
APPEALS

Legal Overview of Appeals

Texas Family Code

Title 5. The Parent-Child Relationship & the Suit Affecting the Parent-Child Relationship
Chapter 263. Review of Placement of Children under Care of Department of Family and Protective
Services

Subchapter E. Final Order for Child under DFPS Care

An appeal of a final order rendered under [Tex. Fam. Code Chapter 263, Subchapter E](#) is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure and the appellate court must render its final order or judgment with the least possible delay. [Tex. Fam. Code § 263.405\(a\)](#). Also, the final order must contain the following prominently displayed statement in boldfaced type, in capital letters, or underline:

“A PARTY AFFECTED BY THIS ORDER HAS THE RIGHT TO APPEAL. AN APPEAL IN A SUIT IN WHICH TERMINATION OF THE PARENT-CHILD RELATIONSHIP IS SOUGHT IS GOVERNED BY THE PROCEDURES FOR ACCELERATED APPEALS IN CIVIL CASES UNDER THE TEXAS RULES OF APPELLATE PROCEDURE. FAILURE TO FOLLOW THE TEXAS RULES OF APPELLATE PROCEDURE FOR ACCELERATED APPEALS MAY RESULT IN THE DISMISSAL OF THE APPEAL.”
[Tex. Fam. Code § 263.405\(b\)](#).

A. Specific Grounds Must Be Stated In Trial Court Judgment

The Texas Rules of Civil Procedure require the judge to state the specific grounds in the judgment supporting the termination or the appointment of the managing conservator. [Tex. R. Civ. P. 306](#).

B. Parent Deemed Indigent on Appeal

Parents deemed indigent in the trial court are presumed indigent on appeal, subject to challenges laid out in [Tex. R. App. P. 20.1](#). [Tex. Fam. Code § 107.013\(e\)](#).

C. Attorney Ad Litem Required to Remain on Case

The attorney ad litem appointed to represent the parent at trial is required to remain on the case until the case is dismissed, the date all appeals in relation to any final order terminating parental rights are exhausted or waived, or until relieved of the duty or replaced by another attorney after a finding of good cause is rendered by the court on the record. [Tex. Fam. Code § 107.016\(3\)](#).

D. Trial Court Clerk Has Specific, Time-sensitive Duties

The Texas Rules of Appellate Procedure require the trial court clerk to immediately send a copy of the notice of appeal to the appellate court clerk and to the court reporter(s) responsible for preparing the record. [Tex. R. App. P. 25.1\(f\)](#).

The Texas Rules of Appellate Procedure require the trial court to direct the official or deputy reporter to commence the preparation of the reporter's record and arrange for a substitute reporter, if necessary. There are extensions of time available under certain circumstances. [Tex. R. App. P. 28.4\(b\)\(1\)](#).

E. Application of Tex. Civ. Prac. & Rem. Code § 13.003 Prohibited

The Texas Rules of Appellate Procedure prohibit the application of [Tex. Civ. Prac. & Rem. Code § 13.003](#) (Free Transcript of Statement of Facts on Appeal) to an appeal from a parental termination or child protection case. [Tex. R. App. P. 28.4\(b\)\(3\)](#).

F. Effective Assistance of Counsel

Case law has established that if a parent is entitled to court-appointed counsel, the parent is entitled to effective assistance of counsel. *In re J.O.A., et. al.*, [283 S.W. 3d 336, 347](#) (Tex. 2009). The Supreme Court of Texas has held that the right to appointed counsel extends to proceedings in the Supreme Court of Texas including a Petition for Review as well as an *Anders* brief and motion to withdraw. *In re P.M.*, [520 S.W.3d 24](#) (Tex. 2016).

G. Order or Judgment Cannot Be Suspended During Pendency of Appeal

Although a court may suspend other orders under the Family Code, the court may not suspend the operation of an order or judgment terminating the parent child relationship in a suit brought by the state or a political subdivision of the state during the pendency of the appeal. [Tex. Fam. Code § 109.001\(d\)](#).

H. Notice of Appeal and Appellant Duties

The Texas Rules of Appellate Procedure require the notice of appeal to state whether it is a parental termination or child protection case subject to rules of acceleration under [Tex. R. App. P. 28.4](#). [Tex. R. App. P. 25.1\(d\)\(6\)](#).

The Texas Rules of Appellate Procedure also require the appellant to file in the appellate court a docketing statement upon filing the notice of appeal and it must state whether the appeal is an appeal of a parental termination or child protection case as defined in [Tex. R. App. P. 28.4](#). [Tex. R. App. P. 32.1\(g\)](#).

I. Case Law Update

Each year, DFPS produces a case law update of select child protection cases. The 2021 Termination Case Law Update was prepared by the DFPS Appellate Unit: Michael D. Becker, Leslie Capace, Caroline Carow, Kellie Starr Price, Jerry L. Reyes, Rebecca L. Safavi, and Eric T. Tai.

The [2021 DFPS Termination Case Law Update](#) is available online.¹⁶