

IN THE SUPREME COURT OF TEXAS

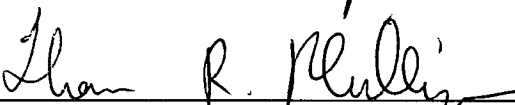
Misc. Docket No. 01- 9032

ORDER APPROVING LOCAL RULES OF THE 65TH DISTRICT COURT, EL PASO COUNTY, RELATING TO CHILD PROTECTION CASES


ORDERED that:

Pursuant to Rule 3a of the Texas Rules of Civil Procedure, the following Local Rules of the 65TH District Court, El Paso County, relating to child protection cases are approved. This approval is temporary pending further orders of the Court.

BY THE COURT, IN CHAMBERS, this 12th day of February, 2001.



Thomas R. Phillips, Chief Justice



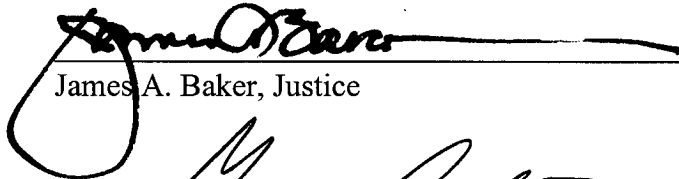
Nathan L. Hecht, Justice



Craig T. Enoch, Justice



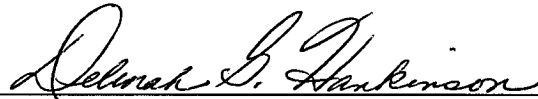
Priscilla R. Owen, Justice



James A. Baker, Justice



Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill

**65TH DISTRICT COURT RULES FOR
CHILD PROTECTION CASES**

I FILING CHILD PROTECTION CASES

- 1.1 Child protection cases (CPC) and adoptions stemming from a child protection case are to be filed in the 65th District Court
- 1.2 CPC cases shall be heard upon Orders of Referral from the District Court pursuant to Chapter 201 of the Texas Family Code filed on the 26th day of October 1995.
- 1.3 Pursuant to 201.005 of the Texas Family Code, a party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial. A copy of the filed objection shall be provided to the referring court, the Associate Judge and County Attorney within three days by the attorney filing same when filed with the District Court.

II PRETRIAL

Pretrial conferences

- 2.1 To assist in the disposition of CPC cases, attorneys are directed to appear at a pretrial conference by order of the Court.
- 2.2 Statements of paternity and affidavits of status shall be brought to the pretrial and filed by the full adversary hearing.

Motions for Continuance

- 2.3 Notice of filing of motion must be served on opposing counsel.
- 2.4 Any ground for continuance shall be presented to the court at least 10 days prior to hearing absent exigent circumstances.
- 2.5 Agreed motions for continuance signed by all parties shall be granted unless the delay would unreasonably interfere with the other business of the court. Motions for continuance will not be granted absent a showing of compelling reasons, which must be clearly articulated in the motion. Requesting Party must prepare a written agreement, all attorneys must sign, and the motion filed with the District Clerk. The agreed motion shall be accompanied by an order setting hearing or mediation and presented to the Associate Judge. Before requesting a date for hearing or mediation, the requesting party shall make reasonable efforts to ascertain from the other parties and then inform the court coordinator of potential conflict in the attorney's schedules.

- 2.6 The requesting party shall then promptly serve all other parties/witnesses with written notice of the new setting for hearing.
- 2.7 All military leave and vacation requests shall be honored when timely filed.
- 2.8 Local rule 3.07 governing all the Courts' policies on continuances shall be incorporated by reference.

Pretrial Motions/Preliminary Matters

- 2.9 All motions shall be in writing and shall have a proposed order attached granting the relief sought.
- 2.10 All motions will be disposed of at the scheduled hearing, unless circumstances dictate their immediate disposal. Motion requiring immediate disposition should be submitted with a Motion and Order Setting Hearing attached.

III MOTIONS ON SPECIFIC ISSUES BETWEEN REVIEW HEARINGS

Agreed Motions and Orders

Agreed motions and orders by all affected parties shall be granted without hearing if all parties are in agreement. Agreements can be made through signature or by verbal agreements memorialized in the order.

Visitation and Trip Requests

- 3.1 Between review hearings any Party may present a written file stamped motion and proposed order regarding changes in visitation or requests. The motion shall include previous visitation orders along with clearly articulated requested changes and reason for change. All parties must agree on supervision, frequency, times and locations of visitations. The agreements must be signed by all affected parties in order for the change to occur. The order must be filed with the District Court and served upon all parties.

Change in School Placement and Change in Substitute Care Placement

- 3.2 Changes in school placement or substitute care placement shall become effective upon agreement of all affected parties. Guardian ad litem or attorney ad litem should visit prospective placement.

Emergency Change in Substitute Care placement.

- 3.3 Emergency placements within El Paso County only may be done without hearing. Caseworker shall file a written report within two (2) working days of learning of the incident and provide to all parties and the Associate Court the working day thereafter.

- 3.4 Emergency placements outside El Paso County may be done without hearing only if by agreement signed by the ad litem for the child and TDPRS.

Serious Incident Reports

- 3.5 Serious incident reports shall be filed in all cases where the incident violates a court order or places the children in danger of health or safety. Cessation of visitation or changes in placement justified by the incident shall be included in the specific incident report. Serious incident reports shall be filed within two (2) working days of learning of the incident.

Extensions

- 3.6 Agreed motions and orders for extensions shall be granted without hearing if the statutory requirements are met and the reasons are outlined with specificity.

IV HEARINGS

- 4.1 Persons other than attorneys who should always be present at Hearings:
- 4.1.1 Those required by law or the Family Code;
 - 4.1.2 Custodial adults;
 - 4.1.3 Foster parents;
 - 4.1.4 Assigned caseworker;
 - 4.1.5 CASA

Transcripts

- 4.2 Court-appointed attorney ad litem requesting a transcript of a hearing held before the Associate Judge must file a Motion Requesting a Hearing Transcript.

Jury Requests

- 4.3 At least ninety days before dismissal a party shall request a bench setting and a back-up jury setting. Notwithstanding, requests for jury trial shall be made at least 30 days before the scheduled bench trial.

V AD LITEMS

Attorney Ad litem Appointments

- 5.1 The Court shall appoint an attorney ad litem in all cases as required by 107 of the Texas Family Code, unless otherwise designated by court order.
- 5.2 Attorney Ad Litem Pool

The District Judge will establish an ad litem pool from which attorney ad litem will be appointed. To be eligible for the ad litem pool, an attorney must have completed the required ad litem training.

5.3 Responsibility of Ad Litem

5.3.1 Observe and adhere to all Texas Disciplinary Rules of Professional Conduct as well as the American Bar Associate Canons and Guidelines.

5.3.2 Observe and adhere to Powers and Duties of Attorney AD litem for child under the Texas Family Code 107.

5.3.3 Ensure that incarcerated clients are bench warranted or otherwise requested for hearings should their presence be necessary.

Guardian Ad litem Appointments

5.4 The District Judge will establish a guardian ad litem pool from which guardian ad litem will be appointed. To be eligible for the ad litem pool a guardian must complete the prerequisite training or obtain a waiver for the District Court.

5.5 Responsibility of guardian ad litem:

5.5.1 Client Contact

5.5.1.1 Meet with clients no less than once before the Show Cause Hearing, thereafter every thirty (30) days.

5.5.1.2 Meet with clients after each hearing.

5.5.1.3 Guardian whose clients reside outside of EL Paso County are required to communicate with clients no less than once a month and meet with them no less than every 120 days.

5.5.1.4 Guardians who represent clients less than four years shall, in addition, meet with the child's primary custodian.

5.5.2 Provide direction to the Attorney Ad litem on the child's best interests.

5.5.3 GAL shall file an ad litem report three (3) days before hearing and provide to all parties.

APPROVED THIS 26TH DAY OF OCTOBER, 2000.



JUDGE WILLIAM E. MOODY
LOCAL ADMINISTRATIVE JUDGE
34TH DISTRICT COURT

APPROVED THIS 16 DAY OF Nov. , 2000.



JUDGE STEVEN ABLES
REGIONAL PRESIDING JUDGE

APPROVED THIS _____ DAY OF _____, 2000 BY THE
TEXAS SUPREME COURT.



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

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TEL: (512) 463-1312

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JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

February 13, 2001

Hon. William E. Moody
Admin. Judge and Judge
34th District Court
500 E. San Antonio, #905
El Paso, Texas 79901

Dear Judge Moody,

Please find enclosed, a copy of the order of the Supreme Court that temporarily approved local rules for the 65th District Courts of El Paso County.

Sincerely,

SIGNED

John T. Adams
Clerk

Encl.

cc: Hon. Steven Ables
6th Admin Judicial Rgn

Hon. Alfredo Chavez

District Clerk

County Clerk

Supreme Court Adv Committee

State Law Library