

# The 2025 Texas Family Law Reset: *Legislative Changes and Supreme Court Updates*

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# 2025 SCOTX Caselaw Update



# ***In re J.Y.O.*, 709 S.W.3d 485 (Tex. 2024)**

## **Facts**

H earned an annual Bank of America bonus based on prior-year performance.

Divorce was pronounced in December 2019, but the bonus was paid in February 2020.

The bonus related to work performed during the marriage.

Other issues involved a residence retitled into both spouses' names and a 401(k) tracing claim.

## **Holding**

A bonus earned in whole or in part during marriage is community property, even if paid after divorce and contingent on later events.

Characterization turns on when compensation is earned, not when it is paid or vested.

The residence transfer created a gift presumption that H did not rebut.

H also failed to clearly trace the 401(k) as separate property.

## **Effect / Rule**

Clarifies that *Loya* depended on an MSA, not on bonus timing.

Reaffirms that deferred compensation tied to marital labor is community property.

Supreme Court reversed on the bonus, affirmed on the residence and 401(k), and remanded property issues.



# *In re Benavides*, 712 S.W.3d 561 (Tex. 2025)

## Facts

After H developed dementia, his daughter Linda became guardian. Linda filed for divorce on H's behalf.

The trial court granted a divorce and enforced marital property agreements.

H later died, and competing probate claims made the validity of the divorce critical.

## Holding

The appeal was not moot merely because H died after the decree, because validity of the divorce affected property rights.

A guardian cannot file for divorce unless the guardianship order expressly authorizes it.

The court must also make clear-and-convincing best-interest findings before allowing that filing.

Because no such authorization or findings existed, the divorce decree was invalid.

## Effect / Rule

General authority to bring suit does not automatically include authority to seek divorce.

The decision imposes a strict procedural safeguard for guardian-filed divorces.

The Supreme Court vacated the decree and dismissed the divorce action.



# ***Mehta v. Mehta*, 716 S.W.3d 126 (Tex. 2025)**

## **Facts**

W was the primary caregiver for triplets, including one child with extensive medical needs.

W had limited earnings and sought spousal maintenance in the divorce.

The trial court awarded child support and spousal maintenance.

The court of appeals reversed, treating child support as available income showing W could meet her needs.

## **Holding**

Child support may be counted as income in a maintenance analysis only if the court also accounts for child-related expenses.

The minimum-reasonable-needs inquiry is not purely mathematical.

Courts may consider both quantitative evidence and qualitative evidence about actual caregiving burdens.

The evidence supported maintenance because W was the primary custodian of a child requiring substantial care.

## **Effect / Rule**

Courts must evaluate both sides of the ledger: support coming in and child-related costs going out.

The Supreme Court reversed the court of appeals and reinstated the maintenance award.



# 2025 Legislative Update



## § 85.025 – Duration of Protective Order (a-2, a-3, a-4)

(a-2) If an order under this subtitle is rendered against a respondent who is a party to a suit for dissolution of a marriage in which the applicant or a member of the applicant's family or household is the other party, the order is effective until the second anniversary of the date on which **the final decree of dissolution** of the marriage is approved and signed by the judge.

(a-3) If an order under this subtitle is rendered against a respondent who is a party to a suit affecting the parent-child relationship in which the applicant or a member of the applicant's family or household is also a party, the order is effective until the second anniversary of the date on which **the final order** in the suit is rendered by the court.

(a-4) If an order under this subtitle is rendered against a respondent who is charged with a criminal offense involving family violence under Title 5, Penal Code, or an offense under Section 25.11, Penal Code, the order is effective until the second anniversary of the date of **the final disposition of the criminal case**.



# Effect – Protective Orders

- Expanded duration provisions



# § 102.003 – General Standing to File Suit (AMENDED)

(a) An original suit may be filed at any time by:

...

(9) a person, other than a foster parent, relative, or designated caregiver of a child placed by the Department of Family and Protective Services, who has had exclusive ~~[actual]~~ care, control, and possession of the child for at least six months ending not more than 90 days preceding the date of the filing of the petition;

...

(12) ~~[(13)]~~ a person who is a relative of the child within the fourth ~~[third]~~ degree by consanguinity, as determined by Chapter 573, Government Code, if the child's parents are deceased at the time of the filing of the petition;



# Effect – Standing

- Expanded standing to 4th degree relatives
  - first cousins, great-great-grandparents, great-aunts/uncles, and grand-nieces/nephews.
- Broader access to SAPCR filings for blood relatives



# § 102.0031 – Affidavit (ADDED)

(a) A nonparent who files or intervenes... shall execute and serve... an affidavit that:

(1) attests... denying the relief sought would significantly impair the child's physical health or emotional development;

(2) contains facts that support the allegation.

(b) The court shall deny the relief sought and dismiss the suit... unless... adequate facts...



# Effect – Affidavit Requirement

- Requires detailed pleadings at filing
- Raises threshold for nonparent cases



## § 102.004 – Standing for Certain Relatives (AMENDED)

(a) ...a grandparent, or another relative of the child related within the fourth ~~[third]~~ degree by consanguinity, may file an original suit requesting managing conservatorship if there is satisfactory proof to the court that:

(1) the order requested is necessary because the child's present circumstances would significantly impair the child's physical health or emotional development; or

(2) both parents... consented...



# Effect – Relative Standing

- Expansion of eligible relatives
- Likely increase in intervention cases



## § 107.024 – Appointment of Amicus Attorney (ADDED)

(a) The court... may appoint an amicus attorney in any suit.

(b) In determining whether to make an appointment under this section, the court:

...

(2) may make an appointment only if... necessary to ensure the determination of the best interests of the child...



# § 107.027 – Limitations on Amicus (ADDED)

(a) An amicus attorney may not:

(1) offer an opinion regarding conservatorship or possession of or access to a child subject to a suit;

(2) engage in ex parte communications with the court;

(3) Be compelled to produce attorney work product developed during the appointment of the amicus attorney;

(4) ... be required to disclose the source of any information;

(5) submit a report into evidence; or

(6) testify in court, except:

\_\_\_\_ (A) as authorized under Rule 3.08, Texas Disciplinary Rules of Professional Conduct; or

\_\_\_\_ (B) as necessary for the court to make a determination relating to the qualifications, conflicts of interest, bias, or removal of the amicus attorney.



# § 107.0275 – Removal of Amicus (ADDED)

The court shall remove an amicus attorney if, after notice and hearing, the court finds that the amicus attorney:

(A) does not have the minimum qualifications...;

(B) has a conflict of interest or bias...;

(C) failure to perform duties...;

(D) violates a standard of care...; or

(E) requests to be removed because a party to the suit has prevented the amicus attorney from fulfilling the duties of the amicus attorney.



# Effect – Amicus

- Narrows amicus role significantly
- More defined statutory limits



## § 151.001(a) – Rights and Duties of Parent (AMENDED)

A parent of a child has the following rights and duties:

...

(10) the right to make decisions concerning the child's education; ~~and~~

(11) the right to designate the school the child will attend and to enroll the child in the school, subject to any eligibility or admissions requirements; and

(12) any other right or duty existing between a parent and child by virtue of law.



# Effect – Parental Rights

- Clarifies education-related rights
- More precise allocation required
- Minimizes meaning of right to designate a child's primary residence



## § 156.107 – Modification on Contempt (ADDED)

A finding by the court that a conservator is in contempt of court for the denial of court-ordered possession of or access to a child and has previously been found in contempt of court at least three times for failure to comply with the terms of an order providing for possession of or access to the child constitutes a material and substantial change of circumstances sufficient to justify modification of an existing court order or portion of a decree that provides for the appointment of a conservator or that sets the terms and conditions of conservatorship or for the possession of or access to the child.



# Effect – Enforcement

- Contempt now supports modification
- Stronger enforcement remedy



# § 154.125 – Application of Guidelines to Net Resources

New monthly net resources cap at **\$11,700.00**, up from \$9,200.00.

Number of Children Before the Court

	1	2	3	4
0	\$2,340 (20%)	\$2,925 (25%)	\$3,510 (30%)	\$4,095 (35%)
1	\$2,047.50 (17.5%)	\$2,632.50 (22.5%)	\$3,203.46 (27.38%)	\$3,767.40 (32.2%)
2	\$1,872 (16%)	\$2,413.71 (20.63%)	\$2,948.40 (25.2%)	\$3,548.61 (30.33%)

Number of other children for whom the obligor has a duty of support





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