. Fam. Code §160.602 and §102.003(a)(8).
- The mother of the child has standing to file a SAPCR to establish the child's father pursuant to Tex. Fam. Code §160.602 and §102.003(a)(1).
- Note: this Toolkit does not cover Grandparent cases. If you have a grandparent seeking custody of a child, see Tex. Fam. Code §102.003, §102.004, 153.131,

153.372, 153.431 and phone a friend if you are not familiar with the challenges of grandparent cases.

2. **File a SAPCR** requesting to Adjudicate Parentage under any statutory grounds in chapter 160.
  - Paternity is Presumed under several options listed in Tex. Fam. Code §160.204. The most common presumptions are (1) the parents were married at the time of birth, (2) the father signed an Acknowledgement of Paternity (“AOP”) at birth, and (3) the father lived with the child continuously for the child’s first 2 years of life and represented to other the child is his.
  - The suit should also request conservatorship, possession and access, child support, and health insurance be ordered.
  - Consider other requests like changing the child’s last name and amending the child’s birth certificate.
3. **Venue:** County where the child resides or where a SAPCR is already pending. See Tex. Fam. Code §103.001

**Required Parties:**

1. Child’s mother
2. Alleged father(s)
3. Attorney General (if public support involved)

**Personal Jurisdiction:**

1. The court must have jurisdiction over the man seeking to be adjudicated. Tex. Fam. Code §160.604
2. If the alleged father lives out of state, see Tex. Fam. Code §159.201.

**Service:**

1. All parties must be served with citation unless they waive service.

**Acknowledgment of Paternity (AOP):**

1. **Get a copy:** If the man is listed on the child’s birth certificate, it is most likely that he signed an AOP at birth. Get a copy from the Texas Vital Statistics Unit and file it with the Court. It can take months to receive the AOP after a request, so request it at the beginning of the case.
2. **Effect:** A properly signed AOP has the effect of a final adjudication of parentage (unless it was rescinded within 60 days). Tex. Fam. Code §160.204. Your quest to establish

paternity is complete, and you can focus on the remaining issue of the SAPCR (conservatorship, possession and access, child support and health insurance).

### **Paternity Testing:**

1. Either party may move for court-ordered genetic testing. Tex. Fam. Code §160.502
2. Testing must be conducted by an accredited lab. Tex. Fam. Code §160.503
3. Results can be returned as fast as two weeks or as long as two months and should be filed with the court.
4. Testing cannot be done until the child is born. Tex. Fam. Code §160.502(b)
  - If your client does not know if the baby has been born, he should register with the Paternity Registry. [Paternity Registry | Texas DSHS](#)

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### **D. Remedies, Options, or Outcomes**

<b>Remedy / Option</b>	<b>Statutory or Case Authority</b>	<b>Explanation</b>
Presumption of Paternity	TEX. FAM. CODE § 160.204	Who is a presumed father
Genetic testing	TEX. FAM. CODE § 160.502	Ordered by court on motion of any party
Adjudication of Parentage	TEX. FAM. CODE § 160.631	Court order naming legal father
Retroactive child support	TEX. FAM. CODE § 154.009 & §154.131	May be awarded once paternity is established

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### **E. Obstacles, Pitfalls, and Tips**

- **Presumed father not joined:** Must be included and served to prevent a void judgment. This is commonly seen when the mother was married at the time of birth, but the child is not her husband's.
- **Retroactive child support:** Retroactive child support and prenatal and postnatal expenses can be ordered. Tex. Fam. Code §160.636(g).

- It is presumed that the amount of retroactive child support totaling the amount of support that would have been due for the past four years is reasonable. Tex. Fam. Code §154.009, §154.131.
  - There are rebuttal arguments to applying retroactive support, including whether the man knew or should have known the child was his and did he avoid establishing child support. §154.131(d).
  - **Denial of paternity:** This article does not address a man who now wants to deny paternity or challenge an AOP he signed.
  - **Amended birth certificate:** If a father is adjudicated, the child’s birth certificate will need to be amended to add the father. Include that this will happen in the order.
  - **Name change of child:** If father wants to change the child’s last name, that must be included in the petition and in the final order. See Tex. Fam. Code §160.636(e) and (f). There must be a “good cause” to change the child’s last name and it must be in the child’s best interest. *In re I.D.Z.*, 602, S.W.3d 1, 5 (Tex.App.—El Paso 2020, not pet.).
- 

## F. Practice Strategy & Common Scenarios

### Client Intake Questions:

- Is the father listed on the birth certificate?
- Was the child born while mother was married?
- Has an AOP been signed and filed?
- Has anyone else ever claimed to be the father?

### Common Scenarios:

1. **Unmarried parents, father not listed on birth certificate** – File SAPCR + request genetic testing
  2. **Mother claims multiple possible fathers** – Court may join multiple alleged fathers under § 160.602
- 

## G. Checklists and Sample Language

### Pleading Checklist

- Petition includes child’s name, DOB, county of residence
- Alleged father named

- Requests paternity adjudication under statutory grounds
- Service requested for all parties
- Attach AOP/denial (if applicable)

#### **Proposed Order Language**

“The Court finds and IT IS ORDERED that FATHER is adjudicated as the father of CHILD, whose date of birth is [ \_\_\_\_\_ ], and that the parent-child relationship between FATHER and CHILD is established for all purposes.

See Tex. Fam. Code §160.636

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#### **I. Appendices & External Resources**

- **Appendix A:** Application for AOP Inquiry (VS 134.1)
  - **Appendix B:** Application for Paternity Registry Inquiry (VS 134)
  - **Appendix C:** Correcting a Birth Certificate
  - [Paternity | Texas Law Help](#)
-



**TEXAS**  
Health and Human  
Services

Texas Department of State  
Health Services

#### OFFICE USE ONLY

FEE RECEIVED: \_\_\_\_\_

POSITIVE SEARCH: \_\_\_\_\_

NEGATIVE SEARCH: \_\_\_\_\_

DATE MAILED/EMAILED: \_\_\_\_\_ BUDGET-FUND: ZZ712

## APPLICATION FOR ACKNOWLEDGMENT OF PATERNITY (AOP) INQUIRY

**COMPLETE STEPS 1, 2 & 3. SIGN AND DATE THE APPLICATION. INCLUDE A PHOTOCOPY OF YOUR VALID ID.**

### Step 1: YOUR INFORMATION AND SHIPPING ADDRESS (PLEASE PRINT)

Your Name (First, Middle, Last Name):			
Street Address:	City:	State:	Zip Code:
Email Address:	Daytime Telephone Number:		
<b>Family Code §160.313 allows access to AOPs to the following individuals/agencies:</b>			
RELATIONSHIP (CHECK ONE): <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Presumed Father <input type="checkbox"/> Court Ordered for Attorney			
<input type="checkbox"/> I authorize mailing to the address below instead of my mailing address listed above.			
Name:			
Address to Send to if different than noted above:	City:	State:	Zip Code:

### Step 2: INFORMATION FOR CHILD SHOWN ON AOP

NAME OF CHILD	First	Middle	Last	DATE OF BIRTH (MM/DD/YYYY):
BIRTHPLACE:	City	County	State	
MOTHER'S NAME:	First	Middle	Maiden Last	DATE OF BIRTH (MM/DD/YYYY)
BIOLOGICAL FATHER'S NAME:	First	Middle	Last	DATE OF BIRTH (MM/DD/YYYY)
Check One: <input type="checkbox"/> Certified Copy of AOP <input type="checkbox"/> Certified Copy of AOP Rescission				

### Step 3: COST & FEES (NOT REFUNDABLE, if Record Not found)

Select Record Type:	Qty	Price/each	Total
<input type="checkbox"/> AOP Inquiry	1	x \$10.00	\$
For urgent requests, orders may be <b>EXPEDITED</b> by sending the order through an overnight mail service, such as: FEDEX, LoneStar, or UPS to our physical address: <b>DSHS – VSS MC 2096, 1100 W. 49th St., Austin, TX 78756</b> and paying the below expedited processing fee.			
<input type="checkbox"/> Expedited Processing (estimated 20-25 business days)			\$5.00
All orders are returned free of charge by USPS regular mail. For expedited return mail service, select <b>one</b> of the overnight return shipping methods below.			
<input type="checkbox"/> Overnight Return Mail (for shipping within USA)			\$16.00
<input type="checkbox"/> USPS Express Return Mail (for shipping to PO Box ONLY)			\$22.95
<b>Total Due:</b>			\$

Make check or money order payable to **DSHS – Vital Statistics - ZZ712.**

Mail completed form, payment and valid ID to: **DSHS - VSS, P.O. Box 12040, Austin, TX 78711-2040.** Regular orders are processed and mailed 6 – 8 weeks after receipt of the request.

**The applicant must include a photocopy of his or her valid photo ID issued by a governmental entity.** Visit our website for a current list of acceptable identification in English (<http://www.dshs.texas.gov/vs/reqproc/Acceptable-IDs/>) and Spanish ([http://www.dshs.texas.gov/vs/reqproc/Acceptable-IDs-\(Spanish\)/](http://www.dshs.texas.gov/vs/reqproc/Acceptable-IDs-(Spanish)/)).

**WARNING: IT IS A FELONY TO FALSIFY INFORMATION ON THIS DOCUMENT. THE PENALTY FOR KNOWINGLY MAKING A FALSE STATEMENT ON THIS FORM OR SIGNING A FORM WHICH CONTAINS A FALSE STATEMENT IS 2 TO 10 YEARS IMPRISONMENT AND A FINE OF UP TO \$10,000. (HEALTH AND SAFETY CODE, CHAPTER 195, SEC. 195.003.)**

### READ & SIGN (Applications without signatures or attached valid ID will NOT be accepted for processing)

Signature of Applicant \_\_\_\_\_ Date Signed (MM/DD/YYYY) \_\_\_\_/\_\_\_\_/\_\_\_\_

For the status of your request, contact VSS by telephone at 1-888-963-7111 or online at: <https://www.dshs.texas.gov/orderstatus/>.



**TEXAS**  
Health and Human  
Services

Texas Department of State  
Health Services

#### OFFICE USE ONLY

FEE RECEIVED: \_\_\_\_\_

POSITIVE SEARCH: \_\_\_\_\_

NEGATIVE SEARCH: \_\_\_\_\_ BUDGET-FUND: ZZ712

## APPLICATION FOR PATERNITY REGISTRY INQUIRY

**COMPLETE STEPS 1, 2, 3 & 4. SIGN & DATE THE APPLICATION. INCLUDE A PHOTOCOPY OF YOUR VALID ID.**

### Step 1: YOUR INFORMATION AND SHIPPING ADDRESS (PLEASE PRINT)

Your Name (First, Middle, Last Name):			
Street Address:		City	State
Zip Code			
How do you want your response? <input type="checkbox"/> Email <input type="checkbox"/> Mail	Email- <b>REQUIRED FOR EMAILED RESPONSE</b>		Daytime Telephone Number
Per <a href="#">Family Code 160.412</a> , information contained in the registry is confidential and may be released on request only to the following: YOUR RELATIONSHIP ( <b>CHECK ONE</b> ): <input type="checkbox"/> COURT <input type="checkbox"/> MOTHER OF CHILD <input type="checkbox"/> STATE AGENCY _____ <input type="checkbox"/> LICENSED CHILD PLACING AGENCY <input type="checkbox"/> LICENSED ATTORNEY PARTICIPATING IN ADOPTION - STATE BAR NUMBER _____ <input type="checkbox"/> OTHER, SPECIFY _____			
<input type="checkbox"/> I authorize mailing to the address below instead of my mailing address listed above.			
Name:			
Address to Send to if different than noted above:		City:	State:
Zip Code:			

### Step 2: INFORMATION FOR CHILD IN REGISTRY (If left blank, application will NOT be accepted for processing)

NAME OF CHILD:	First	Middle	Last	DATE OF BIRTH (MM/DD/YYYY)
CHILD A.K.A. (LEAVE BLANK IF NONE)	First	Middle	Last	
BIRTHPLACE:	City	County	State	SEX:
MOTHER'S NAME:	First	Middle	Last	Maiden
MOTHER A.K.A. (LEAVE BLANK IF NONE)	First	Middle	Last	
MOTHER'S SOCIAL SECURITY NUMBER	MOTHER'S DRIVER'S LICENSE NUMBER		MOTHER'S DATE OF BIRTH (MM/DD/YYYY)	

### Step 3: POSSIBLE FATHER(S)

POSSIBLE FATHER'S NAME:	First	Middle	Last	DATE OF BIRTH (MM/DD/YYYY)
SOCIAL SECURITY NUMBER			DRIVER'S LICENSE NUMBER	
POSSIBLE FATHER'S NAME:	First	Middle	Last	DATE OF BIRTH (MM/DD/YYYY)
SOCIAL SECURITY NUMBER			DRIVER'S LICENSE NUMBER	
POSSIBLE FATHER'S NAME:	First	Middle	Last	DATE OF BIRTH (MM/DD/YYYY)
SOCIAL SECURITY NUMBER			DRIVER'S LICENSE NUMBER	

### Step 4: COST & FEES (NOT REFUNDABLE, if Record Not found)

Select Record Type:	Qty	Price/each	Total
<input type="checkbox"/> Paternity Registry Inquiry	1	x \$10.00	\$
For urgent requests, orders may be <b>EXPEDITED</b> by sending the order through an overnight mail service, such as: FEDEX, LoneStar, or UPS to our physical address: <b>DSHS - VSS MC 2096, 1100 W. 49th St., Austin, TX 78756</b> and paying the below expedited processing fee.			
<input type="checkbox"/> Expedited Processing (estimated 20-25 business days)			\$5.00
All orders are returned free of charge by USPS regular mail. For expedited return mail service, select <b>one</b> of the overnight return shipping methods below.			
<input type="checkbox"/> Overnight Return Mail (for shipping within USA)			\$16.00
<input type="checkbox"/> USPS Express Return Mail (for shipping to PO Box ONLY)			\$22.95
<b>Total Due:</b>			\$

Make check or money order payable to **DSHS - Vital Statistics - ZZ712**.

Mail completed form, payment and valid ID to: **DSHS - VSS, P.O. Box 12040, Austin, TX 78711-2040**. Regular orders are processed and mailed 6 - 8 weeks after receipt of the request.

**The applicant must include a photocopy of his or her valid photo ID issued by a governmental entity.** Visit our website for a current list of acceptable identification in English (<http://www.dshs.texas.gov/vs/reqproc/Acceptable-IDs/>) and Spanish ([http://www.dshs.texas.gov/vs/reqproc/Acceptable-IDs-\(Spanish\)/](http://www.dshs.texas.gov/vs/reqproc/Acceptable-IDs-(Spanish)/)).

**WARNING: IT IS A FELONY TO FALSIFY INFORMATION ON THIS DOCUMENT. THE PENALTY FOR KNOWINGLY MAKING A FALSE STATEMENT ON THIS FORM OR SIGNING A FORM WHICH CONTAINS A FALSE STATEMENT IS 2 TO 10 YEARS IMPRISONMENT AND A FINE OF UP TO \$10,000. (HEALTH AND SAFETY CODE, CHAPTER 195, SEC. 195.003.)**

### READ & SIGN (Applications without signatures or attached valid ID will NOT be accepted for processing)

Signature of Applicant \_\_\_\_\_ Date Signed (MM/DD/YYYY) \_\_\_\_/\_\_\_\_/\_\_\_\_

For the status of your request, contact VSS by telephone at 1-888-963-7111 or online at: <https://www.dshs.texas.gov/orderstatus/>.

## Correcting a Birth Certificate

**THIS FORM CANNOT BE USED TO CORRECT A RECORD BASED ON AN ADOPTION.**

### Who Can Apply for a Correction?

- The person named on the birth certificate, if at least 18 years of age.
- Parent(s) named on the birth certificate, if child is under 18 years of age.
- Legal guardian(s), managing conservator, or legal representative (proof required) of the person named on the birth certificate.
- Hospital or medical facility where the person named on the birth certificate was born.

### How Do I Make a Correction?

- ☐ Complete and sign this application. See pages 4 and 5.
  - ☐ Section 1, 2, 5 and 6 MUST be completed. See pages 2 and 3 for how to complete Section 3 or 4.
  - ☐ **Everyone signing section 6 must sign before a notary public and ATTACH A COPY OF THEIR VALID PHOTO ID(S).**
- ☐ The application must be original. Photocopies, alterations, strike-through, or write overs will not be accepted.
- ☐ Submit the appropriate documentation. See pages 2 and 3.
- ☐ Submit the appropriate fees. See fee schedule below.

For Frequently Asked Questions, go to: <https://www.dshs.texas.gov/vs/faq/#correct>.

For more information, go to: <https://www.dshs.texas.gov/vs/requirements.aspx>.

### Where Do I Mail the Application?

**Regular Mailing Instructions** - Estimated processing time is 6-8 weeks.

See <https://www.dshs.texas.gov/vital-statistics/processing-times> for current times.

Please submit your application, supporting documents (if required) and fees to:

**DSHS – Vital Statistics Section, P.O. Box 12040, Austin, TX 78711-2040.**

**Expedited Service Mailing Instructions** - Estimated processing time is 20-25 business days.

The order and \$5.00 processing fee must be sent to the Vital Statistics Section via an **overnight mail service such as: FedEx, Lone Star, or UPS.**

Please submit your application, supporting documents (if required) and fees to:

**DSHS-Vital Statistics Section, MC 2096, 1100 W. 49<sup>th</sup> Street, Austin, TX 78756.**

**FAILURE TO PROVIDE INFORMATION REQUESTED ON THIS FORM, MAY RESULT IN SIGNIFICANT PROCESSING DELAYS AND/OR DENIAL OF YOUR APPLICATION.**

### Fees: How much must I submit?

	Fee Schedule	Fee (\$)	Qty (#)		Total (\$)
<b>Filing Fees (Select One):</b>					
<input type="radio"/>	Correction to Birth Certificate (Not required if child's name change is in same court order to add/replace/remove parent)	\$15.00		=	
<input type="radio"/>	Correction to Birth Certificate by adding/removing/replacing a parent	\$25.00		=	
<input type="radio"/>	New Birth Certificate based on child's sex or parent's race or color See "Correcting the Child's Sex or Parent's Race or Color" on Page 3.	\$25.00		=	
<b>For urgent requests, orders may be EXPEDITED by paying the below expedited processing fee AND sending the order through an overnight mail service, such as: FEDEX, LoneStar, or UPS to: DSHS-Vital Statistics Section, MC 2096, 1100 W. 49<sup>th</sup> Street, Austin, TX 78756.</b>					
<input type="radio"/>	Expedited processing Fee (per application)	\$5.00			
<b>All orders are returned free of charge by USPS regular mail. For expedited return mail service, select one of the overnight return shipping methods below.</b>					
<input type="radio"/>	Expedite Overnight Mail (shipping within USA)	\$16.00			
<input type="radio"/>	USPS Express Overnight Mail (shipping overnight to PO Box ONLY)	\$22.95		=	
<b>Birth Certificate(s):</b>					
<input type="radio"/>	Certified Corrected Birth Certificate (\$22.00 per copy)	\$22.00	X	=	
<b>Grand Total</b>					

**Fees may be combined in one check or money order made payable to DSHS – Vital Statistics**

For the status of your request, contact VSS by telephone at 1-888-963-7111 or online at: <https://www.dshs.texas.gov/orderstatus/>.



## What type of correction are you requesting?

A correction to a birth record may be filed to complete or correct a record that is incomplete or proved by satisfactory evidence to be inaccurate. You must complete pages 4 and 5 of this application and may need to provide a supporting document (See Box #1). **IF THE CHILD IS A MINOR AND BOTH PARENTS ARE ON THE BIRTH RECORD, BOTH PARENTS MUST SIGN SECTION 6**, unless otherwise specified in Box #1.

Box # 1: Document Checklist	
I want to...	You will need <b>one</b> of the supporting documents shown in Box # 2 below
<input type="checkbox"/> Correct a hospital error before 1 <sup>st</sup> birthday (hospital must sign and submit application)	No documentation required.
<input type="checkbox"/> Correct an error or omission made by the hospital after child's 1 <sup>st</sup> birthday	1 or 2
<input type="checkbox"/> Add or correct child's first or middle name, BEFORE child's 1 <sup>st</sup> birthday <i>Examples: Cindie to Cindy or "no name" to Kathie</i>	No documentation required
<input type="checkbox"/> Add or correct child's first or middle name, AFTER child's 1 <sup>st</sup> birthday <i>Examples: Ann to Anne or Marie to Marie or "no name" to Ryan</i>	1, 2, 3, 4, 5, 6, 7, 8, or 9
<input type="checkbox"/> Correct spelling of child's last name (all documents must be dated PRIOR to birth of child unless providing a court order) <i>Example: Martines to Martinez</i>	5, 10, 11, 12, 13, or 14
Correct child's date of birth, place of birth, or time of birth	1, 2, or 5
Correct child's sex due to proven incompleteness or inaccuracy	1 or 2
<input type="checkbox"/> Correct parent's information (parent must be currently listed on the birth certificate)	5, 10, 11, 12, 13, or 14
<input type="checkbox"/> Correct mother's residence address at the time of the child's birth	1, 2, or 5
<input type="checkbox"/> Adding a parent AND the parents <b>were married BEFORE</b> the child was born ( <b>Both</b> parents must sign Section 6 of this application in the presence of a notary. A Hospital Representative cannot apply)	12
Change child's First, Middle, Last name <i>Example: Martinez to Brown</i>	5
<input type="checkbox"/> Remove information from birth record	5
Add/remove/replace a parent (A Hospital Representative cannot apply for this correction)	See page 3, "Adding, Removing, or Replacing a Parent's Name"

## Suggested Supporting Documents:

Documents must be **original certified copies (no photocopies)** on official letterhead or with an original certification or seal unless otherwise specified below. Foreign documents, including notaries, must have an apostille or legalization from the Foreign Country where the document was issued. **All supporting documents must match the requested correction(s) exactly and cannot be altered.**

If an acceptable supporting document cannot be obtained, a **court order** to correct the information must be submitted. If an item has already been amended once, a **court order** is required to amend the same item again.

Box # 2: Supporting Documents	
1	Hospital or medical record at birth (admission/discharge or worksheet)
2	Letter from Hospital or medical facility at birth identifying the error made and explaining correction needed
3	Baptismal certificate - Must be within first 5 years of birth
4	Numident printout from the Social Security Administration (SSA). Issued by the SSA, PO BOX 33022, Baltimore, MD 21290-3022. Contact SSA at 410-965-1727 for fees and more information.
5	A certified copy of a court order affecting information shown on the birth certificate. Include all pages with judge's signature and seal of the court.
6	Elementary school record - Must be signed by custodian of school records based on earliest attendance.
7	Federal census record
8	School census record
9	Armed forces discharge papers (form DD 214) - Photocopy accepted
10	Birth certificate(s) of child's parent(s)
11	Birth certificate of child's older brother or sister
12	Certified copy of Parent's Marriage license
13	Parent's Naturalization Certificate (must include name change) Call the Immigration and Naturalization Service (ICE) at 800-375-5283 to obtain information on how to secure this document.
14	Photocopy of Parent's domestic passport or Parent's foreign passport with U.S. Visa, permanent residency card or employment authorization card.

## Adding, Removing or Replacing a Parent's Name

A new birth certificate may be filed based on parentage to Add, Remove or Replace a parent on the birth certificate. Complete Sections 1,2,**4**,5 and 6 of this application (pages 4 and 5). In addition, **one** of five types of documentation must be presented as evidence to file the new birth certificate:

1. A certified copy of the certificate of marriage of the parents;
2. A copy of the Acknowledgment of Paternity (VS-159.1) filed with the Vital Statistics Section;
3. A certified copy of the court decree establishing parentage;
4. A copy of the Acknowledgment of Paternity Rescission (VS 158) filed with the Vital Statistics Section;  
or,
5. A gestational agreement.

<b>Box # 3: Adding, Removing or Replacing a parent's name</b>	
<b>I am/We are...</b>	<b>You need to complete this application and...</b>
<input type="checkbox"/> A mother not married during pregnancy and not married now and wants to add a father  Or <input type="checkbox"/> A mother married within 300 days prior to the birth of the child and wants to add a biological parent who is not the spouse	(1) <b>Both</b> parents sign Section 6 of this application in the presence of a notary; and, (2) Complete an Acknowledgement of Paternity (Visit the Office of the Attorney General, Paternity Opportunity Program at <a href="https://www.texasattorneygeneral.gov/cs/establishing-paternity">https://www.texasattorneygeneral.gov/cs/establishing-paternity</a> )
<input type="checkbox"/> A mother not married during pregnancy but is now married to the parent	(1) <b>Both</b> parents sign Section 6 of this application in the presence of a notary; and, (2) Provide a certified copy of your marriage license
<input type="checkbox"/> A parent with a court order establishing parentage / removing parent (only corrections ordered in the court order will be completed)  Or <input type="checkbox"/> Parents with a gestational agreement	(1) <b>One</b> parent signs Section 6 of this application in the presence of a notary; and, (2) Provide a certified copy of the <i>entire</i> court order (all pages) signed by a judge
<input type="checkbox"/> Parents who have signed a State of Texas Acknowledgment of Paternity (VS 159.1)	(1) <b>Both</b> parents sign Section 6 of this application in the presence of a notary; and, (2) Provide a copy of the signed Acknowledgement of Paternity (VS-159.1).
<input type="checkbox"/> A parent who has an Acknowledgement of Paternity Rescission (VS 158) filed with the Vital Statistics Section and wants to remove their name from the birth certificate*	(1) <b>One</b> parent signs Section 6 of this application in the presence of a notary; and, (2) Provide a copy of the signed Acknowledgement of Paternity Rescission (VS-158).

**Certified documents submitted will be retained by VSS and placed in a sealed file. A court order is required to unseal a file. Parents should keep copies of certified documents for their records and future use before sending them to VSS.**

**\* Once a parent is removed from the birth certificate, they are no longer a qualified applicant to request a certified copy of the child's newly corrected birth certificate.**

## Correcting the Child's Sex or the Parent's Race or Color

A new birth certificate may be filed that incorporates the corrected sex of the person named on the birth certificate. It may also be filed on older records to remove the parent(s) "race or color". The filing fee to create a new birth certificate is \$25.00. Complete Section 3 and check the bottom box requesting a new birth certificate be filed. If the bottom box on Section 3 is not checked, the correction will be attached to the original record as an addendum (\$15.00 filing fee required).

## Reviewing the certified copy of the amended birth record

Once the amendment has been filed, the certified copy of the birth certificate will describe the corrections made below the image of the original birth record.



Texas Department of State  
Health Services

**IMPORTANT:** Photocopies, alterations, strike-through, or write-overs in Section 1 through 6 will not be accepted. Please use a new application if you make a mistake.

## Birth Certificate Correction Application

Type or Print (please use blue or black ink ONLY)

Remittance No. \_\_\_\_\_

### Section 1: What is Your Name? (Applicant's Information)

Name (First, Middle, Last):	
Address ( <b>Mailing</b> Address, City, State, Zip):	
Email Address:	Telephone # (daytime) ( ) -
Your relationship to Person named on the birth certificate: <input type="checkbox"/> Parent <input type="checkbox"/> Self <input type="checkbox"/> Hospital Representative <input type="checkbox"/> Legal guardian(s) or Managing Conservator <input type="checkbox"/> Legal Representative (proof required) <b>&gt;&gt;&gt;&gt;&gt;&gt;A COPY OF THE APPLICANT'S VALID PHOTO ID MUST BE ATTACHED&lt;&lt;&lt;&lt;&lt;&lt;&lt;</b>	

### Section 2: Birth Certificate Information

Enter information as it appears on the current birth certificate (before corrections).

Birth Certificate Number, if known:		142 - -	
Child's First Name:	Middle Name:	Last Name:	
Date of Birth:		Sex:	
Place of Birth (City or town)	(County)	(State) TEXAS	
Full Maiden Name (First, Middle, Last) of Parent 1:		Full Maiden Name (First, Middle, Last) of Parent 2:	

### Section 3: What do you want to correct?

If you are adding, removing or replacing a parent, complete Section 4.

List items to be added, corrected or removed	What is on the birth certificate now?	What should the birth certificate say?
Example: Child's First Name	Not Shown	Tara
Example: Date of Birth	August 2, 2010	August 12, 2010

If you have a certified court order granting a name change only (not changing parentage), complete the information below.

Court Ordered Name Change	First Name:	Middle Name:	Last Name:
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Check box (if applicable): ☐ We are/I am requesting a new birth certificate be filed to incorporate the correction to the child's sex or remove the parent's race or color.

**Section 4: Add, Remove or Replace a Parent**

If you want to add, remove or replace the name of a parent, please fill out this section.

<b>I am requesting to:</b> <input type="checkbox"/> Add <input type="checkbox"/> Remove <input type="checkbox"/> Replace			
<b>CHILD'S NAME ON NEW RECORD (Even if it will remain the same)</b> If changing child's <b>first or middle</b> name, birth certificate correction procedures on page 2 apply.			
First Name:	Middle Name:	Last Name(s):	Suffix:
<b>INFORMATION FOR PARENT 1 (Even if it will remain the same)</b>			
<b>Title (check one):</b> <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Parent			
<b>Full Name (Full Maiden Name Prior to First Marriage)</b>			
First Name:	Middle Name:	Last Name(s):	Suffix:
<b>Date of Birth</b>		<b>Place of Birth</b>	
Month:     / Day:     / Year:		State or Foreign Country:	
<b>INFORMATION FOR PARENT 2 (Even if it will remain the same)</b> If only 1 parent will remain on the birth certificate, leave this information blank.			
<b>Title (check one):</b> <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Parent			
<b>Full Name (Full Maiden Name Prior to First Marriage)</b>			
First Name:	Middle Name:	Last Name(s):	Suffix:
<b>Date of Birth</b>		<b>Place of Birth</b>	
Month:     / Day:     / Year:		State or Foreign Country:	

**Section 5: Would you like to request a birth certificate? Check one:**

- ☐ No, I would not like a certified copy of the corrected birth certificate.
- ☐ Yes, I would like a certified copy of the corrected birth certificate.    Number requested: \_\_\_\_\_

**Please verify fees and quantity ordered in the fee box on Page 1.**

**Section 6: Affidavit**

**Please sign below in the presence of a notary public and ATTACH a copy of your valid Photo ID.** Applications without acceptable valid ID attached will **not** be processed. Cross-outs or white-outs will **VOID** your application.

**WARNING: The Penalty for knowingly making a false statement in this form can be 2-10 years in prison and a fine of up to \$10,000. (Texas Health and Safety Code, Chapter 195).**

<b>Self, Parent 1, Legal Guardian, or Hospital Rep. &gt;&gt;&gt;&gt;&gt;ATTACH A COPY OF YOUR VALID PHOTO ID&lt;&lt;&lt;&lt;&lt;</b>			
Printed Name:		Signature:	
Address:	City:	State:	Zip:
<b>Notary Public, County Clerk, or other person authorized to administer oaths</b>			
Sworn to and subscribed before me, this _____ day of _____ 20_____.		[Stamp or Seal]	
Signature:			
Printed name and title:			

<b>Parent 2 or Legal Guardian 2, if applicable: &gt;&gt;&gt;&gt;&gt;ATTACH A COPY OF YOUR VALID PHOTO ID&lt;&lt;&lt;&lt;&lt;</b>			
Printed Name:		Signature:	
Address:	City:	State:	Zip:
<b>Notary Public, County Clerk, or other person authorized to administer oaths</b>			
Sworn to and subscribed before me, this _____ day of _____ 20_____.		[Stamp or Seal]	
Signature:			
Printed name and title:			

## Toolkit Article: Grandparent Standing

### Prepared for the Family Law Pro Bono Toolkit (2025 Edition)

#### A. Overview and Purpose

Grandparent cases can be very complex legally and procedurally. If you do not have experience with this practice area, please contact a mentor or experienced attorney prior to filing. This guide is meant to be a simplified overview of a complex issue to help you manage a pro bono cases

Grandparent standing in Texas family law cases is governed by TEX. FAM. CODE § 102.003 and TEX. FAM. CODE §102.004 for grandparents seeking conservatorship and TEX. FAM. CODE §153.432 for grandparents only seeking possession or access.

When deciding how to file, it is important to discuss with your client whether they are seeking conservatorship or only possession and access.

#### B. Substantive Legal Framework

For **conservatorship cases** (which often will include requests for possession and access):

<b>Statutory Authority</b>	<b>TEX. FAM. CODE § 102.003</b> – This code provision includes a list of persons who may file for standing. Grandparents who have had actual care, custody, and control of their grandchild for at least six months ending at least not more than 90 days prior to the filing of this suit may use this code section for standing.
	<b>TEX. FAM. CODE § 102.004</b> – This code provision allows grandparents to request managing conservatorship if there is satisfactory proof that: <ul style="list-style-type: none"><li>(1) the requested order is necessary because the child’s present circumstances would significantly impair the child’s physical health or emotional wellbeing; OR</li><li>(2) both parents, a surviving parent, or managing conservator or custodian filed the suit or consented to the suit.</li></ul>
<b>Summary of Elements</b>	<ul style="list-style-type: none"><li>(1) Grandparent +</li><li>(2) The <i>present circumstances</i> would significantly impair the child’s physical health <i>or</i> emotional wellbeing OR consent +</li><li>(3) Satisfactory proof of (1) and (2) included in the petition (attach an affidavit)</li></ul>

For **possession or access cases**:

<b>Statutory Authority</b>	<b>TEX. FAM. CODE § 153.432</b> – This code provision permits a grandparent to request possession or access if an affidavit with supporting facts is filed that alleges that denial of possession of or access to the child would significantly impair the child’s physical health or emotional wellbeing.
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<b>Summary of Elements Necessary for Relief</b>	<b>TEX. FAM. CODE § 153.433 –</b> (1) The grandparent’s child (parent of the child of the suit) has not had their rights terminated; (2) Overcomes the presumption that a parent acts in the best interest of their children by proving by a preponderance of the evidence that denial would significantly impair the child’s physical health or emotional wellbeing; AND (3) The grandparent’s child (parent of the child): a. Has been incarcerated in jail or prison during the 3 month period preceding the filing of the petition; OR b. Has been found by a court to be incompetent; OR c. Is dead; OR d. Does not have actual or court-ordered possession of or access to the child.
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### C. Procedural or Practical Requirements

#### What to File?

Grandparent suits may be an original suit or can be a suit for modification, so long as the standing provisions are met.

**Practice tip:** Find out if there is a court of continuing, exclusive jurisdiction prior to filing your suit.

#### What to Include? (spoiler: AN AFFIDAVIT!)

It is important to ensure the standing provision of your petition clearly references what code provision(s) the grandparent is claiming gives them standing. TEX. FAM. CODE § 102.004 is a unique standing provision because it requires satisfactory proof (not simply alleged facts) to confer standing.

In order to meet the burden of proof under §102.004, the party asserting standing must show the same type of evidence of significant impairment that a non-parent would have to offer at trial to overcome the presumption that a parent is to be named managing conservator and be awarded conservatorship. *In re S.M.D.*, 329 S.W.3d at 15.

So it is important to **include a thorough affidavit** that provides satisfactory proof of the necessary elements for standing.

Similarly, TEX. FAM. CODE § 153.432 requires a grandparent to include an affidavit with supporting facts that if taken as true demonstrate that the denial of the grandparents possession or access would significantly impair the child’s physical health or emotional wellbeing and the necessary elements in § 153.433.

### E. Obstacles, Pitfalls, or Legal Challenges

The focus of significant impairment in both TEX. FAM. CODE § 102.004 and TEX. FAM. CODE § 153.432 is the present circumstances of the child. It is not enough to plead that the grandparent would be a better conservator or at one point in the past the parent was unfit. *Rolle*, 527 S.W.3d at 420. Oftentimes, grandparents believe that because they would be a better choice or that at one point in the past a parent did something questionable, but these facts alone do not give a grandparent standing.

The grandparent must present evidence of a **specific, identifiable behavior or conduct of the parent** that will significantly impair the child's physical health or emotional development. *In re L.D.F.*, 445 S.W.3d at 830; *Mauldin*, 42 S.W.3d at 263.

Significant impairment is a fact-intensive analysis. There is no set equation that automatically outputs significant impairment.

## **F. Practice Strategy & Common Scenarios**

Offer practical advice on how to approach this topic.

Discuss things like:

- What relationship does the grandparent have with the child of the suit? Does the child know them?
- What kind of relationship does the grandparent have with the parents?
- Who has primarily cared for the child in their life?
- What is currently happening?
- What other credible witnesses are there? (CPS, school teachers, doctors, family members, etc.)
- What is the worse thing the parents would say about the grandparent?

## Child Support

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### A. Overview

Child support is a financial obligation imposed by the court on a parent to support their child following a separation by the parents. Texas courts typically address child support in SAPCRs, divorce cases with children, and modifications. Practitioners must understand the guidelines, statutory authority, and enforcement mechanisms to ensure accurate advice and compliance with court orders.

The parent who pays child support is called the Obligor and the parent who receives support is called the Oblige.

Health insurance is also required to be provided for a child.

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### B. Substantive Legal Framework

Child support in Texas is governed by Chapter 154 of the Texas Family Code:

- **TEX. FAM. CODE § 154.001:** Authorizes courts to order child support.
  - **TEX. FAM. CODE § 154.062:** Defines "net resources" for purposes of calculating support.
  - **TEX. FAM. CODE § 154.006:** Accounts for Intentional Unemployment or Underemployment
  - **TEX. FAM. CODE § 154.068:** Is the minimum wage last-resort presumption.
  - **TEX. FAM. CODE § 154.125:** Provides statutory guidelines based on number of children.
  - **TEX. FAM. CODE § 154.129:** Accounts for supporting children in different households.
  - **TEX. FAM. CODE § 154.130:** Requires certain findings if the court varies from the guidelines.
  - **TEX. FAM. CODE § 154.004:** Requires payment to be made through the state disbursement unit.
  - **TEX. FAM. CODE § 154.009 and 154.131:** Addresses retroactive child support.
  - **TEX. FAM. CODE § 154.007:** Requires wage withholding for most support orders.
-



### C. Procedural or Practical Requirements

1. **Length of Child Support Obligation:** Support is generally paid until (1) the child turns 18 years old or (2) graduates high school, whichever occurs last. §154.001 - .002
2. **Child Support Guidelines:** Chapter 154 contains the guidelines used to calculate child support.
  - The guidelines are a rebuttal presumption to be in the child's best interest. §154.122.
3. **Calculating Child Support:** Take the Obligor's net monthly resources, multiplied by the appropriate percentage for how many children the payor has in the case before the court and not before the court, results in the monthly child support obligation.
  - **Net Resources:** Net monthly resources is the total gross income minus allowed deductions
    - To calculate child support, first you need to determine what are the "net resources." Tex. Fam. Code §154.062
      1. **Resources Included Under § 154.062(b):**
        1. Wages, salary, commissions, bonuses
        2. Self-employment income
        3. Net rental income
        4. Interest, dividends, royalties
        5. Retirement income, pensions, annuities
        6. Social Security, Veteran's benefits
        7. workers' comp, unemployment
        8. Gifts, prizes, spousal maintenance
      2. **Resources Excluded Under § 154.062(c):**
        1. Accounts receivable
        2. Benefits from public assistance programs (TANF, food stamps)
        3. Return of capital or principal
        4. Payments received for foster care
    - Resources are first calculated on an annual basis and then recalculated to determine the average monthly gross income. (start with the total year to date income and divide that to get the monthly average)

- Once you know the resources, start with the gross income (i.e. wages on a paycheck stub) then subtract the following per § 154.062(d) to reach the Net Monthly Resources:
  1. Social Security taxes
  2. Federal income tax (based on a single person claiming one personal exemption and the standard deduction)
  3. Union dues (if applicable)
  4. Health/dental insurance premiums for the child.
- When you have the average net monthly resources, you can then apply the chart below. The guideline calculation is currently “capped” at net resources of \$9,200.00 per month. Tex. Fam. Code §154.125. This number is adjusted every six years by the Attorney General and will be reviewed in August 2025. The monthly net resources up to \$9,200.00 are applied as follows:
 

1 child = 20%	Max support = \$1,840
2 children = 25%	Max support = \$2,300
3 children = 30%	Max support = \$2,760
4 children = 35%	Max support = \$3,220
5 children = 40%	Max support = \$3,680
6+ children = not less than 40% and at discretion of the court.	
- These percentages are adjusted if the obligor has a duty to support other children who are not before the court. See Tex. Fam. Code §154.129
- If the monthly net resources exceed the \$9,200.00 cap and you want to argue for more child support, you must prove the child has “proven needs” above the total guideline award. Tex. Fam. Code §154.126.
- The Attorney General has an online calculator that is easy to use [Monthly Child Support Calculator | Office of the Attorney General - Texas](#). They also publish tax charts each year.

#### 4. Presumptions to Consider:

- **Intentional Unemployment or Underemployment:** Courts may apply earning potential rather than actual income. Tex. Fam. Code §154.066.
- **Minimum Wage Presumption:** When income cannot be determined, courts may presume full-time work at federal minimum wage. Tex. Fam. Code §154.068.

- **Deemed income:** Assets can be assigned a reasonable amount of deemed income. Tex. Fam. Code §154.067.

#### 5. **Required Findings:**

- Most courts want you to supply child support findings in case the findings are requested. Tex. Fam. Code §154.130. When deviating from guideline support, the court must enter written findings including:
  - The amount of support that would have been ordered under guidelines
  - The reason for the variance
  - The net resources of the obligor and obligee

#### 6. **Wage Withholding Orders:**

- Mandatory unless the court finds good cause or an agreement to an alternative method
- Served on employer with details of payment schedule

#### 7. **Payment Options:** All child support must be paid through the State Disbursement Unit (SDU). Tex. Fam. Code §154.004.

- Electronic payments via TX OAG Child Support Interactive (<https://childdisbursement.oag.texas.gov>)
- Mailed payments to SDU
- Income withholding through employer

#### 8. **Retroactive child support:** Retroactive child support and prenatal and postnatal expenses can be ordered. Tex. Fam. Code §160.636(g).

- It is presumed that the amount of retroactive child support totaling the amount of support that would have been due for the past four years is reasonable. Tex. Fam. Code §154.009, §154.131.
- There are rebuttal arguments to applying retroactive support, including whether the man knew or should have known the child was his and did he avoid establishing child support. §154.131(d).

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### D. Remedies, Options, or Outcomes

<b>Remedy / Option</b>	<b>Statutory or Case Authority</b>	<b>Explanation or Notes</b>
Guideline Support	TEX. FAM. CODE § 154.125	Presumed reasonable and in child's best interest
Deviation from Guidelines	TEX. FAM. CODE § 154.123, § 154.130	Requires findings; based on child's proven needs
Retroactive Support	TEX. FAM. CODE § 154.131	Up to four years unless rebutted
Wage Withholding Order	TEX. FAM. CODE § 154.181	Automatic unless waived by agreement and court approval
Payment via State Disbursement Unit	TEX. FAM. CODE § 154.003, § 154.070	Ensures accountability and enforcement

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### **E. Obstacles, Pitfalls, and Tips**

- Only parents can be ordered to pay child support.
- Failing to properly calculate net resources can drastically affect the calculation. It's important to look at the year-to-date income to get a true average and look to the past 2 years of income to establish patterns of income (when are bonuses paid, is there intentional underemployment, etc.).
- If a client has paid support informally instead of through the SDU, get an Affidavit of Direct Payments so those payments are credited.
- Wage withholding orders not issued or served correctly.
- Child support account must be opened by the clerk.
- Health insurance is also required to be provided for a child and is a factor in the child support calculation. This article did not cover health insurance. See Tex. Fam. Code §154.181 – §154.192.

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### **F. Practice Strategy & Common Scenarios**

- **Client Intake Questions:**
  - What is your current income? Sources of income?

- Are you currently paying or receiving support? How much?
  - Has the other parent been voluntarily unemployed or underemployed?
  - **Prioritizing Legal Issues:**
    - Gather documentation of income early
    - Ensure any support paid informally is documented for credit
- 

## **G. Appendices & External Resources**

- [Monthly Child Support Calculator | Office of the Attorney General - Texas](#)
- **Appendix A:** Wage Withholding Order (Texas OAG Form 3288)
- **Appendix B:** 2025 Tax Chart for Employed Persons
- **Appendix C:** Affidavit of Direct Payments
- **Appendix D:** Record of Support Order

# INCOME WITHHOLDING FOR SUPPORT

OMB 0970-0154  
Expiration Date: 08/31/2026

## I. Sender Information: (Completed by the Sender)

Date: \_\_\_\_\_

☐ INCOME WITHHOLDING ORDER/NOTICE FOR SUPPORT (IWO)

☐ AMENDED IWO

☐ ONE-TIME ORDER/NOTICE FOR LUMP SUM PAYMENT

☐ TERMINATION OF IWO

☐ Child Support Agency (CSA) ☐ Court ☐ Attorney ☐ Private Individual/Entity (Check One)

**NOTE:** This IWO must be regular on its face. Under certain circumstances, you must reject this IWO and return it to the sender (see IWO instructions [acf.gov/css/form/income-withholding-support-iwo-form-instructions-sample](http://acf.gov/css/form/income-withholding-support-iwo-form-instructions-sample)). If you receive this document from someone other than a state or tribal CSA or a court, a copy of the underlying support order must be attached.

State/Tribe/Territory \_\_\_\_\_

Remittance ID (include w/payment) \_\_\_\_\_

City/County/Dist./Tribe \_\_\_\_\_

Order ID \_\_\_\_\_

Private Individual Entity \_\_\_\_\_

Case ID \_\_\_\_\_

## II. Employer and Case Information: (Completed by the Sender)

\_\_\_\_\_  
Employer/Income Withholder's Name

RE: \_\_\_\_\_

\_\_\_\_\_  
Employee/Obligor's Name (Last, First, Middle)

\_\_\_\_\_  
Employer/Income Withholder's Address

\_\_\_\_\_  
Employee/Obligor's Social Security Number

\_\_\_\_\_  
Employee/Obligor's Date of Birth

\_\_\_\_\_  
Custodial Party/Obligee's Name (Last, First, Middle)

\_\_\_\_\_  
Employer/Income Withholder's FEIN

\_\_\_\_\_  
Child(ren)'s Name(s) (Last, First, Middle)

\_\_\_\_\_  
Child(ren)'s Birth Date(s)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## III. Order Information: (Completed by the Sender)

This document is based on the support order from \_\_\_\_\_ (State/Tribe).

You are required by law to deduct these amounts from the employee/obligor's income until further notice.

\$ \_\_\_\_\_ Per \_\_\_\_\_ current child support

\$ \_\_\_\_\_ Per \_\_\_\_\_ past-due child support - Arrears greater than 12 weeks? ☐ Yes ☐ No

\$ \_\_\_\_\_ Per \_\_\_\_\_ current cash medical support

\$ \_\_\_\_\_ Per \_\_\_\_\_ past-due cash medical support

\$ \_\_\_\_\_ Per \_\_\_\_\_ current spousal support

\$ \_\_\_\_\_ Per \_\_\_\_\_ past-due spousal support

\$ \_\_\_\_\_ Per \_\_\_\_\_ other (must specify) \_\_\_\_\_

for a **Total Amount to Withhold** of \$ \_\_\_\_\_ per \_\_\_\_\_.

## IV. Amounts to Withhold: (Completed by the Sender)

You do not have to vary your pay cycle to be in compliance with the *Order Information*. If your pay cycle does not match the ordered payment cycle, withhold one of the following amounts:

\$ \_\_\_\_\_ per weekly pay period \$ \_\_\_\_\_ per semimonthly pay period (twice a month)

\$ \_\_\_\_\_ per biweekly pay period (every two weeks) \$ \_\_\_\_\_ per monthly pay period

\$ \_\_\_\_\_ **Lump Sum Payment:** Do not stop any existing IWO unless you receive a termination order.

Employer/Income Withholder's Name: \_\_\_\_\_ Employer/Income Withholder's FEIN: \_\_\_\_\_

Employee/Obligor's Name: \_\_\_\_\_ SSN: \_\_\_\_\_

Case ID: \_\_\_\_\_ Order ID: \_\_\_\_\_

**V. Remittance Information: (Completed by the Sender, except for the "Return to Sender" check box.)**

If the employee/obligor's principal place of employment is \_\_\_\_\_ (State/Tribe), you must begin withholding no later than the first pay period that occurs \_\_\_\_\_ days after the date of \_\_\_\_\_ of the order/notice. Send payment within \_\_\_\_\_ business days of the pay date. If you cannot withhold the full amount of support for any or all orders for this employee/obligor, withhold \_\_\_\_\_ % of disposable income for all orders. If the employee/obligor's principal place of employment is not \_\_\_\_\_ (State/Tribe), obtain withholding limitations, time requirements, the appropriate method to allocate among multiple child support cases/orders, and any allowable employer fees from the jurisdiction of the employee/obligor's principal place of employment.

State-specific withholding limit information is available at [acf.gov/css/contact-information/state-income-withholding-contacts-and-program-requirements](http://acf.gov/css/contact-information/state-income-withholding-contacts-and-program-requirements). For tribe-specific contacts, payment addresses, and withholding limitations, please contact the tribe at [acf.gov/css/training-technical-assistance/tribal-child-support-agency-contacts](http://acf.gov/css/training-technical-assistance/tribal-child-support-agency-contacts) or [bia.gov/service/tribal-leaders-directory](http://bia.gov/service/tribal-leaders-directory).

You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (CCPA) [15 USC §1673 (b)]; or 2) the amounts allowed by the law of the state of the employee/obligor's principal place of employment if the place of employment is in a state; or the tribal law of the employee/obligor's principal place of employment if the place of employment is under tribal jurisdiction. The CCPA is available at [dol.gov/agencies/whd/fact-sheets/30-cppa](http://dol.gov/agencies/whd/fact-sheets/30-cppa). If the Order Information section does not indicate that the arrears are greater than 12 weeks, then the employer should calculate the CCPA limit using the lower percentage.

If there is more than one IWO against this employee/obligor and you are unable to fully honor all IWOs due to federal, state, or tribal withholding limits, you must honor all IWOs to the greatest extent possible, giving priority to current support before payment of any past-due support.

If the obligor is a nonemployee, obtain withholding limits from the Supplemental Information section in this IWO. This information is also available at [acf.gov/css/contact-information/state-income-withholding-contacts-and-program-requirements](http://acf.gov/css/contact-information/state-income-withholding-contacts-and-program-requirements).

**Remit payment to** \_\_\_\_\_ (SDU/Tribal Order Payee)  
**at** \_\_\_\_\_ (SDU/Tribal Payee Address)

Include the Remittance ID with the payment and if necessary this locator code of the SDU/Tribal order payee \_\_\_\_\_ on the payment.

To set up electronic payments or to learn state requirements for checks, contact the State Disbursement Unit (SDU). Contacts and information are found at [acf.gov/css/contact-information/sdu-eft-contacts-and-program-requirements](http://acf.gov/css/contact-information/sdu-eft-contacts-and-program-requirements).

☐ **Return to Sender (Completed by Employer/Income Withholder).** Payment must be directed to an SDU in accordance with sections 466(b)(5) and (6) of the Social Security Act or Tribal Payee (see Payments in Section VI). If payment is not directed to an SDU/Tribal Payee or this IWO is not regular on its face, you must check this box and return the IWO to the sender.

**If Required by State or Tribal Law:**

Signature of Judge/Issuing Official: \_\_\_\_\_

Print Name of Judge/Issuing Official: \_\_\_\_\_

Title of Judge/Issuing Official: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

If the employee/obligor works in a state or for a tribe that is different from the state or tribe that issued this order, a copy of this IWO must be provided to the employee/obligor.

☐ If checked, the employer/income withholder must provide a copy of this form to the employee/obligor.

Employer/Income Withholder's Name: \_\_\_\_\_ Employer/Income Withholder's FEIN: \_\_\_\_\_

Employee/Obligor's Name: \_\_\_\_\_ SSN: \_\_\_\_\_

Case ID: \_\_\_\_\_ Order ID: \_\_\_\_\_

**VI. Additional Information for Employers/Income Withholders: (Completed by the Sender)**

**Priority:** Withholding for support has priority over any other legal process under state law against the same income (section 466(b)(7) of the Social Security Act). If a federal tax levy is in effect, please notify the sender.

**Payments:** You must send child support payments payable by income withholding to the appropriate SDU or to a tribal CSA within 7 business days, or fewer if required by state law, after the date the income would have been paid to the employee/obligor and include the date you withheld the support from his or her income. You may combine withheld amounts from more than one employee/obligor's income in a single payment as long as you separately identify each employee/obligor's portion of the payment. Child support payments may not be made through the federal Office of Child Support Services (OCSS) Child Support Portal.

**Lump Sum Payments:** You may be required to notify a state or tribal CSA of upcoming lump sum payments, such as bonuses, commissions, or severance pay, to this employee/obligor. Contact the sender to determine if you are required to report and/or withhold lump sum payments. Employers/income withholders may use the OCSS Child Support Portal ([ocsp.acf.hhs.gov/csp/](http://ocsp.acf.hhs.gov/csp/)) to provide information about employees who are eligible to receive lump sum payments and to provide contacts, addresses, and other information about their companies. Child support payments may not be made through the OCSS Child Support Portal.

**Liability:** If you have any doubts about the validity of this IWO, contact the sender. If you fail to withhold income from the employee/obligor's income as the IWO directs, you are liable for both the accumulated amount you should have withheld and any penalties set by state or tribal law/procedure. \_\_\_\_\_

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**Anti-Discrimination:** You are subject to a fine determined under state or tribal law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against an employee/obligor because of this IWO.

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**Supplemental Information:** \_\_\_\_\_

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Employer/Income Withholder's Name: \_\_\_\_\_ Employer/Income Withholder's FEIN: \_\_\_\_\_

Employee/Obligor's Name: \_\_\_\_\_ SSN: \_\_\_\_\_

Case ID: \_\_\_\_\_ Order ID: \_\_\_\_\_

**VII. Notification of Employment Termination or Income Status: (Completed by the Employer/Income Withholder)**

If this employee/obligor never worked for you or you are no longer withholding income for this employee/obligor, you must promptly notify the CSA and/or the sender by returning this form to the address listed in the Contact Information section below or by using the OCSS Child Support Portal ([ocsp.acf.hhs.gov/csp/](http://ocsp.acf.hhs.gov/csp/)). Please report the new employer or income withholder, if known.

☐ This person has never worked for this employer nor received periodic income.

☐ This person no longer works for this employer nor receives periodic income.

Please provide the following information for the employee/obligor:

Termination date: \_\_\_\_\_ Last known telephone number: \_\_\_\_\_

Last known address: \_\_\_\_\_

Final payment date to SDU/Tribal Payee: \_\_\_\_\_ Final payment amount: \_\_\_\_\_

New employer's or income withholder's name: \_\_\_\_\_

New employer's or income withholder's address: \_\_\_\_\_

**VIII. Contact Information: (Completed by the Sender)**

To Employer/Income Withholder: If you have questions, contact \_\_\_\_\_ (sender name) by telephone: \_\_\_\_\_, by fax: \_\_\_\_\_, by email, or website: \_\_\_\_\_.

Send termination/income status notice and other correspondence to \_\_\_\_\_ (sender address).

To Employee/Obligor: If the employee/obligor has questions, contact \_\_\_\_\_ (sender name) by telephone: \_\_\_\_\_, by fax: \_\_\_\_\_, by email or website: \_\_\_\_\_.

IMPORTANT: The person completing this form is advised that the information may be shared with the employee/obligor.

**Encryption Requirements:**

When communicating this form through electronic transmission, precautions must be taken to ensure the security of the data. Child support agencies are encouraged to use the electronic applications provided by the federal Office of Child Support Services. Other electronic means, such as encrypted attachments to emails, may be used if the encryption method is compliant with Federal Information Processing Standard (FIPS) Publication 140-2 (FIPS PUB 140-2).

## INCOME WITHHOLDING FOR SUPPORT - Instructions

The Income Withholding for Support (IWO) is the OMB-approved form used for income withholding in:

- Tribal, intrastate, and interstate cases enforced under Title IV-D of the Social Security Act
- All child support orders initially issued in the state on or after January 1, 1994
- All child support orders initially issued (or modified) in the state before January 1, 1994, if arrearages occur

This form is the standard format prescribed by the Secretary in accordance with section 466(b)(6)(a)(ii) of the Social Security Act. **Except as noted, the following information is required and must be included.**

**Please note:**

- For the purpose of this IWO form and these instructions, “state” is defined as a state or territory.
- Dos and don’ts on using this form are found at [www.acf.hhs.gov/css/resource/using-the-income-withholding-for-support-form-dos-and-donts](http://www.acf.hhs.gov/css/resource/using-the-income-withholding-for-support-form-dos-and-donts).

**I. Sender Information: (Completed by the Sender) Check one box for fields 1a–1d.**

**1a. Income Withholding Order/Notice for Support (IWO).** Check the box if this is an initial IWO.

**1b. Amended IWO.** Check the box to indicate that this form amends a previous IWO. Any changes to an IWO must be done through an amended IWO.

**1c. One-Time Order/Notice For Lump Sum Payment.** Check the box when this IWO is to attach a one-time collection of a lump sum payment after receiving notification from an employer/income withholder or other source. When this box is checked, enter the amount in field 14, Lump Sum Payment, in the Amounts to Withhold section. Additional IWOs must be issued to collect subsequent lump sum payments.

**1d. Termination of IWO.** Check the box to stop income withholding on a child support order. Complete all applicable identifying information to aid the employer/income withholder in terminating the correct IWO.

- The OMB expiration date is printed on the IWO form.
  - However, the IWO sent on a case does not expire on the OMB expiration date—once the IWO has been sent to the employer, then the IWO is in effect until it is terminated by the Issuing Agency.
  - The Issuing Agency must make any system updates to implement the currently approved IWO form as soon as possible. In the interim, OMB extended the expiration date of the previously approved form to allow child support agencies to issue an IWO until programming for the currently approved form is complete.

**1e. Date.** Date this form is completed and/or signed.

**1f. Child Support Agency (CSA), Court, Attorney, Private Individual/Entity (Check one box).** Check the appropriate box to indicate which entity is sending the IWO. If this IWO is **not** completed by a state or tribal CSA, the sender should contact the CSA (see [www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-requirements](http://www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-requirements)) to determine if the CSA needs a copy of this form to facilitate payment processing.

**NOTE TO EMPLOYER/INCOME WITHHOLDER:** This IWO must be regular on its face. The IWO must be rejected and returned to sender under the following circumstances:

- IWO instructs the employer/income withholder to send a payment to an entity other than a state disbursement unit (for example, payable to the custodial party, court, or attorney). Each state is required to operate a state disbursement unit (SDU), which is a centralized facility for collection and disbursement of child support payments. Exception: If this IWO is issued by a court, attorney, or private individual/entity and the initial child support order was entered before January 1, 1994, or the **order was issued by a tribal CSA, the employer/income withholder must follow the payment instructions on the form.**
- After processing an IWO, the payment is returned to income withholder because the order information is not on the child support system and the SDU could not process the payment. The income withholder should return the payment to employee.

- Form does not contain all information necessary for the employer to comply with the withholding such as, missing Remittance Identifier, invalid case identifier, or missing sender contact information.
- Form is altered or contains invalid information such as “step-down” provisions or other future events that an employer is not required to monitor.
- Amount to withhold is not a dollar amount.
- Sender has not used the OMB-approved form for the IWO.
- A copy of the underlying order is required and not included. If you receive this document from an attorney or private individual/entity, a copy of the underlying support order containing a provision authorizing income withholding must be attached.

**1g. State/Tribe/Territory.** Name of state or tribe sending this form. This must be a government entity of the state or a tribal organization authorized by a tribal government to operate a child support program. If you are a tribe submitting this form on behalf of another tribe, complete field 1i.

**1h. Remittance ID (include w/payment).** Identifier for the SDU/Tribal Payee designated in the Remittance Information section, field 22, that the employers/income withholders must include when sending payments for this IWO. The Remittance ID is entered as the case identifier on the electronic funds transfer/electronic data interchange (EFT/EDI) record.

**NOTE TO EMPLOYER/INCOME WITHHOLDER:** The employer/income withholder must use the Remittance ID when remitting payments so the SDU or tribe can identify and apply the payment correctly. The Remittance ID is entered as the case identifier on the EFT/EDI record.

**1i. City/County/Dist./Tribe. *Optional*** field for the name of the city, county, or district sending this form. If entered, this must be a government entity of the state or the name of the tribe authorized by a tribal government to operate a child support program for which this form is being sent. If a tribe is submitting this form on behalf of another tribe, enter the name of that tribe.

**1j. Order ID. *Optional*** unique identifier associated with a specific child support obligation. It could be a court case number, docket number, or other identifier designated by the sender.

**1k. Private Individual/Entity.** Name of the private individual/entity or non-IV-D tribal child support organization sending this form.

**1l. Case ID.** Unique identifier assigned to a state or tribal CSA case. In a state IV-D case as defined at 45 Code of Federal Regulations (CFR) 305.1, this is the identifier reported to the Federal Case Registry (FCR). One IWO must be issued for each IV-D case and must use the unique CSA Case ID. For tribes, this would be either the FCR identifier or other applicable identifier.

## **II. Employer and Case Information: (Completed by the Sender)**

**2a. Employer/Income Withholder's Name.** Name of employer or income withholder.

**2b. Employer/Income Withholder's Address.** Employer/income withholder's mailing address, including street/PO box, city, state, and zip code. (This may differ from the employee/obligor's work site.) If the employer/income withholder is a federal government agency, the IWO should be sent to the address listed under Federal Agency Income Withholding Contacts and Program Information at [www.acf.hhs.gov/css/resource/federal-agency-iwo-and-medical-contact-information](http://www.acf.hhs.gov/css/resource/federal-agency-iwo-and-medical-contact-information).

**2c. Employer/Income Withholder's FEIN.** Employer/income withholder's nine-digit Federal Employer Identification Number (if available).

**3a. Employee/Obligor's Name.** Employee/obligor's last name and first name. A middle name is ***optional***.

**3b. Employee/Obligor's Social Security Number.** Employee/obligor's Social Security number or other taxpayer identification number.

**3c. Employee/Obligor's Date of Birth.** Employee/obligor's date of birth is ***optional***.

**3d. Custodial Party/Obligee's Name.** Custodial party/obligee's last name and first name. A middle name is ***optional***. Enter one custodial party/obligee's name on each IWO form. Multiple custodial parties/obligees are not to be entered on a single IWO. Issue one IWO per state IV-D case, as defined at 45 CFR 305.1.

3e. **Child(ren)'s Name(s).** Child(ren)'s last name(s) and first name(s). A middle name(s) is **optional**. (Note: If there are more than six children for this IWO, list additional children's names and birth dates in the **Supplemental Information** section, field 33). Enter the child(ren) associated with the custodial party/obligee and employee/obligor only. Child(ren) of multiple custodial parties/obligees is not to be entered on an IWO.

3f. **Child(ren)'s Birth Date(s).** Date of birth for each child named.

3g. **Blank box.** Space for court stamps, bar codes, or other information.

### III. Order Information: (Completed by the Sender)

The first field identifies which state or tribe issued the order. The other fields identify the dollar amounts for specific kinds of support (taken directly from the support order) and the total amount to withhold for specific time periods.

4. **State/Tribe.** Name of the state or tribe that issued the support order.

5a-b. **Current Child Support.** Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying support order.

6a-b. **Past-due Child Support.** Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying support order.

6c. **Arrears Greater Than 12 Weeks?** The appropriate box (Yes/No) must be checked indicating whether arrears are greater than 12 weeks.

7a-b. **Current Cash Medical Support.** Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying support order.

8a-b. **Past-due Cash Medical Support.** Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying support order.

9a-b. **Current Spousal Support.** (Alimony) Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying support order.

10a-b. **Past-due Spousal Support.** (Alimony) Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying order.

11a-c. **Other.** Miscellaneous obligations' dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying order. **Must specify** a description of the obligation (for example, court fees).

12a-b. **Total Amount to Withhold.** The total amount of the deductions **per** the corresponding time period. Fields 5a, 6a, 7a, 8a, 9a, 10a, and 11a should total the amount in 12a.

**NOTE TO EMPLOYER/INCOME WITHHOLDER:** An acceptable method of determining the amount to be paid on a weekly or biweekly basis is to multiply the monthly amount due by 12 and divide that result by the number of pay periods in a year. Additional information about this topic is available in Action Transmittal 16-04, Correctly Withholding Child Support from Weekly and Biweekly Pay Cycles (<https://www.acf.hhs.gov/css/resource/correctly-withholding-child-support-from-weekly-and-biweekly-pay-cycles>).

#### **IV. Amounts to Withhold: (Completed by the Sender)**

Fields 13a through 13d specify the dollar amount to be withheld for this IWO if the employer/income withholder's pay cycle does not correspond with field 12b.

13a. **Per Weekly Pay Period.** Total amount an employer/income withholder should withhold if the employee/obligor is paid weekly.

13b. **Per Semimonthly Pay Period.** Total amount an employer/income withholder should withhold if the employee/obligor is paid twice a month.

13c. **Per Biweekly Pay Period.** Total amount an employer/income withholder should withhold if the employee/obligor is paid every two weeks.

13d. **Per Monthly Pay Period.** Total amount an employer/income withholder should withhold if the employee/obligor is paid once a month.

14. **Lump Sum Payment.** Dollar amount withheld when the IWO is used to attach a lump sum payment. This field should be used only when field 1c is checked.

15. **Document Tracking ID.** *Optional* unique identifier for this form assigned by the sender.

**Please Note:** Employer/Income Withholder's Name, FEIN, Employee/Obligor's Name and SSN, Case ID, and Order ID must appear in the header on page 2 and subsequent pages.

#### **V. Remittance Information: (Completed by the Sender except for the "Return to Sender" checkbox, field 25. Fields 26-29 are completed only if required by state or tribal law.)**

Payments are forwarded to the SDU in each state, unless the initial child support order was entered by a state before January 1, 1994, and never modified, accrued arrears, or was enforced by a child support agency or by a tribal CSA. **If the order was issued by a tribal CSA, the employer/income withholder must follow the remittance instructions on the form in the Supplemental Information Section.**

16. **State/Tribe.** Name of the state or tribe sending this document.

17. **Days.** Number of days after the effective date noted in field 18 in which withholding must begin, according to the state or tribal laws/procedures for the employee/obligor's principal place of employment.

18. **Date.** Implementation date of this IWO, expressed as date of "service," "receipt," or "mailing." Only one of the three word choices is to be entered in the blank line.

19. **Business Days.** Number of business days within which an employer/income withholder must remit amounts withheld pursuant to the state or tribal laws/procedures of the principal place of employment.

20. **Percentage of Disposable Income.** The percentage of disposable income that may be withheld from the employee/obligor's paycheck. It is the sender's responsibility to determine the percentage an employer/income withholder is required to withhold. Senders must enter a specific percentage and not a range of percentages.

**NOTE TO EMPLOYER/INCOME WITHHOLDER:** The employer/income withholder may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act [15 USC §1673(b)]; or 2) the amounts allowed by the jurisdiction of the employee/obligor's principal place of employment (i.e., the amounts allowed by state law if the employee/obligor's principal place of employment is in a state; or the amounts allowed by tribal law if the employee/obligor's principal place of employment is under tribal jurisdiction).

If permitted by the state or tribe, you may deduct a fee for administrative costs. The combined support amount and fee may not exceed the limit on the IWO.

State-specific withholding limitations, time requirements, and any allowable employer fees are available at [www.acf.hhs.gov/css/resource/state-income-withholding-contacts-and-program-requirements](http://www.acf.hhs.gov/css/resource/state-income-withholding-contacts-and-program-requirements). For tribe-specific contacts, payment addresses, and withholding limitations, please contact the tribe at [www.acf.hhs.gov/sites/default/files/programs/css/tribal\\_agency\\_contacts\\_printable\\_pdf.pdf](http://www.acf.hhs.gov/sites/default/files/programs/css/tribal_agency_contacts_printable_pdf.pdf) or [https://www.bia.gov/tribalmap/DataDotGovSamples/tld\\_map.html](https://www.bia.gov/tribalmap/DataDotGovSamples/tld_map.html).

Depending on applicable state or tribal law, you may need to consider amounts paid for health care premiums to determine disposable income and apply appropriate withholding limits.

A federal government agency may withhold from a variety of incomes and forms of payment, including voluntary separation incentive payments (buy-out payments), incentive pay, and cash awards. For a more complete list, see 5 CFR 581.103.

21. **State/Tribe.** Name of the state or tribe sending this document.

**NOTE TO SENDER:** The Sender must designate the correct SDU. In certain cases, the Sender may be required to designate an SDU (field 22), corresponding SDU Address (field 23), and if required Locator Code (field 24) that is different than the Sender's SDU (see the OCSS AT-17-07: Interstate Child Support Payment Processing, <https://www.acf.hhs.gov/css/resource/interstate-child-support-payment-processing>). The Remittance ID in field 1h must correspond with the SDU identified in field 22.

22. **SDU/Tribal Order Payee.** Name of SDU (or payee specified in the underlying tribal support order) to which payments must be sent.

23. **SDU/Tribal Payee Address.** Address of the SDU (or payee specified in the underlying tribal support order) to which payments must be sent.

24. **Locator Code.** *Optional* code of the SDU/Tribal Order payee state where payment is being remitted. Geographic Locator Codes are standard codes for states, counties, cities, and territories issued by the National Institute of Standards and Technology. These were formerly known as Federal Information Processing Standards (FIPS) codes.

25. **Return to Sender Checkbox.** The employer/income withholder should check this box and return the IWO to the sender if this IWO is not payable to an SDU or Tribal Payee or this IWO is not regular on its face, as indicated on page 1 of these instructions.

26. **Signature of Judge/Issuing Official.** Signature of the official authorizing this IWO if required by state or tribal law.

27. **Print Name of Judge/Issuing Official.** Name of the official authorizing this IWO if required by state or tribal law.

28. **Title of Judge/Issuing Official.** Title of the official authorizing this IWO if required by state or tribal law.

29. **Date of Signature.** Date the judge/issuing official signs this IWO if required by state or tribal law.

30. **Copy of IWO checkbox.** Check this box for all intergovernmental IWOs. If checked, the employer/income withholder is required to provide a copy of the IWO to the employee/obligor.

## **VI. Additional Information for Employers/Income Withholders: (Completed by the Sender)**

The following fields refer to federal, state, or tribal laws that apply to issuing an IWO to an employer/income withholder. State- or tribal-specific information may be included only in the fields below.

31. **Liability.** Additional information on the penalty and/or citation of the penalty for an employer/income withholder who fails to comply with the IWO. The state or tribal law/procedures of the employee/obligor's principal place of employment govern the penalty.

32. **Anti-discrimination.** Additional information on the penalty and/or citation of the penalty for an employer/income withholder who discharges, refuses to employ, or disciplines an employee/obligor as a result of the IWO. The state or tribal law/procedures of the employee/obligor's principal place of employment govern the penalty.

33. **Supplemental Information.** Any state-specific information needed, such as maximum withholding percentage for nonemployees/independent contractors, fees the employer/income withholder may charge the obligor for income withholding, or children's names and DOBs if there are more than six children on this IWO. Additional information must be consistent with the requirements of the form and the instructions.

## **VII. Notification of Employment Termination or Income Status: (Completed by the Employer/Income Withholder)**

The employer must complete this section when the employee/obligor's employment is terminated, income withholding ceases, or if the employee/obligor has never worked for the employer. The employer/income withholder may report new payment sources such as workers' compensation, if known.

**34a-b. Employment/Income Status Checkbox.** Check the employment/income status of the employee/obligor.

**35. Termination Date.** If applicable, the date employee/obligor was terminated.

**36. Last Known Telephone Number.** Last known (home/cell/other) telephone number of the employee/obligor.

**37. Last Known Address.** Last known home/mailling address of the employee/obligor.

**38. Final Payment Date.** Date employer sent final payment to SDU/Tribal Payee.

**39. Final Payment Amount.** Amount of final payment sent to SDU/Tribal Payee.

**40. New Employer's or Income Withholder's Name.** Name of employee's/obligor's new employer or income withholder (if known).

**41. New Employer's or Income Withholder's Address.** Address of employee's/obligor's new employer or income withholder (if known).

## **VIII. Contact Information: (Completed by the Sender)**

**42. Sender Contact for Employer/Income Withholder.** Name of the person that the employer/income withholder can call for information regarding this IWO. If the sender is a victim of family or domestic violence, rather than including direct contact information, enter contact information for someone else who will communicate for you.

**43. Sender Telephone Number.** Telephone number of the contact person.

**44. Sender Fax Number. *Optional*** fax number of the contact person.

**45. Sender Email/Website. *Optional*** email or website of the contact person.

**46. Sender Address (Termination/Income Status and Correspondence Address).** Address to which the employer should return the Employment Termination or Income Status notice. It is also the address that the employer should use to correspond with the issuing entity.

**47. Sender Contact for Employee/Obligor.** Name of the person that the employee/obligor can call for information.

**48. Sender Telephone Number.** Telephone number of the contact person.

**49. Sender Fax Number. *Optional*** fax number of the contact person.

**50. Sender Email/Website. *Optional*** email or website of the contact person.

**Encryption Requirements:**

You must take precautions to secure data when transmitting the IWO electronically. Child support agencies are encouraged to use the electronic applications provided by the federal Office of Child Support Services. Other electronic means, such as encrypted attachments to emails, may be used if the encryption method is compliant with Federal Information Processing Standard (FIPS) Publication 140-2 (FIPS PUB 140-2).

The Paperwork Reduction Act of 1995 (Pub.L. 104-13): Public reporting burden for this mandatory collection of information [42 U.S.C. §§ 66(a)(1), (a)(8) and 666(b)(6)] is estimated to average two to five minutes per response. Information collected for this program is subject to the federal confidentiality requirements [45 CFR 303.21]. A federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. If you have any comments on this collection of information, please contact [OCSSFedSystems@acf.hhs.gov](mailto:OCSSFedSystems@acf.hhs.gov)



## **OFFICE OF THE ATTORNEY GENERAL 2025 TAX CHARTS**

Pursuant to section 154.061(b) of the Texas Family Code, the Office of the Attorney General of Texas, as the Title IV-D agency, has promulgated the following tax charts to assist courts in establishing the amount of a child support order. These tax charts are applicable to employed and self-employed persons in computing net monthly income. The charts include a range of monthly gross wages for obligors starting at \$100. The child support percentages used to calculate child support for obligors of all incomes with children in one household are located within section 154.125(b) and (c). Under Texas Family Code section 154.125(c), a different set of percentages is used to calculate child support for low-income obligors, who are defined as obligors whose monthly net resources are less than \$1,000. The child support percentages used to calculate child support for obligors with children in more than one household are located within section 154.129. This section provides an alternative method for computing child support for children in more than one household.

For assistance computing child support under the Texas Child Support Guidelines, please visit: <https://csapps.oag.texas.gov/monthly-child-support-calculator>

### **INSTRUCTIONS FOR USE**

To use these tables, first compute the obligor's annual gross income. Then recompute to determine the obligor's average monthly gross income. These tables provide a method for calculating "monthly net income" for child support purposes, subtracting from monthly gross income the social security taxes and the federal income tax withholding for a single person claiming one personal exemption and the standard deduction.

Thereafter, in many cases the guidelines call for a number of additional steps to complete the necessary calculations. For example, sections 154.061 - 154.070 provide for appropriate additions to "income" as that term is defined for federal income tax purposes, and for certain subtractions from monthly net income, in order to arrive at the net resources of the obligor available for child support purposes. If necessary, one may compute an obligee's net resources using similar steps.

### **LIMITATIONS ON USE**

These charts are intended to assist courts in common situations, and do not account for all deductions and adjustments allowable under the Internal Revenue Code. For instance, these charts do not account for the qualified business income deduction, which might be taken by some owners of sole proprietorships, S corporations, partnerships, or stand-alone rental properties (pass-through entities). In some situations, section 199A of the Internal Revenue Code allows owners of pass-through entities to take a deduction against their income resulting in a reduction of the effective tax rate. These charts should not be used to estimate the net income of owners of pass-through entities. The computation of net income for parties with complex tax situations may require consultation with an income tax professional.

**EMPLOYED PERSONS  
2025 TAX CHART**

	Federal Insurance Contributions Act Taxes			
Monthly Gross Wages	Old-Age, Survivors and Disability Insurance Program (Social Security) Tax (6.2%)*, **	Medicare's Hospital Insurance Program (Medicare) Tax (1.45%)*	Federal Income Tax***	Net Monthly Income
\$100.00	\$6.20	\$1.45	\$0.00	\$92.35
\$150.00	\$9.30	\$2.18	\$0.00	\$138.52
\$200.00	\$12.40	\$2.90	\$0.00	\$184.70
\$250.00	\$15.50	\$3.63	\$0.00	\$230.87
\$300.00	\$18.60	\$4.35	\$0.00	\$277.05
\$350.00	\$21.70	\$5.08	\$0.00	\$323.22
\$400.00	\$24.80	\$5.80	\$0.00	\$369.40
\$450.00	\$27.90	\$6.52	\$0.00	\$415.58
\$500.00	\$31.00	\$7.25	\$0.00	\$461.75
\$550.00	\$34.10	\$7.98	\$0.00	\$507.92
\$600.00	\$37.20	\$8.70	\$0.00	\$554.10
\$650.00	\$40.30	\$9.43	\$0.00	\$600.27
\$700.00	\$43.40	\$10.15	\$0.00	\$646.45
\$750.00	\$46.50	\$10.88	\$0.00	\$692.62
\$800.00	\$49.60	\$11.60	\$0.00	\$738.80
\$850.00	\$52.70	\$12.33	\$0.00	\$784.97
\$900.00	\$55.80	\$13.05	\$0.00	\$831.15
\$950.00	\$58.90	\$13.78	\$0.00	\$877.32
\$1,000.00	\$62.00	\$14.50	\$0.00	\$923.50
\$1,050.00	\$65.10	\$15.23	\$0.00	\$969.67
\$1,100.00	\$68.20	\$15.95	\$0.00	\$1,015.85
\$1,150.00	\$71.30	\$16.68	\$0.00	\$1,062.02
\$1,200.00	\$74.40	\$17.40	\$0.00	\$1,108.20
\$1,256.67****	\$77.91	\$18.22	\$0.67	\$1,159.87
\$1,300.00	\$80.60	\$18.85	\$5.00	\$1,195.55
\$1,400.00	\$86.80	\$20.30	\$15.00	\$1,277.90
\$1,500.00	\$93.00	\$21.75	\$25.00	\$1,360.25
\$1,600.00	\$99.20	\$23.20	\$35.00	\$1,442.60
\$1,700.00	\$105.40	\$24.65	\$45.00	\$1,524.95
\$1,800.00	\$111.60	\$26.10	\$55.00	\$1,607.30
\$1,900.00	\$117.80	\$27.55	\$65.00	\$1,689.65
\$2,000.00	\$124.00	\$29.00	\$75.00	\$1,772.00
\$2,100.00	\$130.20	\$30.45	\$85.00	\$1,854.35
\$2,200.00	\$136.40	\$31.90	\$95.00	\$1,936.70
\$2,300.00	\$142.60	\$33.35	\$106.12	\$2,017.93
\$2,400.00	\$148.80	\$34.80	\$118.12	\$2,098.28
\$2,500.00	\$155.00	\$36.25	\$130.12	\$2,178.63
\$2,600.00	\$161.20	\$37.70	\$142.12	\$2,258.98
\$2,700.00	\$167.40	\$39.15	\$154.12	\$2,339.33
\$2,800.00	\$173.60	\$40.60	\$166.12	\$2,419.68
\$2,900.00	\$179.80	\$42.05	\$178.12	\$2,500.03
\$3,000.00	\$186.00	\$43.50	\$190.12	\$2,580.38
\$3,100.00	\$192.20	\$44.95	\$202.12	\$2,660.73
\$3,200.00	\$198.40	\$46.40	\$214.12	\$2,741.08
\$3,300.00	\$204.60	\$47.85	\$226.12	\$2,821.43
\$3,400.00	\$210.80	\$49.30	\$238.12	\$2,901.78
\$3,500.00	\$217.00	\$50.75	\$250.12	\$2,982.13
\$3,600.00	\$223.20	\$52.20	\$262.12	\$3,062.48
\$3,700.00	\$229.40	\$53.65	\$274.12	\$3,142.83
\$3,800.00	\$235.60	\$55.10	\$286.12	\$3,223.18
\$3,900.00	\$241.80	\$56.55	\$298.12	\$3,303.53
\$4,000.00	\$248.00	\$58.00	\$310.12	\$3,383.88
\$4,100.00	\$254.20	\$59.45	\$322.12	\$3,464.23
\$4,200.00	\$260.40	\$60.90	\$334.12	\$3,544.58
\$4,300.00	\$266.60	\$62.35	\$346.12	\$3,624.93
\$4,400.00	\$272.80	\$63.80	\$358.12	\$3,705.28
\$4,500.00	\$279.00	\$65.25	\$370.12	\$3,785.63
\$4,600.00	\$285.20	\$66.70	\$382.12	\$3,865.98
\$4,700.00	\$291.40	\$68.15	\$394.12	\$3,946.33
\$4,800.00	\$297.60	\$69.60	\$406.12	\$4,026.68
\$4,900.00	\$303.80	\$71.05	\$418.12	\$4,107.03
\$5,000.00	\$310.00	\$72.50	\$430.12	\$4,187.38
\$5,100.00	\$316.20	\$73.95	\$442.12	\$4,267.73
\$5,200.00	\$322.40	\$75.40	\$454.12	\$4,348.08
\$5,300.00	\$328.60	\$76.85	\$467.17	\$4,427.38
\$5,400.00	\$334.80	\$78.30	\$489.17	\$4,497.73

\$5,500.00	\$341.00	\$79.75	\$511.17	\$4,568.08
\$5,600.00	\$347.20	\$81.20	\$533.17	\$4,638.43
\$5,700.00	\$353.40	\$82.65	\$555.17	\$4,708.78
\$5,800.00	\$359.60	\$84.10	\$577.17	\$4,779.13
\$5,900.00	\$365.80	\$85.55	\$599.17	\$4,849.48
\$6,000.00	\$372.00	\$87.00	\$621.17	\$4,919.83
\$6,100.00	\$378.20	\$88.45	\$643.17	\$4,990.18
\$6,200.00	\$384.40	\$89.90	\$665.17	\$5,060.53
\$6,300.00	\$390.60	\$91.35	\$687.17	\$5,130.88
\$6,400.00	\$396.80	\$92.80	\$709.17	\$5,201.23
\$6,500.00	\$403.00	\$94.25	\$731.17	\$5,271.58
\$6,600.00	\$409.20	\$95.70	\$753.17	\$5,341.93
\$6,700.00	\$415.40	\$97.15	\$775.17	\$5,412.28
\$6,800.00	\$421.60	\$98.60	\$797.17	\$5,482.63
\$6,900.00	\$427.80	\$100.05	\$819.17	\$5,552.98
\$7,000.00	\$434.00	\$101.50	\$841.17	\$5,623.33
\$7,100.00	\$440.20	\$102.95	\$863.17	\$5,693.68
\$7,200.00	\$446.40	\$104.40	\$885.17	\$5,764.03
\$7,300.00	\$452.60	\$105.85	\$907.17	\$5,834.38
\$7,400.00	\$458.80	\$107.30	\$929.17	\$5,904.73
\$7,500.00	\$465.00	\$108.75	\$951.17	\$5,975.08
\$7,600.00	\$471.20	\$110.20	\$973.17	\$6,045.43
\$7,700.00	\$477.40	\$111.65	\$995.17	\$6,115.78
\$7,800.00	\$483.60	\$113.10	\$1,017.17	\$6,186.13
\$7,900.00	\$489.80	\$114.55	\$1,039.17	\$6,256.48
\$8,000.00	\$496.00	\$116.00	\$1,061.17	\$6,326.83
\$8,100.00	\$502.20	\$117.45	\$1,083.17	\$6,397.18
\$8,200.00	\$508.40	\$118.90	\$1,105.17	\$6,467.53
\$8,300.00	\$514.60	\$120.35	\$1,127.17	\$6,537.88
\$8,400.00	\$520.80	\$121.80	\$1,149.17	\$6,608.23
\$8,500.00	\$527.00	\$123.25	\$1,171.17	\$6,678.58
\$8,600.00	\$533.20	\$124.70	\$1,193.17	\$6,748.93
\$8,700.00	\$539.40	\$126.15	\$1,215.17	\$6,819.28
\$8,800.00	\$545.60	\$127.60	\$1,237.17	\$6,889.63
\$8,900.00	\$551.80	\$129.05	\$1,259.17	\$6,959.98
\$9,000.00	\$558.00	\$130.50	\$1,281.17	\$7,030.33
\$9,100.00	\$564.20	\$131.95	\$1,303.17	\$7,100.68
\$9,200.00	\$570.40	\$133.40	\$1,325.17	\$7,171.03
\$9,300.00	\$576.60	\$134.85	\$1,347.17	\$7,241.38
\$9,400.00	\$582.80	\$136.30	\$1,369.17	\$7,311.73
\$9,500.00	\$589.00	\$137.75	\$1,391.17	\$7,382.08
\$9,600.00	\$595.20	\$139.20	\$1,413.17	\$7,452.43
\$9,700.00	\$601.40	\$140.65	\$1,435.17	\$7,522.78
\$9,800.00	\$607.60	\$142.10	\$1,457.17	\$7,593.13
\$9,900.00	\$613.80	\$143.55	\$1,479.17	\$7,662.73
\$10,000.00	\$620.00	\$145.00	\$1,503.92	\$7,731.08
\$10,100.00	\$626.20	\$146.45	\$1,527.92	\$7,799.43
\$10,200.00	\$632.40	\$147.90	\$1,551.92	\$7,867.78
\$10,300.00	\$638.60	\$149.35	\$1,575.92	\$7,936.13
\$10,400.00	\$644.80	\$150.80	\$1,599.92	\$8,004.48
\$10,500.00	\$651.00	\$152.25	\$1,623.92	\$8,072.83
\$10,600.00	\$657.20	\$153.70	\$1,647.92	\$8,141.18
\$10,700.00	\$663.40	\$155.15	\$1,671.92	\$8,209.53
\$10,800.00	\$669.60	\$156.60	\$1,695.92	\$8,277.88
\$10,900.00	\$675.80	\$158.05	\$1,719.92	\$8,346.23
\$11,000.00	\$682.00	\$159.50	\$1,743.92	\$8,414.58
\$11,100.00	\$688.20	\$160.95	\$1,767.92	\$8,482.93
\$11,200.00	\$694.40	\$162.40	\$1,791.92	\$8,551.28
\$11,300.00	\$700.60	\$163.85	\$1,815.92	\$8,619.63
\$11,400.00	\$706.80	\$165.30	\$1,839.92	\$8,687.98
\$11,500.00	\$713.00	\$166.75	\$1,863.92	\$8,756.33
\$11,600.00	\$719.20	\$168.20	\$1,887.92	\$8,824.68
\$11,700.00	\$725.40	\$169.65	\$1,911.92	\$8,893.03
\$11,800.00	\$731.60	\$171.10	\$1,935.92	\$8,961.38
\$11,900.00	\$737.80	\$172.55	\$1,959.92	\$9,029.73
\$12,000.00	\$744.00	\$174.00	\$1,983.92	\$9,098.08
\$12,149.10*****	\$753.24	\$176.16	\$2,019.70	\$9,200.00

## Footnotes to Employed Persons 2025 Tax Chart:

References to “the Code” refer to the Internal Revenue Code of 1986, as amended (26 U.S.C.).

\* An employed person not subject to the Old-Age, Survivors and Disability Insurance Program “OASDI” (Social Security) tax and Medicare’s Hospital Insurance Program (Medicare) tax will be allowed the reductions reflected in these columns, unless it is shown that such person has no similar contributory plan such as teacher retirement, federal railroad retirement, federal civil service retirement, etc.

\*\* In 2025 the maximum level of Monthly Gross Wages for an employed person subject to the 6.2% Social Security tax is \$176,100 per year, or \$14,675 per month ( $\$176,100 / 12 = \$14,675$ ). The maximum monthly Social Security Tax in 2025 is \$909.85 based on the maximum OASDI Contribution and Benefit Base amount of \$176,100 for 2025. Because Net Monthly Income for Monthly Gross Wages of \$14,675 exceeds income amounts specified in Texas Family Code section 154.125, Monthly Gross Wages equaling \$14,675 is not included within the Employed Persons Tax Chart promulgated by the Office of the Attorney General.

Monthly Gross Wages	\$176,100 for the year, or \$14,675 monthly average
Social Security tax rate = 6.2%	<p>\$176,100 is equal to the 2025 OASDI contribution and benefit base, so \$176,100 is taxed at this rate.</p> <p><math>\\$176,100 \times .062 = \\$10,918.20</math> for the year, or \$909.85 monthly average</p>

Monthly Gross Wages	OASDI Tax	Medicare Tax	Federal Income Tax	Net Monthly Income
\$14,675.00**	\$909.85	\$212.79	\$2,625.92	\$10,926.44

\*\*\* These amounts represent one-twelfth (1/12) of the annual federal income tax calculated for a single taxpayer claiming one personal exemption (in the case of a taxable year beginning after December 31, 2017, and before January 1, 2026 the exemption amount is zero), and taking the standard deduction (\$15,000).

Note: For tax years 2018 through 2025, the personal exemption amount is zero. Section 151(d)(5) of the Code includes special rules, zeroing out the personal exemption amount for taxable years beginning after December 31, 2017, and ending before January 1, 2026. For 2025, the computations do not include the subtraction of any personal exemptions. The standard deduction is subtracted according to Section 63(c) of the Code.

Examples:

Monthly Gross Wages	\$72,000 for the year, or \$6,000 monthly average	\$132,000 for the year, or \$11,000 monthly average
Personal Exemption Section 151(d) of the Code	\$0 for tax years 2018 through 2025	\$0 for tax years 2018 through 2025
Standard Deduction Section 63(c) of the Code	\$15,000	\$15,000
Income amount to be used in the income tax computation	$\$72,000 - \$0 - \$15,000 = \$57,000$	$\$132,000 - \$0 - \$15,000 = \$117,000$
Income tax computation for 2025	<i>If taxable income is over \$48,475 but not over \$103,350, the tax is</i>	<i>If taxable income is over \$103,350 but not over \$197,300, the tax is</i>

	<i>\$5,578.50 plus 22% of the excess over \$48,475 (Section 1(j) of the Code)</i>	<i>\$17,651 plus 24% of the excess over \$103,350 (Section 1(j) of the Code)</i>
	$\$5,578.50 + ((\$57,000 - \$48,475) \times .22) = \$7,454$ for the year, or \$621.17 monthly average	$\$17,651 + ((\$117,000 - \$103,350) \times .24) = 20,927$ for the year, or \$1,743.92 monthly average

\*\*\*\* This amount represents one-twelfth (1/12) of the gross income of an individual earning the federal minimum wage (\$7.25 per hour) for a 40-hour week for a full year.

Federal Minimum Wage = \$7.25 per hour	$\$7.25 \times 40 \text{ hours per week} \times 52 \text{ weeks per year} = \$15,080$ per year
Monthly average	$\$15,080 / 12 = \$1,256.67$ monthly average

\*\*\*\*\* This amount represents the point where the monthly gross wages of an employed individual would result in \$9,200.00 of net resources. Texas Family Code section 154.125(a) provides “The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor’s monthly net resources are not greater than the maximum amount of net resources to which the statutory guidelines are applicable, as most recently published by the Title IV-D agency in the Texas Register.” Effective September 1, 2019, the adjusted amount determined under Subsection (a-1) is \$9,200.00. Texas Family Code section 154.126(a) provides, “If the obligor’s net resources exceed the amount provided by Section 154.125(a), the court shall presumptively apply the percentage guidelines to the portion of the obligor’s net resources that does not exceed that amount. Without further reference to the percentage recommendation by these guidelines, the court may order additional amounts of child support as appropriate, depending on the income of the parties and the proven needs of the child.” The tax charts promulgated by the Office of the Attorney General include net monthly income amounts up to the amount specified in Texas Family Code section 154.125.

\* \* \* \* \*

## Citations Relating to Employed Persons 2025 Tax Chart:

### 1. Old-Age, Survivors and Disability Insurance Tax

#### (a) Contribution Base

- (1) Social Security Administration’s notice appearing in 89 Fed. Reg. 85276 (October 25, 2024)
- (2) Section 3121(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(a))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

#### (b) Tax Rate

- (1) Section 3101(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(a))

### 2. Hospital (Medicare) Insurance Tax

#### (a) Contribution Base

- (1) Section 3121(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3121(a))
- (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13207, 107 Stat. 312, 467-69 (1993)

(b) Tax Rate

- (1) Section 3101(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 3101(b))

3. Federal Income Tax

(a) Tax Rate Schedule for 2025 for Single Taxpayers

- (1) Revenue Procedure 2024-40, Section 2.01, Table 3 which appears in Internal Revenue Bulletin 2024-45, dated November 4, 2024
- (2) Section 1(j) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(j))

(b) Standard Deduction

- (1) Revenue Procedure 2024-40, Section 2.15, which appears in Internal Revenue Bulletin 2024-45, dated November 4, 2024
- (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))

(c) Personal Exemption

- (1) An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Pub. L. No. 115-97, 131 Stat. 2054 (codified as amended in scattered sections of 26 U.S.C.) amended the Internal Revenue Code of 1986, by adding a new paragraph to Section 151(d), which dictates that the personal exemption amount is zero for the taxable years 2018 through 2025.
- (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))

4. Adjusted amount determined under Subsection (a-1) of Texas Family Code section 154.125

Office of the Attorney General “Announcement of Adjustment Required by Texas Family Code section 154.125” appearing in 44 Tex. Reg. 3559 (July 12, 2019)

SELF-EMPLOYED PERSONS 2025 TAX CHART				
	Federal Insurance Contribution Act Taxes			
Monthly Self-Employment Income*	Old-Age, Survivors and Disability Insurance Program (Social Security) Tax (12.4%)**, ***	Medicare's Hospital Insurance Program (Medicare) Tax (2.9%)**	Federal Income Tax****	Net Monthly Income
\$100.00	\$11.45	\$2.68	\$0.00	\$85.87
\$150.00	\$17.18	\$4.02	\$0.00	\$128.80
\$200.00	\$22.90	\$5.36	\$0.00	\$171.74
\$250.00	\$28.63	\$6.70	\$0.00	\$214.67
\$300.00	\$34.35	\$8.03	\$0.00	\$257.62
\$350.00	\$40.08	\$9.37	\$0.00	\$300.55
\$400.00	\$45.81	\$10.71	\$0.00	\$343.48
\$450.00	\$51.53	\$12.05	\$0.00	\$386.42
\$500.00	\$57.26	\$13.39	\$0.00	\$429.35
\$550.00	\$62.98	\$14.73	\$0.00	\$472.29
\$600.00	\$68.71	\$16.07	\$0.00	\$515.22
\$650.00	\$74.43	\$17.41	\$0.00	\$558.16
\$700.00	\$80.16	\$18.75	\$0.00	\$601.09
\$750.00	\$85.89	\$20.09	\$0.00	\$644.02
\$800.00	\$91.61	\$21.43	\$0.00	\$686.96
\$850.00	\$97.34	\$22.76	\$0.00	\$729.90
\$900.00	\$103.06	\$24.10	\$0.00	\$772.84
\$950.00	\$108.79	\$25.44	\$0.00	\$815.77
\$1,000.00	\$114.51	\$26.78	\$0.00	\$858.71
\$1,050.00	\$120.24	\$28.12	\$0.00	\$901.64
\$1,100.00	\$125.97	\$29.46	\$0.00	\$944.57
\$1,150.00	\$131.69	\$30.80	\$0.00	\$987.51
\$1,200.00	\$137.42	\$32.14	\$0.00	\$1,030.44
\$1,300.00	\$148.87	\$34.82	\$0.00	\$1,116.31
\$1,400.00	\$160.32	\$37.49	\$5.11	\$1,197.08
\$1,500.00	\$171.77	\$40.17	\$14.40	\$1,273.66
\$1,600.00	\$183.22	\$42.85	\$23.70	\$1,350.23
\$1,700.00	\$194.67	\$45.53	\$32.99	\$1,426.81
\$1,800.00	\$206.13	\$48.21	\$42.28	\$1,503.38
\$1,900.00	\$217.58	\$50.88	\$51.58	\$1,579.96
\$2,000.00	\$229.03	\$53.56	\$60.87	\$1,656.54
\$2,100.00	\$240.48	\$56.24	\$70.16	\$1,733.12
\$2,200.00	\$251.93	\$58.92	\$79.46	\$1,809.69
\$2,300.00	\$263.38	\$61.60	\$88.75	\$1,886.27
\$2,400.00	\$274.83	\$64.28	\$98.04	\$1,962.85
\$2,500.00	\$286.29	\$66.95	\$108.93	\$2,037.83
\$2,600.00	\$297.74	\$69.63	\$120.08	\$2,112.55
\$2,700.00	\$309.19	\$72.31	\$131.24	\$2,187.26
\$2,800.00	\$320.64	\$74.99	\$142.39	\$2,261.98
\$2,900.00	\$332.09	\$77.67	\$153.54	\$2,336.70
\$3,000.00	\$343.54	\$80.34	\$164.69	\$2,411.43
\$3,100.00	\$354.99	\$83.02	\$175.84	\$2,486.15
\$3,200.00	\$366.44	\$85.70	\$187.00	\$2,560.86
\$3,300.00	\$377.90	\$88.38	\$198.15	\$2,635.57
\$3,400.00	\$389.35	\$91.06	\$209.30	\$2,710.29
\$3,500.00	\$400.80	\$93.74	\$220.45	\$2,785.01
\$3,600.00	\$412.25	\$96.41	\$231.61	\$2,859.73
\$3,700.00	\$423.70	\$99.09	\$242.76	\$2,934.45
\$3,800.00	\$435.15	\$101.77	\$253.91	\$3,009.17
\$3,900.00	\$446.60	\$104.45	\$265.06	\$3,083.89
\$4,000.00	\$458.06	\$107.13	\$276.21	\$3,158.60
\$4,100.00	\$469.51	\$109.80	\$287.37	\$3,233.32
\$4,200.00	\$480.96	\$112.48	\$298.52	\$3,308.04
\$4,300.00	\$492.41	\$115.16	\$309.67	\$3,382.76
\$4,400.00	\$503.86	\$117.84	\$320.82	\$3,457.48
\$4,500.00	\$515.31	\$120.52	\$331.98	\$3,532.19
\$4,600.00	\$526.76	\$123.19	\$343.13	\$3,606.92
\$4,700.00	\$538.22	\$125.87	\$354.28	\$3,681.63
\$4,800.00	\$549.67	\$128.55	\$365.43	\$3,756.35
\$4,900.00	\$561.12	\$131.23	\$376.58	\$3,831.07
\$5,000.00	\$572.57	\$133.91	\$387.74	\$3,905.78
\$5,100.00	\$584.02	\$136.59	\$398.89	\$3,980.50
\$5,200.00	\$595.47	\$139.26	\$410.04	\$4,055.23
\$5,300.00	\$606.92	\$141.94	\$421.19	\$4,129.95
\$5,400.00	\$618.38	\$144.62	\$432.35	\$4,204.65
\$5,500.00	\$629.83	\$147.30	\$443.50	\$4,279.37
\$5,600.00	\$641.28	\$149.98	\$454.65	\$4,354.09

\$5,700.00	\$652.73	\$152.65	\$466.57	\$4,428.05
\$5,800.00	\$664.18	\$155.33	\$487.02	\$4,493.47
\$5,900.00	\$675.63	\$158.01	\$507.47	\$4,558.89
\$6,000.00	\$687.08	\$160.69	\$527.91	\$4,624.32
\$6,100.00	\$698.54	\$163.37	\$548.36	\$4,689.73
\$6,200.00	\$709.99	\$166.05	\$568.80	\$4,755.16
\$6,300.00	\$721.44	\$168.72	\$589.25	\$4,820.59
\$6,400.00	\$732.89	\$171.40	\$609.69	\$4,886.02
\$6,500.00	\$744.34	\$174.08	\$630.14	\$4,951.44
\$6,600.00	\$755.79	\$176.76	\$650.59	\$5,016.86
\$6,700.00	\$767.24	\$179.44	\$671.03	\$5,082.29
\$6,800.00	\$778.70	\$182.11	\$691.48	\$5,147.71
\$6,900.00	\$790.15	\$184.79	\$711.92	\$5,213.14
\$7,000.00	\$801.60	\$187.47	\$732.37	\$5,278.56
\$7,100.00	\$813.05	\$190.15	\$752.81	\$5,343.99
\$7,200.00	\$824.50	\$192.83	\$773.26	\$5,409.41
\$7,300.00	\$835.95	\$195.50	\$793.71	\$5,474.84
\$7,400.00	\$847.40	\$198.18	\$814.15	\$5,540.27
\$7,500.00	\$858.86	\$200.86	\$834.60	\$5,605.68
\$7,600.00	\$870.31	\$203.54	\$855.04	\$5,671.11
\$7,700.00	\$881.76	\$206.22	\$875.49	\$5,736.53
\$7,800.00	\$893.21	\$208.90	\$895.93	\$5,801.96
\$7,900.00	\$904.66	\$211.57	\$916.38	\$5,867.39
\$8,000.00	\$916.11	\$214.25	\$936.83	\$5,932.81
\$8,100.00	\$927.56	\$216.93	\$957.27	\$5,998.24
\$8,200.00	\$939.01	\$219.61	\$977.72	\$6,063.66
\$8,300.00	\$950.47	\$222.29	\$998.16	\$6,129.08
\$8,400.00	\$961.92	\$224.96	\$1,018.61	\$6,194.51
\$8,500.00	\$973.37	\$227.64	\$1,039.06	\$6,259.93
\$8,600.00	\$984.82	\$230.32	\$1,059.50	\$6,325.36
\$8,700.00	\$996.27	\$233.00	\$1,079.95	\$6,390.78
\$8,800.00	\$1,007.72	\$235.68	\$1,100.39	\$6,456.21
\$8,900.00	\$1,019.17	\$238.36	\$1,120.84	\$6,521.63
\$9,000.00	\$1,030.63	\$241.03	\$1,141.28	\$6,587.06
\$9,100.00	\$1,042.08	\$243.71	\$1,161.73	\$6,652.48
\$9,200.00	\$1,053.53	\$246.39	\$1,182.18	\$6,717.90
\$9,300.00	\$1,064.98	\$249.07	\$1,202.62	\$6,783.33
\$9,400.00	\$1,076.43	\$251.75	\$1,223.07	\$6,848.75
\$9,500.00	\$1,087.88	\$254.42	\$1,243.51	\$6,914.19
\$9,600.00	\$1,099.33	\$257.10	\$1,263.96	\$6,979.61
\$9,700.00	\$1,110.79	\$259.78	\$1,284.40	\$7,045.03
\$9,800.00	\$1,122.24	\$262.46	\$1,304.85	\$7,110.45
\$9,900.00	\$1,133.69	\$265.14	\$1,325.30	\$7,175.87
\$10,000.00	\$1,145.14	\$267.81	\$1,345.74	\$7,241.31
\$10,100.00	\$1,156.59	\$270.49	\$1,366.19	\$7,306.73
\$10,200.00	\$1,168.04	\$273.17	\$1,386.63	\$7,372.16
\$10,300.00	\$1,179.49	\$275.85	\$1,407.08	\$7,437.58
\$10,400.00	\$1,190.95	\$278.53	\$1,427.52	\$7,503.00
\$10,500.00	\$1,202.40	\$281.21	\$1,447.97	\$7,568.42
\$10,600.00	\$1,213.85	\$283.88	\$1,468.42	\$7,633.85
\$10,700.00	\$1,225.30	\$286.56	\$1,490.49	\$7,699.65
\$10,800.00	\$1,236.75	\$289.24	\$1,512.80	\$7,761.21
\$10,900.00	\$1,248.20	\$291.92	\$1,535.10	\$7,824.78
\$11,000.00	\$1,259.65	\$294.60	\$1,557.41	\$7,888.34
\$11,100.00	\$1,271.11	\$297.27	\$1,579.71	\$7,951.91
\$11,200.00	\$1,282.56	\$299.95	\$1,602.02	\$8,015.47
\$11,300.00	\$1,294.01	\$302.63	\$1,624.32	\$8,079.04
\$11,400.00	\$1,305.46	\$305.31	\$1,646.62	\$8,142.61
\$11,500.00	\$1,316.91	\$307.99	\$1,668.93	\$8,206.17
\$11,600.00	\$1,328.36	\$310.67	\$1,691.23	\$8,269.74
\$11,700.00	\$1,339.81	\$313.34	\$1,713.54	\$8,333.31
\$11,800.00	\$1,351.27	\$316.02	\$1,735.84	\$8,396.87
\$11,900.00	\$1,362.72	\$318.70	\$1,758.15	\$8,460.43
\$12,000.00	\$1,374.17	\$321.38	\$1,780.45	\$8,524.00
\$12,250.00	\$1,402.80	\$328.07	\$1,836.21	\$8,682.92
\$12,500.00	\$1,431.42	\$334.77	\$1,891.97	\$8,841.84
\$12,750.00	\$1,460.05	\$341.46	\$1,947.73	\$9,000.76
\$13,000.00	\$1,488.68	\$348.16	\$2,003.50	\$9,159.66
\$13,063.46****	\$1,495.95	\$349.86	\$2,017.65	\$9,200.00



## Footnotes to Self-Employed Persons 2025 Tax Chart:

References to “the Code” refer to the Internal Revenue Code of 1986, as amended (26 U.S.C.).

\* Texas Family Code section 154.065 defines what is included in, and what may be excluded from, self-employment income for Texas child support guideline computation purposes. The values displayed in the first column of this chart are the full amount of net earnings from self-employment income (determined before the deduction required by Section 1402(a)(12) of the Code explained in the next footnote, \*\*).

\*\* The tax rates for self-employment taxes are 12.4% for the Old-Age, Survivors and Disability Insurance Program “OASDI” (Social Security tax) and 2.9% for Medicare’s Hospital Insurance Program (Medicare) tax, however, only a portion of the net earnings from self-employment are subject to these taxes. Section 1402(a)(12) of the Code permits a self-employed person a deduction in net earnings from self-employment (as defined in sections 1401 and 1402 of the Code) equal to one-half of the combined rates. The purpose is to adjust net income downward by the amount that would have been paid by an employer, had the individual been classified as an employee. The sum of these rates is 15.3% ( $12.4\% + 2.9\% = 15.3\%$ ). One-half ( $1/2$ ) of the combined rate is 7.65% ( $15.3\% \times 1/2 = 7.65\%$ ). Self-employed taxpayers compute this deduction by multiplying net earnings from self-employment by .9235 ( $100\% - 7.65\% = 92.35\%$ ) to determine the portion of self-employment income subject to self-employment taxes.

Social Security tax is owed on the portion of self-employment income subject to self-employment taxes that do not exceed the maximum OASDI Contribution and Benefit Base amount of \$176,100 (for tax year 2025). Medicare’s Hospital Insurance Program (Medicare) tax is owed on the full amount of self-employment income subject to self-employment taxes. Section 1401 of the Code.

Examples:

Monthly Self-Employment Income, Tex. Fam. Code § 154.065	\$72,000 for the year, or \$6,000 monthly average	\$195,000 for the year, or \$16,250 monthly average
92.35% of self-employment income is subject to self-employment taxes	$\$72,000 \times .9235 = \$66,492$ for the year	$\$195,000 \times .9235 = \$180,082.50$ for the year
Social Security tax rate = 12.4%	<p>\$66,492 does not exceed the OASDI contribution and benefit base, so \$66,492 is taxed at this rate.</p> <p><math>\\$66,492 \times .124 = \\$8,245.01</math> for the year, or \$687.08 monthly average</p>	<p>\$180,082.50 exceeds the OASDI contribution and benefit base, so only the first \$176,100 is taxed at this rate.</p> <p><math>\\$176,100 \times .124 = \\$21,836.40</math> for the year, or \$1,819.70 monthly average</p>
Medicare tax rate = 2.9%	$\$66,492 \times .029 = \$1,928.27$ for the year, or \$160.69 monthly average	$\$180,082.50 \times .029 = \$5,222.39$ for the year, or \$435.20 monthly average

\*\*\* In 2025 the maximum level of Monthly Self-Employment Income subject to the 12.4% Social Security tax is \$190,687.60 per year, or \$15,890.63 per month ( $\$190,687.60 / 12 = \$15,890.63$ ). This is the income amount before the deduction required by Section 1402(a)(12) of the Code. The maximum monthly Social Security Tax in 2025 is \$1,819.70 based on the maximum OASDI Contribution and Benefit Base amount of \$176,100 for 2025. Because Net Monthly Income for Monthly Self-Employment Income of \$15,890.63 exceeds income amounts specified in Texas Family Code section 154.125, Monthly Self-Employment Income equaling \$15,890.63 is not included within the Self-Employed Persons Tax Chart promulgated by the Office of the Attorney General.

Monthly Self-Employment Income, Tex. Fam. Code § 154.065	\$190,687.60 for the year, or \$15,890.63 monthly average
92.35% of self-employment income is subject to self-employment taxes	$\$190,687.60 \times .9235 = \$176,100$ for the year
Social Security tax rate = 12.4%	<p>\$176,100 is equal to the 2025 OASDI contribution and benefit base, so \$176,100 is taxed at this rate.</p> <p><math>\\$176,100 \times .124 = \\$21,836.40</math> for the year, or \$1,819.70 monthly average</p>

Monthly Self-Employment Wages	OASDI Tax	Medicare Tax	Federal Income Tax	Net Monthly Income
\$15,890.63***	\$1,819.70	\$425.57	\$2,648.24	\$10,997.12

\*\*\*\* These amounts represent one-twelfth (1/12) of the annual federal income tax calculated for a single taxpayer claiming one personal exemption (in the case of a taxable year beginning after December 31, 2017, and before January 1, 2026 the exemption amount is zero), and taking the standard deduction (\$15,000).

Note: For tax years 2018 through 2025, the personal exemption amount is zero. Section 151(d)(5) of the Code includes special rules, zeroing out the personal exemption amount for taxable years beginning after December 31, 2017, and ending before January 1, 2026. For 2025, the computations do not include the subtraction of any personal exemptions. The standard deduction is subtracted according to Section 63(c) of the Code.

The calculation of federal income taxes on self-employment income requires the determination of the total self-employment taxes imposed, as described above. The calculation of federal income taxes permits the taxpayer to reduce net income from self-employment by one half of the actual taxes imposed thereby approximating the employment taxes (Social Security and Medicare) that are paid by an employed person. Section 164(f) of the Code.

Examples:

Monthly Self-Employment Income, Tex. Fam. Code § 154.065	\$72,000 for the year, or \$6,000 monthly average	\$195,000 for the year, or \$16,250 monthly average
Social security tax	\$8,245.01 for the year, or \$687.08 monthly average	\$21,836.40 for the year, or \$1,819.70 monthly average
Medicare tax	\$1,928.27 for the year, or \$160.69 monthly average	\$5,222.39 for the year, or \$435.20 monthly average
Total self-employment taxes imposed	$\$8,245.01 + \$1,928.27 = \$10,173.28$ for the year	$\$21,836.40 + \$5,222.39 = \$27,058.79$ for the year
Tax deductible portion of self-employment taxes. Section 164(f) of the Code	$\$10,173.28 \times 1/2 = \$5,086.64$ for the year	$\$27,058.79 \times 1/2 = \$13,529.40$ for the year
Personal Exemption Section 151(d) of the Code	\$0 for tax years 2018 through 2025	\$0 for tax years 2018 through 2025
Standard Deduction Section 63(c) of the Code	\$15,000	\$15,000
Income amount to be used in the income tax computation	$\$72,000 - \$5,086.64 - \$0 - \$15,000 = \$51,913.36$	$\$195,000 - \$13,529.40 - \$0 - \$15,000 = \$166,470.60$

Income tax computation for 2025	<p><i>If taxable income is over \$48,475 but not over \$103,350, the tax is \$5,578.50 plus 22% of the excess over \$48,475 (Section 1(j) of the Code)</i></p> <p><math>\\$5,578.50 + ((\\$51,913.36 - \\$48,475) \times .22) = \\$6,334.94</math> for the year, or \$527.91 monthly average</p>	<p><i>If taxable income is over \$103,350 but not over \$197,300, the tax is \$17,651 plus 24% of the excess over \$103,350 (Section 1(j) of the Code)</i></p> <p><math>\\$17,651 + ((\\$166,470.60 - \\$103,350) \times .24) = \\$32,799.94</math> for the year, or \$2,733.33 monthly average</p>
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\*\*\*\*\* This amount represents the point where the monthly gross income of a self-employed individual would result in \$9,200.00 of net resources. Texas Family Code section 154.125(a) provides “The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor’s monthly net resources are not greater than the maximum amount of net resources to which the statutory guidelines are applicable, as most recently published by the Title IV-D agency in the Texas Register.” Effective September 1, 2019, the adjusted amount determined under Subsection (a-1) is \$9,200.00. Texas Family Code section 154.126(a) provides, “If the obligor’s net resources exceed the amount provided by Section 154.125(a), the court shall presumptively apply the percentage guidelines to the portion of the obligor’s net resources that does not exceed that amount. Without further reference to the percentage recommendation by these guidelines, the court may order additional amounts of child support as appropriate, depending on the income of the parties and the proven needs of the child.” The tax charts promulgated by the Office of the Attorney General include net monthly income amounts up to the amount specified in Texas Family Code section 154.125.

\* \* \* \* \*

## Citations Relating to Self-Employed Persons 2025 Tax Chart:

### 1. Old-Age, Survivors and Disability Insurance Tax

#### (a) Contribution Base

- (1) Social Security Administration’s notice appearing in 89 Fed. Reg. 85276 (October 25, 2024)
- (2) Section 1402(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(b))
- (3) Section 230 of the Social Security Act, as amended (42 U.S.C. § 430)

#### (b) Tax Rate

- (1) Section 1401(a) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(a))

#### (c) Deduction Under Section 1402(a)(12)

- (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))

### 2. Hospital (Medicare) Insurance Tax

#### (a) Contribution Base

- (1) Section 1402(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(b))
    - (2) Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13207, 107 Stat. 312, 467-69 (1993)
  - (b) Tax Rate
    - (1) Section 1401(b) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1401(b))
  - (c) Deduction Under Section 1402(a)(12)
    - (1) Section 1402(a)(12) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1402(a)(12))
3. Federal Income Tax
- (a) Tax Rate Schedule for 2025 for Single Taxpayers
    - (1) Revenue Procedure 2024-40, Section 2.01, Table 3 which appears in Internal Revenue Bulletin 2024-45, dated November 4, 2024
    - (2) Section 1(j), of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1(j))
  - (b) Standard Deduction
    - (1) Revenue Procedure 2024-40, Section 2.15, which appears in Internal Revenue Bulletin 2024-45, dated November 4, 2024
    - (2) Section 63(c) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 63(c))
  - (c) Personal Exemption
    - (1) An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Pub. L. No. 115-97, 131 Stat. 2054 (codified as amended in scattered sections of 26 U.S.C.) amended the Internal Revenue Code of 1986, by adding a new paragraph to Section 151(d), which dictates that the personal exemption amount is zero for the taxable years 2018 through 2025.
    - (2) Section 151(d) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 151(d))
  - (d) Deduction Under Section 164(f)
    - (1) Section 164(f) of the Internal Revenue Code of 1986, as amended (26 U.S.C. § 164(f))

4. Adjusted amount determined under Subsection (a-1) of Texas Family Code section 154.125

Office of the Attorney General “Announcement of Adjustment Required by Texas Family Code section 154.125” appearing in 44 Tex. Reg. 3559 (July 12, 2019)



CHILD SUPPORT DIVISION

Date:

Dear Custodial Parent,

Enclosed is a legal document called an "Affidavit of Direct Payments." This form is used to document child and medical support payments made directly to you by the non-custodial parent (in any form), including payments received in the form of cash or check or from a Military Allotment, Trust Fund or Escrow Account. It should not include any payments made through a county registry or the State Disbursement Unit (SDU).

Select the appropriate option on this form to indicate whether or not you have received any support payments directly from the non-custodial parent. If you have received support payments directly from the non-custodial parent, be sure to list the corresponding payment dates and amounts in the spaces provided at the bottom of this form.

A Notary Public must notarize this affidavit after witnessing you sign it. Do not sign this form until you are instructed to do so by the Notary Public. This form can be notarized by a Notary Public at your local child support office.

Please return the Affidavit of Direct Payments to our office either

- by mail (in the enclosed, postage-paid envelope) or
- in person.

As mentioned above, this form must be completed, signed and notarized before it can be processed.

**Returning This Form:** Please note that this form is needed to process your case. It is **very important** that you complete this form, have it notarized, and return it to our office, even if no direct payments were received. If no direct payments were received, please select the **first check box** (indicating you received no direct support payments).

If the information requested in this form is not provided, the following may occur:

- If you receive TANF, your noncooperation will result in a report to the Health and Human Services Commission (HHSC) to stop cash benefits for you and your family.
- If you receive Medicaid, your noncooperation will stop your Medicaid benefits. Your child(ren) will continue to receive Medicaid.
- If you do not receive TANF or Medicaid, we may close your case.

**Reminder:** Child and medical support payments are to be made to the State Disbursement Unit at the address below:

SDU  
P.O. Box 659791  
San Antonio, TX 78265-9791

If you have any questions concerning this form, please contact our office.



CHILD SUPPORT DIVISION

## CUSTODIAL PARENT'S AFFIDAVIT OF DIRECT PAYMENTS

MC: OAG Case#:

**Note:** This form is used to document child and medical support payments made **directly** to the **custodial parent** by the **non-custodial parent** (in any form), **including** payments received in the form of cash or check or from a Military Allotment, Trust Fund or Escrow Account. This **excludes** payments made through a county registry or State Disbursement Unit (SDU).

I, \_\_\_\_\_, the custodial parent:

- Certify that **either**: (Please select one of the options below)
  - ☐ I have not received any support payments (in any form) directly from \_\_\_\_\_, the non-custodial parent, including payments from a Trust Fund, Escrow Account or Military Allotment, and any payments I received were sent to me from either the county registry or the State Disbursement Unit (SDU) **or**
  - ☐ the list of support payments provided below (including all dates and amounts) is a correct list of payments I received directly from \_\_\_\_\_, the non-custodial parent, and that these payments were not sent to me from either the county registry or the State Disbursement Unit (SDU)
- authorize and request the Office of the Attorney General of Texas to disclose this document, in its entirety, to \_\_\_\_\_ (the person from whom the below support payments were received) and file it with the court.

Custodial Parent's Signature \_\_\_\_\_

Date: \_\_\_\_\_

State of Texas

County of \_\_\_\_\_

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned Notary Public, by \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

### Support Payments Made Directly to the Custodial Parent by the Non-Custodial Parent

- **Includes** Payments in the form of cash or check or from a Military Allotment, Trust Fund or Escrow Account
- **Excludes** Payments made through the County Registry or State Disbursement Unit (SDU)

Date	Amount	Date	Amount	Date	Amount	Date	Amount	Date	Amount

Cause #: \_\_\_\_\_

Total of all direct payments: \_\_\_\_\_

Texas Government Code Chapter 559 gives you the right to review and request correction of information on this form.



## Record of Support Order

This completed form must be submitted to the county's clerk of the court to set up the child support account. (See Texas Family Code §105.008)  
Note to Clerks: Send the completed form to the State Case Registry/County Contact Team by fax 877-924-6872, e-mail [csd-sdu@oag.texas.gov](mailto:csd-sdu@oag.texas.gov), or mail to TxCSDU, P.O. Box 659400, San Antonio, TX 78265, or use the TXCSES Web Portal to provide this information in lieu of forwarding the document to the TXSDU.

### Order Information

County Name:	Court Number:	Cause Number:
Attorney General Case Number:	Date of Hearing:	Order Sign Date:
Order Type: <input type="checkbox"/> New Order <input type="checkbox"/> Modified Order		Payment Location: <input type="checkbox"/> State Disbursement Unit (SDU)   Other:

### Obligee/Payee/Custodial Parent Information

<input type="checkbox"/> Family Violence Protection (FV) <i>(Check if individual below is a victim of family violence)</i>			
Name:	Date of Birth:	Social Security Number:	
Address:	City:	State:	Zip:
Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Driver's License Number:		
Home Phone:	Work Phone:	Cell Phone:	Email:
Relationship to Child(ren):			
Employer Name:			
Address:	City:	State:	Zip:





Obligor/Payor/Non-Custodial Parent Information				
<input type="checkbox"/> Family Violence Protection (FV) <i>(Check if individual below is a victim of family violence)</i>				
Name:		Date of Birth:		Social Security Number:
Address:		City:	State:	Zip:
Sex:	<input type="checkbox"/> Male <input type="checkbox"/> Female	Driver's License Number:		
Home Phone:	Work Phone:	Cell Phone:	Email:	
Relationship to Child(ren):				
Employer Name:				
Address:		City:	State:	Zip:
Dependent Information				
<input type="checkbox"/> Family Violence Protection (FV) <i>(Check if dependent below is a victim of family violence)</i>				
Name:		Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Date of Birth:	Social Security Number:
<input type="checkbox"/> Family Violence Protection (FV) <i>(Check if dependent below is a victim of family violence)</i>				
Name:		Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Date of Birth:	Social Security Number:
<input type="checkbox"/> Family Violence Protection (FV) <i>(Check if dependent below is a victim of family violence)</i>				
Name:		Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Date of Birth:	Social Security Number:
<input type="checkbox"/> Family Violence Protection (FV) <i>(Check if dependent below is a victim of family violence)</i>				
Name:		Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female	Date of Birth:	Social Security Number:
<i>If there are more children, attach an additional page listing the above information for each additional child.</i>				
Attorney Information				
Obligee Attorney:		Phone:	Obligor Attorney:	Phone:
Prepared by:		Phone:	Date:	
County Name:		Court Number:	Cause Number:	

## **Overview of Conservatorship and Possession and Access**

### **Prepared for the Family Law Pro Bono Toolkit (2025 Edition)**

#### **A. Overview**

Chapter 153 of the Texas Family Code provides the procedural and substantive framework for appointing individuals as conservators and for granting rights of possession and access to a child. A conservatorship suit establishes who will make decisions for a child and have rights of possession and access to the child.

#### **B. Types of Conservators – General Concepts**

Texas law recognizes three main types of conservators in child custody orders:

- **Sole Managing Conservator (SMC):** An SMC is given the exclusive right to make key decisions for the child, such as where the child lives, goes to school, and receives medical care. Courts usually appoint an SMC when one parent has been absent, abusive, or unable to co-parent. *See* Tex. Fam. Code §§ 153.005, 153.132, 153.371.
- **Joint Managing Conservators (JMCs):** In most cases, courts appoint both parents as JMCs, meaning they share rights and duties related to the child. However, generally one JMC may still be given the exclusive right to determine the child's primary residence. This person is often referred to as the "primary" or "custodial" parent. *See* Tex. Fam. Code §§ 101.016, 153.005, 153.135, 153.133. Other rights and duties, discussed below, are generally joint subject to the agreement of the other conservator, exclusive to one parent, or independent.
- **Possessory Conservator (PC):** A PC has the right to spend time with the child and exercise certain parental rights during periods of possession. PCs are often noncustodial parents or other caregivers who don't share in decision-making but still maintain a legal relationship with the child. *See* Tex. Fam. Code §§ 153.074, 153.192.

Courts may tailor conservatorship roles based on the child's best interest and the family's specific circumstances.

#### **C. Best Interest is Controlling**

##### **1. Public Policy & Best Interest**

- The child's best interest is always the primary consideration in rendering orders related to children, including conservatorship, possession, and child support.
- In determining best interest under TEX. FAM. CODE § 153.002, courts look to a set of non-exclusive factors first articulated in *Holley v. Adams*, 544 S.W.2d 367 (Tex. 1976). These include:

- The desires of the child;
- The emotional and physical needs of the child, now and in the future;
- The emotional and physical danger to the child, now and in the future;
- The parental abilities of each individual seeking custody;
- The programs available to assist those individuals to promote the child's best interest;
- The plans for the child by each individual or the agency seeking custody;
- The stability of the home or proposed placement;
- The acts or omissions of the parent which may indicate that the existing parent-child relationship is not a proper one;
- Any excuse for the acts or omissions of the parent.

These factors are not exhaustive, and no single factor is controlling. Courts must consider the totality of the circumstances to determine what will best promote the child's safety, welfare, and development.

#### **D. Parental Rights & Duties – General Overview**

##### **1. Major & Often Contested Conservator Rights**

<b><u>Right</u></b>	<b><u>JMC</u></b>	<b><u>SMC</u></b>	<b><u>PC</u></b>	<b><u>Authority</u></b>
Designate Primary Residence	One JMC must be given exclusive right unless waived by agreement	Automatically held by SMC	✗ Not authorized	Tex. Fam. Code §§ 153.132(1), 153.134(b)(1), 153.133(c), 153.371(10)
Receive Child Support	Most likely given to JMC with exclusive right to determine residence	Automatically has this right	✗ Not authorized	Tex. Fam. Code §§ 153.132(4), 153.371(5)
Consent to Invasive Medical Treatment	Can be given exclusively to one JMC, held joint subject to the agreement, or independently	Automatically has this exclusive right	✗ Not authorized	Tex. Fam. Code §§ 153.132(2), 153.134(b)(4), 153.371(4)
Consent to Psychiatric/Psychological Treatment	Can be given exclusively to one JMC, held joint subject to the agreement, or held independently.	Automatically has this exclusive right	✗ Not authorized	Tex. Fam. Code §§ 153.132(3), 153.134(b)(4), 153.371(4)

<u>Right</u>	<u>JMC</u>	<u>SMC</u>	<u>PC</u>	<u>Authority</u>
Make Educational Decisions	Can be given exclusively to one JMC, held joint subject to the agreement, or held independently. School attendance often defaults to the school zoned to the primary conservator's residence	Automatically has this right	✗ Not authorized	Tex. Fam. Code §§ 153.132(7), 153.134(b)(4), 153.371(10)

## 2. Other Notable Rights and Duties (Tex. Fam. Code 153.073/153.132)

- Right to Emergency Medical Consent
- Right to Manage Child's Estate
- Right to Access Child's Records (Medical, Psychological, Educational)
- Right to Be Informed About the Child's Health, Education, and Welfare
- Right to Confer with Other Conservator About Decisions
- Right to Consult with Doctors, Psychologists, and Dentists
- Right to Consult with School Officials and Attend Activities
- Right to Be Listed as Emergency Contact
- Right to Consent to Armed Forces Enlistment
- Right to Act as Legal Representative
- Right to Receive Child's Services and Earnings
- Right to Act as Child's Agent in Governmental Matters
- Right to Acquire and Manage Child's Passport

## E. Possession & Access

A standard possession order is presumed to be in the best interest of a child who is at least three years of age.

### 1. Standard Possession Order – Under 100 Miles with Elections

<u>Possession Period</u>	<u>Time</u>	<u>Authority</u>
Weekend Possession	1st, 3rd, and 5th weekends each month, beginning when school is dismissed Friday to when school resumes Monday	Tex. Fam. Code §§ 153.312(a)(1), 153.317(a)(1)(C)

<b><u>Possession Period</u></b>	<b><u>Time</u></b>	<b><u>Authority</u></b>
Thursday Evenings	Every Thursday during school year from school dismissal to when school resumes Friday	Tex. Fam. Code §§ 153.312(a)(2), 153.317(a)(2)(C)
Spring Break	Even years: PC has possession from dismissal to day before school resumes	Tex. Fam. Code § 153.312(b)(1)
	Odd years: SMC has possession	Tex. Fam. Code § 153.312(b)(1)
Summer Vacation – PC	30 days total (one or two blocks, $\geq 7$ days each). Must give notice by April 1. If no notice: July 1 to July 31	Tex. Fam. Code §§ 153.312(b)(2)(A)-(B)
Summer – SMC’s Weekend During PC’s Summer	1 weekend (Fri 6:00 p.m. – Sun 6:00 p.m.) during PC’s summer period; must give notice by April 15	Tex. Fam. Code § 153.312(b)(3)
Summer – SMC’s Make-Up Weekend	1 weekend (Fri 6:00 p.m. – Sun 6:00 p.m.) when PC would otherwise have weekend possession. Must give 14 days’ notice or notice by April 15	Tex. Fam. Code § 153.312(b)(4)
Thanksgiving	Odd years: PC has possession from school dismissal to 6:00 p.m. Sunday	Tex. Fam. Code § 153.314(3)
	Even years: SMC has possession	Tex. Fam. Code § 153.314(3)
Christmas	Even years: PC gets 1st half (dismissal – Dec 28 noon); SMC gets 2nd half	Tex. Fam. Code §§ 153.314(1)-(2)
	Odd years: SMC gets 1st half; PC gets 2nd half	Tex. Fam. Code §§ 153.314(1)-(2)
Child’s Birthday	6:00 p.m. – 8:00 p.m. if not otherwise in possession (must pick up/drop off)	Tex. Fam. Code § 153.314(4)
Father’s Day / Mother’s Day	If father is not in possession, he is entitled to possession beginning at 6:00 p.m. on the Friday preceding father’s day and ending at 8:00 a.m. on the following Monday.	Tex. Fam. Code §§ 153.314(5)-(6)
Holiday Extensions	If Friday or Monday is a student holiday, possession starts Thursday at 6:00 p.m. or ends Monday at 6:00 p.m.  Mother has possession beginning when school is released on the Friday preceding Mother’s Day and ending when school begins on the next Monday.	Tex. Fam. Code § 153.315

## 2. Standard Possession Order Under 100 Miles Without Elections

<b><u>Possession Period</u></b>	<b><u>Time</u></b>	<b><u>Authority</u></b>
Weekend Possession	1st, 3rd, and 5th weekends of each month, Friday 6:00 p.m. – Sunday 6:00 p.m.	Tex. Fam. Code § 153.312(a)(1)
Thursday Evenings	Every Thursday during school year, 6:00 p.m. – 8:00 p.m.	Tex. Fam. Code § 153.312(a)(2)
Spring Break	Even years: PC has possession, Fri 6:00 p.m. (dismissal) – Sun 6:00 p.m. (day before school resumes)	Tex. Fam. Code § 153.312(b)(1)
	Odd years: SMC has possession	Tex. Fam. Code § 153.312(b)(1)
Summer Vacation – PC	30 days total (one or two blocks, $\geq 7$ days each). Must give notice by April 1. If no notice: July 1 – July 31	Tex. Fam. Code § 153.312(b)(2)(A)-(B)
Summer – SMC’s Weekend During PC’s Summer	1 weekend (Fri 6:00 p.m. – Sun 6:00 p.m.) during PC’s summer period; must give notice by April 15	Tex. Fam. Code § 153.312(b)(3)
Summer – SMC’s Make-Up Weekend	1 weekend during summer when PC would otherwise have weekend possession; 14-day notice required	Tex. Fam. Code § 153.312(b)(4)
Thanksgiving	Odd years: PC has possession from Fri 6:00 p.m. – Sun 6:00 p.m.	Tex. Fam. Code § 153.314(3)
	Even years: SMC has possession	Tex. Fam. Code § 153.314(3)
Christmas	Even years: PC gets 1st half (dismissal – Dec 28 noon); SMC gets 2nd half	Tex. Fam. Code §§ 153.314(1)-(2)
	Odd years: SMC gets 1st half; PC gets 2nd half	Tex. Fam. Code §§ 153.314(1)-(2)
Child’s Birthday	6:00 p.m. – 8:00 p.m. if not otherwise in possession (must pick up/drop off)	Tex. Fam. Code § 153.314(4)
Father’s Day / Mother’s Day	Father: 6:00 p.m. Fri – 6:00 p.m. Sun before Father’s Day; same for mother on Mother’s Day	Tex. Fam. Code §§ 153.314(5)-(6)
Holiday Extensions	If Friday or Monday is a student holiday, possession starts Thursday at 6:00 p.m. or ends Monday at 6:00 p.m.	Tex. Fam. Code § 153.315

### 3. Standard Possession Order Over 100 Miles

<b><u>Possession Period</u></b>	<b><u>Time</u></b>	<b><u>Authority</u></b>
Weekend Possession	1st, 3rd, and 5th weekends of each month, Fri 6:00 p.m. – Sun 6:00 p.m.	Tex. Fam. Code § 153.313(1)
PC may elect 1 weekend per month instead, with 14 days' notice (election must be made within 90 days of becoming 100+ miles apart)		Tex. Fam. Code § 153.313(1)
Thursday Evenings	Not included by default	Tex. Fam. Code § 153.313
Spring Break	Every year: PC has possession from 6:00 p.m. on dismissal to 6:00 p.m. day before school resumes	Tex. Fam. Code § 153.313(2)
Summer Vacation – PC	42 days total (one or two blocks, ≥7 days each); must give notice by April 1. If no notice: June 15 – July 27	Tex. Fam. Code § 153.313(3)(A)-(B)
Summer – SMC's Weekend During PC's Summer	1 weekend (Fri 6:00 p.m. – Sun 6:00 p.m.) during PC's summer period. If PC has ≥30 consecutive days, SMC gets 2 nonconsecutive weekends. Notice required by April 15	Tex. Fam. Code § 153.313(4)
Summer – SMC's 21 Days	21 days total, one or two blocks (≥7 days each); cannot overlap with PC's possession or Father's Day. Notice required by April 15	Tex. Fam. Code § 153.313(5)
Thanksgiving	Odd years: PC gets possession from dismissal to Sun 6:00 p.m.	Tex. Fam. Code § 153.314(3)
	Even years: SMC has possession	Tex. Fam. Code § 153.314(3)
Christmas	Even years: PC gets 1st half (dismissal – Dec 28 noon); SMC gets 2nd half	Tex. Fam. Code §§ 153.314(1)-(2)
	Odd years: SMC gets 1st half; PC gets 2nd half	Tex. Fam. Code §§ 153.314(1)-(2)
Child's Birthday	6:00 p.m. – 8:00 p.m. if not otherwise in possession (must pick up/drop off)	Tex. Fam. Code § 153.314(4)
Father's Day / Mother's Day	Father: 6:00 p.m. Fri – 6:00 p.m. Sun before Father's Day; same for mother on Mother's Day (must transport)	Tex. Fam. Code §§ 153.314(5)-(6)
Holiday Extensions	If Friday or Monday is a student holiday, possession starts Thursday at 6:00 p.m. or ends Monday at 6:00 p.m.	Tex. Fam. Code § 153.315

#### 4. Overview of Elections

<u>Distance (PC ↔ child)</u>	<u>Election Status</u>	<u>Action Required by PC</u>	<u>Court Overrides Possible?</u>
≤ 50 miles	Presumed	No election needed	Yes — if decline or best-interest issue
51–100 miles	Not presumed	Election must be made	Same as above
> 100 miles	N/A	Follows standard SPO without § 153.317 elections	N/A

#### 5. Possession of a Child Under Three

In determining an appropriate possession order for a child under age three, the court must consider the following list of nonexclusive factors set out in section 153. 253 of the Texas Family Code:

- The caregiving provided to the child before and during the current suit.
- The effect on the child that may result from separation from either party.
- The parties' availability as caregivers and willingness to personally care for the child.
- The child's physical, medical, behavioral, and developmental needs.
- The parties' physical, medical, emotional, economic, and social conditions.
- The impact and influence of individuals other than the parties who will be present during periods of possession.
- The presence of siblings during periods of possession.
- The child's need to develop healthy attachments to both parents.
- The child's need for continuity of routine.
- The location and proximity of the parties' residences.
- The need for a temporary possession schedule that incrementally shifts to the schedule provided in the prospective order based on (1) the child's age or (2) a party's minimal or inconsistent contact with the child.
- The parties' ability to share in the responsibilities, rights, and duties of parenting.
- Any other evidence of the child's best interest.

#### **F. Family Violence & Its Effect on Conservatorship and Possession- (TEX. FAM. CODE 153.004)**

If there is credible evidence of child abuse, neglect, or family violence by a parent (or someone in their household), the court:

- May not appoint joint managing conservators;
- Must restrict or deny access if necessary to protect the child;
- Must presume that unsupervised visitation is not in the child's best interest.

The court must also consider whether a protective order was issued in the past two years.



If access is allowed despite past violence, the court must impose safeguards such as:

- Supervised visits;
- Safe exchange locations;
- Alcohol/drug use restrictions;
- Required completion of a battering intervention or similar program.

These rules apply even if the abuse occurred during cohabitation or resulted in pregnancy.

## **G. Key Rebuttable Presumptions**

- Presumption: Appointment of both parents as Joint Managing Conservators (JMCs) is in the child's best interest.
  - Rebuttal: Can be rebutted by evidence of a history or pattern of family violence.
  - Authority: Tex. Fam. Code §§ 153.131, 153.004
- Presumption: A parent who is not appointed as a Sole Managing Conservator (SMC) or JMC should be appointed as a Possessory Conservator (PC).
  - Rebuttal: Rebutted by evidence that appointment is not in the child's best interest and would endanger the child's physical or emotional welfare
  - Authority: Tex. Fam. Code § 153.191
- Presumption: The Standard Possession Order (SPO) provides the minimum reasonable possession and is in the child's best interest (if the child is three or older).
  - Rebuttal: Rebutted by evidence that the SPO is inappropriate or unworkable under the circumstances.
  - Authority: Tex. Fam. Code §§ 153.252, 153.253

## **Enforcing Child Support and Possession & Access**

### **Toolkit for Pro Bono Practitioners – Texas Family Code Chapter 157**

#### **A. Overview**

Chapter 157 of the Texas Family Code provides robust enforcement tools for violations of court-ordered child support and possession or access. Practitioners can seek remedies including contempt, money judgments, community supervision, make-up visitation, and attorney's fees. Enforcement proceedings are often quasi-criminal, particularly when incarceration is requested, and strict compliance with procedural requirements is essential.

#### **B. Enforcing Child Support**

##### **1. Jurisdiction and Venue**

A motion for enforcement must be filed in the court with continuing, exclusive jurisdiction over the SAPCR. See TEX. FAM. CODE §§ 157.001(a), 155.001(c).

That court retains jurisdiction unless a proper transfer of venue has occurred. Personal jurisdiction over the respondent is typically satisfied by service or appearance in the original SAPCR. See *In re W.J.S.*, 35 S.W.3d 274, 276 (Tex. App.—Houston [14th Dist.] 2000, no pet.).

##### **2. Pleading Requirements**

The motion must comply with TEX. FAM. CODE § 157.002(a) and, if contempt is sought, also with § 157.002(b).

##### **Required elements under § 157.002(a):**

- ☐ Identify the provision of the order allegedly violated;
- ☐ State the manner of noncompliance;
- ☐ State the relief requested;
- ☐ Signed by the movant or attorney.

##### **If seeking contempt (§ 157.002(b)):**

- ☐ State the date due, amount due, and amount paid (if any) for each violation;
- ☐ Attach or incorporate a payment record;
- ☐ Quote or attach the order allegedly violated. The order must contain clear command language capable of enforcement by contempt.
- ☐ Clearly request specific remedies (e.g., contempt, money judgment, attorney's fees)

See also TEX. FAM. CODE § 157.162(c) (SDU or registry records showing payment history are admissible if attached to petition).

### 3. Remedies for Child Support Violations

<u>Remedy</u>	<u>Statutory Authority / Case Law</u>	<u>Explanation</u>
Criminal Contempt	TEX. GOV'T CODE § 21.002(b); <i>Ex parte Chambers</i> , 898 S.W.2d 257	Fixed jail term; punitive
Civil Contempt	TEX. FAM. CODE § 157.166; <i>In re Zandi</i> , 270 S.W.3d 76	Jail until compliance
Community Supervision	TEX. FAM. CODE § 157.211	Suspends jail; imposes conditions
Money Judgment	TEX. FAM. CODE § 157.263	Covers all arrears, interest, prior orders
Attorney's Fees	TEX. FAM. CODE § 157.167(a)	Mandatory unless good cause shown
Clarification	TEX. FAM. CODE § 157.421	For vague orders not enforceable by contempt

For criminal contempt, the movant has the burden to prove the violation beyond a reasonable doubt. For civil contempt, the burden is by a preponderance of the evidence.

For civil contempt, the respondent must have present ability to comply. Otherwise, confinement is void. *See Ex parte Dustman*, 538 S.W.2d 409 (Tex. 1976)."

Practice Tip: If contempt is dismissed, including for a pleading defect, proceed with remaining remedies—money judgment, supervision, and fees may still be awarded.

### 4. Proving a Contempt Case

To hold a respondent in contempt, establish:

- ☒ A valid, written, and signed order existed. (*Ex parte Chambers*, 898 S.W.2d at 262)
- ☒ The order was in effect at the time of the violation. (*Ex parte Grothe*, 581 S.W.2d 296, 297)
- ☒ The respondent knew of the order. (*Ex parte Loftin*, 522 S.W.2d 591, 593)
- ☒ The order was specific and unambiguous. (*Ex parte Slavin*, 412 S.W.2d 43)
- ☒ For criminal contempt, the violation was willful. (*Ex parte Chambers*, 898 S.W.2d at 259)

### C. Enforcing Possession and Access

#### 1. Statutory Authority and Pleading Requirements

A motion to enforce possession/access must comply with TEX. FAM. CODE §§ 157.001(a), 157.002(a), and 157.002(c).

**Required elements under § 157.002(a):**

- ☐ Identify the order provision allegedly violated;
- ☐ Describe how the respondent failed to comply;
- ☐ State the relief requested;
- ☐ Include movant/attorney signature.

**Additional requirements under § 157.002(c):**

- ☐ List date, time, and place of each denial (§ 157.002(c)(1));
- ☐ Attach or incorporate the relevant order (§ 157.002(c)(3));

**2. Remedies for Possession/Access Violations**

<u>Remedy</u>	<u>Statutory Basis</u>	<u>Explanation</u>
Make-Up Possession	§ 157.168(a)	Additional weekends, holidays, or days
Contempt	§ 157.166	Fines or jail for willful violations
Clarification	§ 157.421	File when the order lacks specificity
Attorney's Fees	§ 157.167(b)	Mandatory award to prevailing party

**3. Specificity Requirements**

To be enforceable by contempt, possession orders must:

- Clearly state dates and times of exchanges;
- Define exchange locations;
- Specify transportation responsibilities.

Orders with vague or discretionary language (e.g., “reasonable visitation,” “by agreement”) are not enforceable by contempt. *See Ex parte Acker*, 949 S.W.2d 314, 317.

**4. Affirmative Defenses**

Under TEX. FAM. CODE § 157.066(c) and case law, the court must consider:

- Voluntary Relinquishment: The movant gave up possession/control (§ 157.066(c)(1));
- Protection of Child: Denial was necessary for child's welfare (§ 157.066(c)(2));
- Agreement to Deviate: Parties agreed to change the schedule (*In re J.M.R.*, 149 S.W.3d 289, 293);
- Reliance on Conduct: Respondent relied on movant's representations.

**D. Key Documents to Bring to Trial**

**1. Proposed Enforcement Order**

- ☐ Findings for each violation

- ☐ Contempt findings and sentence
- ☐ Suspension or immediate commitment terms
- ☐ Community supervision terms
- ☐ Attorney's fee award and enforceability
- ☐ Money judgment calculation

## **2. Commitment Order (if jail is requested)**

- ☐ Respondent's full name and info
- ☐ Contempt findings
- ☐ Length of confinement
- ☐ Conditions for purge (civil contempt)

## **3. Capias Order**

- ☐ Confirm personal service
- ☐ Motion requests incarceration
- ☐ Capias pre-drafted and includes identifying information

## **4. Payment Records**

- ☐ SDU or registry-certified history
- ☐ Offered under § 157.162(c)
- ☐ Highlight missed payments
- ☐ Interest calculations, if applicable

## **5. Certified Copy of Order Being Enforced**

- ☐ Full order attached
- ☐ Highlight enforcement provisions

## **Toolkit Article: Enforcing Possession via Writ of Habeas Corpus**

### **Prepared for the Family Law Pro Bono Toolkit (2025 Edition)**

#### **A. Overview and Purpose**

Chapter 157, Subchapter H of the Texas Family Code provides a summary legal procedure to enforce a party's superior right to possession of a child. A petition for writ of habeas corpus compels the return of a child when that child is being wrongfully withheld by another person—whether under or without a court order.

The process is mandatory in nature: once the relator (the party seeking return) proves a superior right to possession, the court must order the return unless a statutory defense applies.

#### **Practical Example of When to File**

Mother has primary conservatorship under a final decree of divorce order and Father has a standard possession order. After summer visitation, Father refuses to return the child. Mother files a petition for writ of habeas corpus. The court issues the writ and orders Father to appear with the child. A hearing is conducted to determine whether Mother has a superior right of possession and whether any statutory defenses applies.

#### **B. Legal Framework and Statutory Authority**

Statutory Authority: TEXAS FAMILY CODE §§ 157.371–157.376

Elements of Claim:

- A court must order the return of a child if the relator (the party seeking relief) proves:
  - That the relator has a superior right to possession, either:
    - Under a valid court order (§ 157.372), or
    - Under law, as a parent, when no court order exists and the respondent is a nonparent (§ 157.376); and
  - That the child is being illegally restrained.

Under § 157.376(a), a parent has a superior right to possession over a nonparent if:

No court order governs possession (i.e. a parent has superior right of possession under law):

- The relator is a biological or legal parent;
- The respondent is not a parent; and
- The child is being wrongfully withheld.

The return is not discretionary and issuance of the writ is mandatory and ministerial once the relator proves their right to possession. *Lamphere v. Chrisman*, 554 S.W.2d 935, 938 (Tex. 1977)(holding that the trial court must grant habeas corpus and compel return of the child when the relator establishes possession under a valid out-of-state order; trial court cannot relitigate custody in the habeas proceeding, and mandamus is proper to compel issuance of the writ); *In re deFilippi*, 235 S.W.3d 319, 322–23 (Tex. App.—San Antonio 2007)(trial court had ministerial duty to grant habeas relief where father held superior legal right to possession after mother’s death; no evidence showed serious and immediate danger to child, so denial of return was improper and mandamus granted).

### C. Procedural and Pleading Requirements

#### Where to File:

Under TEX. FAM. CODE § 157.371(a), the petition may be filed in either:

- The court of continuing, exclusive jurisdiction; or
- The county where the child is found.

#### What to File:

- Petition for writ of habeas corpus, including:
  - o Allegation that the child is being illegally restrained;
  - o Statement of the relator’s superior right to possession;
  - o Certified copy of the underlying court order (if applicable);
  - o Verified affidavit if requesting a writ of attachment (§ 105.001(c))

#### Practical Application of the Process:

- Court reviews the petition and may issue writ of habeas corpus requiring respondent to bring the child to court for a hearing on whether the relator has a superior right of possession;
- If the court grants a writ of attachment, law enforcement seizes and delivers the child to court for a hearing on whether the relator has a superior right of possession;
- At hearing, the judge determines whether the child must be returned because the relator has a superior right of possession, whether a defense applies, or if temporary relief applies.

### D. Statutory Defenses

<u>Remedy</u>	<u>Authority</u>	<u>Explanation</u>
Return of Child	TEX. FAM. CODE §§ 157.372, 157.376	Court must order return if relator proves superior right and no valid defense.

<b><u>Remedy</u></b>	<b><u>Authority</u></b>	<b><u>Explanation</u></b>
Denial of Return	TEX. FAM. CODE §§ 157.373, 157.374	Allowed if relator relinquished child for 6+ months or if serious harm is shown.
Temporary Orders	TEX. FAM. CODE §§ 157.373(c), 157.374, 157.376(a)(2)	May be issued if return is denied.
Attorney's Fees	TEX. FAM. CODE §§ 106.001, 152.312, 157.167	May be awarded to prevailing party.

## **E. Defenses to Return**

Relief must be denied if the respondent proves a statutory defense even if the relator has a superior right to possession:

- Voluntary Relinquishment of Actual Possession and Control for 6 Months Preceding Filing – TEX. FAM. CODE § 157.373
- Serious Immediate Welfare Concern – TEX. FAM. CODE § 157.374
  - o To protect the child from imminent danger or danger of physical or emotional harm. *McElreath v. Stewart*, 545 S.W.2d 955, 958 (Tex.1977).

## **F. Temporary Orders in Habeas Proceedings**

If the court declines to return the child—due to a valid defense under § 157.373 or § 157.374—it may issue temporary orders under:

- TEX. FAM. CODE § 157.373(c) (Voluntary Relinquishment Cases)
- TEX. FAM. CODE § 157.374 (Welfare Defense Cases)
- TEX. FAM. CODE § 157.376(a)(2) (Parent v. Nonparent Cases – no existing order)

These orders may include temporary possession, geographic restrictions, counseling, or conditions on possession (e.g., supervised access).

Courts cannot use temporary orders to permanently resolve conservatorship or custody. The orders must be narrow in scope and temporary in nature. See *In re Lau*, 89 S.W.3d 757 (Tex. App.—Houston [1st Dist.] 2002)(temporary orders must lead to prompt resolution or clarification).

## **G. Key Documents and Checklist**

### **Documents to Bring to Court:**

- ☒ Certified copy of the custody order (if applicable)
- ☒ Proposed return order



- ☒ Proposed temporary orders
- ☒ Supporting evidence (texts, photos, police reports)

**Checklist for Petition:**

- ☐ Relator has superior right to possession
- ☐ Child is being illegally restrained
- ☐ Petition filed in proper venue
- ☐ Certified order attached (if applicable)
- ☐ Defense issues considered (relinquishment or welfare)
- ☐ Writ of habeas corpus clearly requested
- ☐ Writ of attachment supported by affidavit (if requested)
- ☐ Orders drafted and attached

## **TEMPORARY ORDERS**

### **A. Overview**

Temporary Orders are the initial set of orders in a family law case. These orders generally control the case during the time it is pending. Temporary Orders ensure that the parties know who is going to live in the marital home, who will pay what bills, and what is going to happen with the children for the immediate future. Family law cases take months (and sometimes years) and the parties need to know what they are authorized to do during this time.

Practitioners should be aware that there are some different rules for Temporary Orders in a modification suit.

### **B. Substantive Legal Framework**

#### **Governing Statutes**

- TEX. FAM. CODE § 6.502
- TEX. FAM. CODE § 105.001
- TEX. FAM. CODE § 156.006
- TEX. FAM. CODE § 152.702
- TEX. FAM. CODE § 160.204

### **C. Procedural or Practical Requirements**

Upon filing a divorce, suit affecting parent-child relationship, modification, or paternity action a party can ask for temporary orders. Unlike a final hearing, only three day's notice is required to have a temporary orders hearing. This means that a temporary order could be held before an answer is even due in the case, provided proper notice is given in the case.

Courts often limit the amount of time each party has for temporary orders, so ensure that you are aware of the local rules regarding time limits.

At temporary orders the court can make orders regarding conservatorship, possession and access, child support, interim attorney's fees, interim spousal maintenance, exclusive use and access to property, and payment of bills. The Court can also make findings of family violence and grant temporary injunctions. The rulings of the Court will not change without a subsequent hearing and parties can be held in contempt for violating these orders.

**IMPORTANT NOTE:** If a party is filing a modification suit, there are only three grounds that authorize the Court to change conservatorship on temporary orders. The three grounds are:

- “(1) the order is necessary because the child's present circumstances would significantly impair the child's physical health or emotional development;
- (2) the person designated in the final order has voluntarily relinquished the primary care and possession of the child for more than six months; or
- (3) the child is 12 years of age or older and has expressed to the court in chambers as provided by [Section 153.009](#) the name of the person who is the child's preference to have the exclusive right to designate the primary residence of the child.”

If the suit is based on significant impairment, an affidavit showing the risk of significant impairment must be attached to the petition, otherwise the Court cannot even grant a hearing for temporary orders.

Subsection 2 does not apply to a parent who has been deployed or mobilized as part of their service in the United States Armed Forces. For primary conservators in the armed forces, TEX. FAM. CODE § 152.702 authorizes the Court to make temporary orders regarding the child. These orders terminate upon the parents return. This section does not authorize final orders regarding rights and duties when a conservator is deployed or mobilized.

#### **D. Remedies, Options, or Outcomes**

Temporary orders can be changed with a subsequent hearing or upon final hearing. They also allow the lawyers to gauge what the Judge may think of their client so that they can decide how to proceed. A party is not entitled to a jury on temporary issues but is for a final hearing and the Judge's ruling could assist in determining if this is something a party may want.

As these are not final orders, they are not subject to appeal. A party can attempt to mandamus the Judge if the temporary orders are unlawful.

#### **E. Obstacles, Pitfalls, or Legal Challenges**

One of the most challenging things about temporary orders is how quickly they may happen. The parties will not have had time for discovery and, depending on the

Court, could have very little time to prepare for the hearing. Lawyers are often surprised by the things they learn from the opposing party at the hearing because their client did not give them all of the information.

The best way to avoid these surprises is to specifically ask your client about “skeletons” they may have. Do not expect that your client will give you all of the information upfront. Explain to the client that you have to ask about sensitive matters in order to help them because you need to defend them if something comes up. Ask the client if they think the other party may “make up” claims about them as well. Sometimes this is a sign you should dig deeper into that issue with them.

Skeletons to ask about:

- Criminal history: committed, arrested, convicted, probation, ect.;
- Drug use;
- Prescription drug abuse;
- Alcohol abuse;
- Gambling;
- Mental health concerns;
- Suicide attempts;
- Domestic violence;
- Child abuse
- Adultery;
- Pornography use

## **Default Hearings**

### **A. Overview**

A party can receive a default judgment if the other party fails to appear at a hearing. This can be for temporary orders or for final orders. Many people worry that they won't be able to get divorced or get a ruling from the Judge if the opposing party does not show up, but fortunately that is not the case.

If the opposing party fails to appear at the hearing, practitioners simply need to put on all of their evidence so the Judge can grant them their requested relief. As in all family law hearings the Judge must make rulings that are in the best interest of the children and otherwise in line with the family code so a party is not guaranteed to get everything they request.

### **B. Procedural or Practical Requirements**

Default Judgments sometimes feel like more work than having a hearing outright. A party is still required to present enough evidence to back up the order they are asking to receive. If the case ended up in front of the Court of Appeals the evidence needs to support the ruling and the ruling must comply with all Family Code requirements.

In order to make sure the ruling stands up proper notice is necessary. Temporary Orders require 3 day's notice and a final hearing requires 45 day's notice if an answer was filed. If no answer is filed then a final hearing can be held with no notice. At the hearing, ask the Judge to take Judicial Notice of the court's file. Practitioners can take it a step further to recite the dates of service and notice to the Court.

The Court must make rulings that are in the best interest of the child, so ensure to present evidence showing the Court why the requests are best for the child. This goes beyond asking your client "do you believe this is in the best interest of the child?" Present all of the evidence that you would have presented if there was an opposing party. For child support, you must present credible evidence of the other party's income to show what the child support payments should be.

In divorces, the Court must divide the property in a manner that is just in right. It is still necessary to show the value of the community estate with documentation that backs up the claim. Simply admitting a spreadsheet with the requested division will not be sufficient to protect the judgment.

Make sure that the client is ready to present all of the evidence to the Judge. Often people will assume they can ask for anything at a default and be successful so they will not want to present well to the Court.

### **C. Remedies, Options, or Outcomes**

If a client reaches out after receiving a default against them, there are potential ways to get them out of it. If they reach out quickly a Motion to Set Aside Judgment or a Motion for New Trial may be sufficient. If the party did not receive notice then you can have the judgment set aside. If the party did receive notice then the Court will need evidence that the failure to appear was not intentional or because of indifference, that they have a meritorious defense, and that granting the motion will not cause undue delay or injury to the other party.

If the Client does not meet these factors (and is still within the appropriate deadlines) then an appeal is possible if the evidence presented at default was not sufficient to justify the ruling.



# Justice in Action Toolkit Appendix

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## *Texas Family Law Pro Bono Challenge*

### *Table of Contents for Affidavits*

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**NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA**



Cause Number: \_\_\_\_\_  
(The Clerk's office will fill in the Cause Number when you file this form)

Plaintiff: \_\_\_\_\_  
(Print first and last name of the person filing the lawsuit.)

And

Defendant: \_\_\_\_\_  
(Print first and last name of the person being sued.)

In the (check one):  
☐ District Court  
☐ County Court / County Court at Law  
☐ Justice Court

Court  
Number

Texas

County

**Statement of Inability to Afford Payment of Court Costs  
or an Appeal Bond in Justice Court**

**1. Your Information**

My full legal name is: \_\_\_\_\_ My date of birth is: \_\_\_\_ / \_\_\_\_ / \_\_\_\_  
First Middle Last Month/Day/Year

My address is: (Home) \_\_\_\_\_  
(Mailing) \_\_\_\_\_

My phone number: \_\_\_\_\_ My email: \_\_\_\_\_

About my **dependents**: "The people who depend on me financially are listed below.

Name	Age	Relationship to Me
1 _____	_____	_____
2 _____	_____	_____
3 _____	_____	_____
4 _____	_____	_____
5 _____	_____	_____
6 _____	_____	_____

**2. Are you represented by Legal Aid?**

☐ I am being represented in this case for free by an attorney who works for a legal aid provider or who received my case through a legal aid provider. I have attached the certificate the legal aid provider gave me as 'Exhibit: Legal Aid Certificate.

-or-

☐ I asked a legal-aid provider to represent me, and the provider determined that I am financially eligible for representation, but the provider could not take my case. I have attached documentation from legal aid stating this.

or-

☐ I am not represented by legal aid. I did not apply for representation by legal aid.

**3. Do you receive public benefits?**

☐ I do not receive needs-based public benefits. - or -

☐ I receive these **public benefits/government entitlements** that are based on indigency:

(Check ALL boxes that apply and attach proof to this form, such as a copy of an eligibility form or check)

- ☐ Food stamps/SNAP ☐ TANF ☐ Medicaid ☐ CHIP ☐ SSI ☐ WIC ☐ AABD  
☐ Public Housing or Section 8 Housing ☐ Low-Income Energy Assistance ☐ Emergency Assistance  
☐ Telephone Lifeline ☐ Community Care via DADS ☐ LIS in Medicare ("Extra Help")  
☐ Needs-based VA Pension ☐ Child Care Assistance under Child Care and Development Block Grant  
☐ County Assistance, County Health Care, or General Assistance (GA)  
☐ Other: \_\_\_\_\_



#### 4. What is your monthly income and income sources?

"I get this monthly income:

\$ \_\_\_\_\_ in monthly wages. I work as a \_\_\_\_\_ for \_\_\_\_\_.  
Your job title Your employer

\$ \_\_\_\_\_ in monthly unemployment. I have been unemployed since (date) \_\_\_\_\_.

\$ \_\_\_\_\_ in public benefits per month.

\$ \_\_\_\_\_ from other people in my household each month: (List only if other members contribute to your household income.)

\$ \_\_\_\_\_ from ☐ Retirement/Pension ☐ Tips, bonuses ☐ Disability ☐ Worker's Comp  
☐ Social Security ☐ Military Housing ☐ Dividends, interest, royalties  
☐ Child/spousal support  
☐ My spouse's income or income from another member of my household (If available)

\$ \_\_\_\_\_ from other jobs/sources of income. (Describe) \_\_\_\_\_

\$ \_\_\_\_\_ is my **total monthly** income.

#### 5. What is the value of your property?

"My **property** includes:

**Value\***

Cash \$ \_\_\_\_\_

Bank accounts, other financial assets \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Vehicles (cars, boats) (make and year)

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Other property (like jewelry, stocks, land,  
another house, etc.)

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**Total value of property** → \$ \_\_\_\_\_

#### 6. What are your monthly expenses?

"My **monthly expenses** are:

**Amount**

Rent/house payments/maintenance \$ \_\_\_\_\_

Food and household supplies \$ \_\_\_\_\_

Utilities and telephone \$ \_\_\_\_\_

Clothing and laundry \$ \_\_\_\_\_

Medical and dental expenses \$ \_\_\_\_\_

Insurance (life, health, auto, etc.) \$ \_\_\_\_\_

School and child care \$ \_\_\_\_\_

Transportation, auto repair, gas \$ \_\_\_\_\_

Child / spousal support \$ \_\_\_\_\_

Wages withheld by court order \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Debt payments paid to: (List) \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**Total Monthly Expenses** → \$ \_\_\_\_\_

\*The value is the amount the item would sell for less the amount you still owe on it, if anything.

#### 7. Are there debts or other facts explaining your financial situation?

"My **debts** include: (List debt and amount owed) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(If you want the court to consider other facts, such as unusual medical expenses, family emergencies, etc., attach another page to this form labeled "Exhibit: Additional Supporting Facts.") Check here if you attach another page. ☐

#### 8. Declaration

I declare under penalty of perjury that the foregoing is true and correct. I further swear:

☐ I cannot afford to pay court costs.

☐ I cannot furnish an appeal bond or pay a cash deposit to appeal a justice court decision.

My name is \_\_\_\_\_. My date of birth is : \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_.

My address is \_\_\_\_\_  
Street City State Zip Code Country

▶ \_\_\_\_\_ signed on \_\_\_\_ / \_\_\_\_ / \_\_\_\_ in \_\_\_\_\_ County, \_\_\_\_\_  
Signature Month/Day/Year county name State

Cause Number: \_\_\_\_\_  
Print court information exactly as it appears on your Petition.

In the (check one):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ \_\_\_\_\_ District Court  
☐ County Court at Law No. \_\_\_\_\_  
☐ Justice Court of \_\_\_\_\_

\_\_\_\_\_ County, Texas

## Military Status Affidavit

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

**The person who signed this affidavit appeared, in person, before me, the undersigned notary, and stated under oath:**

"My name is: \_\_\_\_\_  
First Middle Last

"I am above the age of 18 years.

"I am fully competent to make this affidavit.

"The facts stated in this affidavit are within my personal knowledge and are true and correct.

"I am the Petitioner in this case.

"The Respondent is: \_\_\_\_\_  
First Middle Last

- ☐ "I submitted a record request using the Department of Defense personnel locator website, <https://scra.dmdc.osd.mil/scra/>, also known as the Defense Manpower Data Center (DMDC) database.

"The search results showed that the Respondent is not on active duty in any of the armed forces. I have attached a true and correct copy of the DMDC verification to this affidavit.

(If you check this box, you must attach a copy of the DMDC verification. You can print a copy of the DMDC verification from this web address: <https://scra.dmdc.osd.mil/scra/>.)

- ☐ "I believe the Respondent may be in the military. Therefore, I contacted the following military locator services:

Military Locator Service Contacted	Results
<u>Air Force: 210-565-2660</u>	<u></u>
<u>Navy: 866-827-5672</u>	<u></u>
<u>Marines: 800-268-3710</u>	<u></u>

- ☐ I know that the Respondent is not now in the military because:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- ☐ I do not know if the Respondent is in the military now.

\_\_\_\_\_  
Your Signature (Do not sign until you are in front of a notary.)

State of Texas

County of \_\_\_\_\_

SIGNED under oath before me on \_\_\_\_\_, 20\_\_\_\_\_, by

\_\_\_\_\_  
PRINT the first and last names of the person who signed this affidavit.

\_\_\_\_\_  
Notary Public, State of Texas

*(Notary's seal must be included.)*

Cause Number: \_\_\_\_\_  
Print court information exactly as it appears on the Original Petition for Divorce.

**In the Matter of the Marriage of**

In the

\_\_\_\_\_  
(Court Number)

\_\_\_\_\_  
Print first, middle and last name of the spouse filing for divorce.

and

**Respondent:**

\_\_\_\_\_  
Print first, middle and last name of other spouse.

\_\_\_\_\_  
County

Texas

## Affidavit for Prove-Up of Agreed Divorce Without Children

My name is \_\_\_\_\_. I am above the age of eighteen years, and I am fully competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

I am presently married to \_\_\_\_\_.

Before the filing of this suit, I was a domiciliary of Texas for the preceding six-month period and a resident of this county for the preceding ninety-day period.

I filed this divorce at least 60 days ago, on \_\_\_\_\_ [date].

My spouse (check one) ☐ has been served and filed an answer  
☐ has signed a waiver of service

We were married on [date] \_\_\_\_\_, and we ceased to live together as spouses on or about [date] \_\_\_\_\_.

Our marriage has become insupportable because of a discord or conflict of personalities that destroys the legitimate ends of the marriage relationship.

There is no reasonable expectation of reconciliation.

There are no children under age 18 who were born or adopted during this marriage.

No other child is expected at this time.

There has been no family violence or abuse within two years before or during this suit.

There is no bankruptcy proceeding affecting this suit.

My spouse and I have entered into an agreement concerning the division of our property and debts.

The terms of the agreement are just and right. The agreement is fair and equitable to both my spouse and me.

☐ **Name Change.** Check this box and complete this section **ONLY IF** you, the person completing this affidavit, are changing your name in this divorce.

The Petitioner/Respondent (circle one) is requesting a name change to \_\_\_\_\_, a name they had before this marriage.

☐ Check this box **ONLY IF** you, the person completing this affidavit, are changing your name in this divorce.

I am **not** asking the court to change my name to avoid criminal prosecution.

☐ Check this box **ONLY IF** you, the person completing this affidavit, are changing your name in this divorce.

I am **not** asking the court to change my name to avoid payment of debt.

I have submitted an agreed decree of divorce, which has been signed by my spouse and me.

I am asking the court to grant a divorce and approve all the agreements we have entered into.

**Verification** (Party must sign in front of a notary below.)

I am the [Petitioner/Respondent] (circle one). I swear under oath that the facts stated in this Affidavit are true and correct.

\_\_\_\_\_  
Signature of Affiant

**ONLY sign in front of a notary!**

**Notary fills out below.**

State of \_\_\_\_\_  
(Print name of state where this petition is notarized)

County of \_\_\_\_\_  
(Print the name of the county where this Petition is notarized)

Sworn to and subscribed before me, the undersigned notary, on this date: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

by \_\_\_\_\_  
(Print name of person who is signing this Petition. NOT the notary's name.)

[Notary Stamps Here]

 \_\_\_\_\_  
Notary's Signature

Cause Number: \_\_\_\_\_  
(Print court information exactly as it appears on the Original Petition for Divorce)

**In the Matter of the Marriage of**

**Petitioner:** \_\_\_\_\_  
Print first, middle and last name of the spouse filing for divorce.

And

In the \_\_\_\_\_  
(Court Number)

- ☐ District Court  
☐ County Court at Law

**Respondent:** \_\_\_\_\_ County, Texas  
Print first, middle and last name of other spouse.

**And in the Interest of:** (List all children you and your spouse have together who are under 18 or still in high school.)

1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_  
4. \_\_\_\_\_ 5. \_\_\_\_\_ 6. \_\_\_\_\_

## Affidavit for Prove-Up of Agreed Divorce With Children

My name is \_\_\_\_\_. I am above the age of eighteen years, and I am fully competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

I am presently married to \_\_\_\_\_.

Before the filing of this suit, I was a domiciliary of Texas for the preceding six-month period and a resident of this county for the preceding ninety-day period.

We were married on [date] \_\_\_\_\_, and we ceased to live together as spouses on or about [date] \_\_\_\_\_.

Our marriage has become insupportable because of a discord or conflict of personalities that destroys the legitimate ends of the marriage relationship.

There is no reasonable expectation of reconciliation.

The following children of the marriage who are under the age of 18 were born or adopted during this marriage:

	Child's name	Sex	Date of Birth
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

(Check one box.)

- ☐ The Wife **did not** have any children with another man while married to the Husband.
- ☐ The Wife **did** have a child or children with another man while married to the Husband. All of the children born during the marriage that are not the husband's adopted or biological children are named below:

	Child's name	Sex	Date of Birth
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____

Paternity of each child listed above **has** been established as set out below:

(Check one box below. Attach copy of court order or Acknowledgement and Denial of Paternity for each child.)

- ☐ A court order has established that another man is the biological father and/or the Husband is not the biological father of the child(ren) listed here:

\_\_\_\_\_.  
A copy of the court order is attached to this Decree as Exhibit \_\_\_\_.

- ☐ An Acknowledgement of Paternity was signed by the biological father and a Denial of Paternity was signed by the Husband for the child(ren) listed here:

\_\_\_\_\_.  
Each Acknowledgment and Denial of Paternity was filed with the Vital Statistics Unit. A copy of each Acknowledgment and Denial of Paternity is attached to this Decree as Exhibit(s) \_\_\_\_\_.

No other child is expected at this time. Neither spouse in the marriage is pregnant.

We agree that (check only what applies):

- ☐ We will be joint managing conservators of the children
- ☐ \_\_\_\_\_ (spouse) will be sole managing conservator and  
\_\_\_\_\_ (other spouse) will possessory conservator of the children.

My spouse and I agree to

- ☐ the standard possession order
- ☐ other visitation / possession and access schedule (describe):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ will pay child support, medical support, and dental support  
to \_\_\_\_\_ as stated in the final decree presented to this court.

\_\_\_\_\_ (parent responsible for insuring child) will provide health insurance for the children

I believe that these provisions for conservatorship, possession and access, and child support, medical support, and dental support are in the best interest of the child(ren).

There has been no family violence or abuse within two years before or during this suit.

There is no bankruptcy proceeding affecting this suit.

My spouse and I have entered into an agreement concerning the division of our property and debts. The agreement is in the Final Decree of Divorce that we have submitted to this Court.

I believe that the terms of the agreement are just and right and that the agreement is fair and equitable to both my spouse and me.

The Petitioner/Respondent (circle one) is requesting a name change to

\_\_\_\_\_.

I have submitted an agreed decree of divorce, which has been signed by my spouse and me.

I am asking the court to grant a divorce and approve all the agreements we have entered into.

**Verification** (Party must sign in front of a notary below.)

I am the [Petitioner/Respondent] (circle one). I swear under oath that the facts stated in this Affidavit are true and correct.

\_\_\_\_\_  
Signature of Affiant

**ONLY sign in front of a notary!**

**Notary fills out below.**

State of \_\_\_\_\_  
(Print name of state where this petition is notarized)

County of \_\_\_\_\_  
(Print the name of the county where this Petition is notarized)

Sworn to and subscribed before me, the undersigned notary, on this date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

by \_\_\_\_\_  
(Print name of person who is signing this Petition. NOT the notary's name.)

[Notary Stamps Here]



Notary's Signature