

Supreme Court of Texas

Misc. Docket No. 22-9104

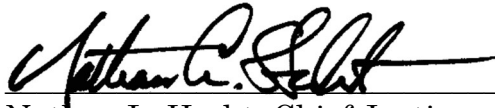
Preliminary Approval of Texas Rule of Civil Procedure 306b and Texas Rule of Judicial Administration 17 and of Amendments to Texas Rules of Appellate Procedure 25.1, 28.4, and 32.1 and Texas Rule of Judicial Administration 6.2

ORDERED that:

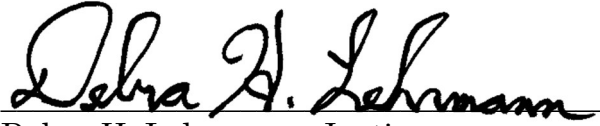
1. In accordance with the Act of May 13, 2015, 84th Leg., R.S., ch. 74 (S.B. 888) (codified at TEX. FAM. CODE § 56.01(h-1)), the Court issued Misc. Dkt. No. 15-9156, effective September 1, 2015, to govern actions under the Juvenile Justice Code, Title 3 of the Family Code, pending the adoption of rules. The Court now invites public comment on proposed new Texas Rule of Civil Procedure 306b and proposed amendments to Texas Rules of Appellate Procedure 25.1, 28.4, and 32.1 and Texas Rule of Judicial Administration 6.2.
2. In accordance with the Act of May 25, 2019, 86th Leg., R.S., ch. 844 (H.B. 2737) (codified at TEX. GOV'T CODE § 22.0135(b)), the Court invites public comment on proposed new Texas Rule of Judicial Administration 17.
3. The amendments to Texas Rules of Appellate Procedure 25.1, 28.4, and 32.1 and Texas Rule of Judicial Administration 6.2 are demonstrated in redline form. New Texas Rule of Civil Procedure 306b and Texas Rule of Judicial Administration 17 are demonstrated in clean form.
4. Comments regarding the proposed new and amended rules should be submitted in writing to rulescomments@txcourts.gov by May 1, 2023.
5. The Court will issue an order finalizing the rules after the close of the comment period. The Court may change the rules in response to public comments. The Court expects the rules to take effect on June 1, 2023. The order finalizing the rules will supersede Misc. Dkt. No. 15-9156.

6. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

Dated: November 30, 2022.



Nathan L. Hecht, Chief Justice



Debra H. Lehrmann, Justice



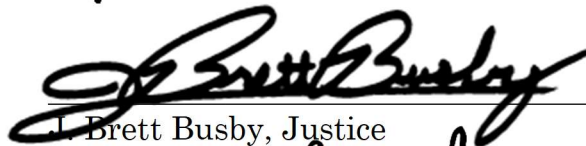
Jeffrey S. Boyd, Justice



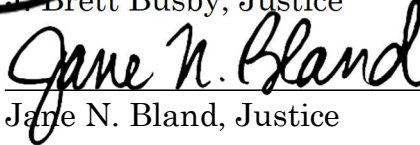
John P. Devine, Justice



James D. Blacklock, Justice



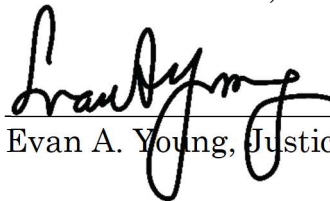
J. Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice

Texas Rules of Civil Procedure

RULE 306b. ADVICE OF RIGHT TO APPEAL IN ORDERS CERTIFYING A CHILD TO STAND TRIAL AS AN ADULT (Clean Form)

When a juvenile court issues an order under Family Code section 54.02 certifying a child to stand trial as an adult, the court must inform the child and the child's attorney, orally on the record and in writing in the certification order, that:

- (a) the child may immediately appeal the certification order under Family Code section 56.01; and
- (b) the appeal is accelerated under Texas Rule of Appellate Procedure 28.1.

Notes and Comments

Comment to 2023 change: This rule is adopted to implement Texas Family Code section 56.01(h-1).

Texas Rules of Appellate Procedure

Rule 25. Perfecting Appeal (Redline Form)

25.1. Civil Cases

- (d) *Contents of Notice.* The notice of appeal must:
 - (1) identify the trial court and state the case's trial court number and style;
 - (2) state the date of the judgment or order appealed from;
 - (3) state that the party desires to appeal;
 - (4) state the court to which the appeal is taken unless the appeal is to either the First or Fourteenth Court of Appeals, in which case the notice must state that the appeal is to either of those courts;
 - (5) state the name of each party filing the notice;
 - (6) in an accelerated appeal, state that the appeal is accelerated and state whether it is a parental termination or child protection case

or an appeal from an order certifying a child to stand trial as an adult, as defined in Rule 28.4;

- (7) in a restricted appeal:
 - (A) state that the appellant is a party affected by the trial court’s judgment but did not participate—either in person or through counsel—in the hearing that resulted in the judgment complained of;
 - (B) state that the appellant did not timely file either a postjudgment motion, request for findings of fact and conclusions of law, or notice of appeal; and
 - (C) be verified by the appellant if the appellant does not have counsel.
- (8) state, if applicable, that the appellant is presumed indigent and may proceed without paying costs under Rule 20.1.

Comment to 2023 change: Rule 25.1 is amended to implement Texas Family Code section 56.01(h-1).

**Rule 28. Accelerated, Agreed, and Permissive Appeals in Civil Cases
(Redline Form)**

28.4. Accelerated Appeals in Parental Termination and Child Protection Cases and From Orders Certifying a Child to Stand Trial as an Adult

- (a) *Application and Definitions.*
 - (1) Appeals in parental termination and child protection cases and from an order certifying a child to stand trial as an adult are governed by the rules of appellate procedure for accelerated appeals, except as otherwise provided in Rule 28.4.
 - (2) In Rule 28.4:
 - (A) a “parental termination case” means a suit in which termination of the parent-child relationship is at issue.

(B) a “child protection case” means a suit affecting the parent-child relationship filed by a governmental entity for managing conservatorship.

(C) an “order certifying a child to stand trial as an adult” is an order under Family Code section 54.02 waiving juvenile court jurisdiction and transferring a child for prosecution in a district or criminal district court.

(b) *Appellate Record.*

- (1) Responsibility for Preparation of Reporter’s Record. In addition to the responsibility imposed on the trial court in Rule 35.3(c), when the reporter’s responsibility to prepare, certify and timely file the reporter’s record arises under Rule 35.3(b), the trial court must direct the official or deputy reporter to immediately commence the preparation of the reporter’s record. The trial court must arrange for a substitute reporter, if necessary.
- (2) Extension of Time. The appellate court may grant an extension of time to file a record under Rule 35.3(c); however, the extension or extensions granted must not exceed 30 days cumulatively, absent extraordinary circumstances.
- (3) Restriction on Preparation Inapplicable. Section 13.003 of the Civil Practice & Remedies Code does not apply to an appeal from a parental termination or child protection case or an order certifying a child to stand trial as an adult.

Comment to 2023 change: Rule 28.4 is amended to implement Texas Family Code section 56.01(h-1).

Rule 32. Docketing Statement (Redline Form)

32.1. Civil Cases

Promptly upon filing the notice of appeal in a civil case, the appellant must file in the appellate court a docketing statement that includes the following information:

- (g) whether the appeal’s submission should be given priority, whether the appeal is an accelerated one under Rule 28.1 or another rule or statute, and whether it is a parental termination or child protection case or an appeal from an order certifying a child to stand trial as an adult, as defined in Rule 28.4;

Comment to 2023 change: Rule 32.1 is amended to implement Texas Family Code section 56.01(h-1).

Texas Rules of Judicial Administration

Rule 6. Time Standards for the Disposition of Cases. (Redline Form)

Rule 6.2 Appeals in Certain Cases Involving the Parent-Child Relationship and From Orders Certifying a Juvenile to Stand Trial as an Adult.

In an appeal of a suit for termination of the parent-child relationship or a suit affecting the parent-child relationship filed by a governmental entity for managing conservatorship, or an appeal from an order under Family Code section 54.02 certifying a juvenile to stand trial as an adult, appellate courts should, so far as reasonably possible, ensure that the appeal is brought to final disposition in conformity with the following time standards:

- (a) **Courts of Appeals.** Within 180 days of the date the notice of appeal is filed.
- (b) **Supreme Court.** Within 180 days of the date the petition for review is filed.

Comment

Comment to 2023 change: Rule 6.2 is amended to implement Texas Family Code section 56.01(h-1).

Rule 17. Use of Restraints in Juvenile Court. (Clean Form)

(a) Restraints, such as handcuffs, chains, irons, and other similar items, must not be used on a child during a juvenile court proceeding unless the court determines that the use of restraints is necessary because the child presents a substantial risk of:

- (1) inflicting physical harm on the child or another person; or
- (2) flight from the courtroom.

(b) A party may request an opportunity to be heard on the necessity of restraints. The court may hold a hearing to determine whether the use of restraints is necessary and must, when feasible, make that determination before the child enters the courtroom and appears before the court.

(c) If the court determines that the use of restraints is necessary, the court must:

- (1) order the least restrictive type of restraint necessary to prevent physical harm or flight; and
- (2) make findings of fact in support of the determination on the record or in a written order.

(d) This rule does not apply to the use of restraints when transporting the child to or from the courtroom.

Comment

Comment to 2023 change: This rule is adopted to implement Texas Government Code section 22.0135(b).