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Resource Letter:

For Judges and Attorneys Handling Child Protective Services Cases

March 19, 2020

Supreme Court Emergency Orders Suspending Deadlines and Procedures

Today, Thursday, March 19, 2020, the Supreme Court of Texas issued Misc. Docket No. 20-9044 clarifying that Paragraph 2(a) of the Supreme Court First Emergency Order, Misc. Docket No. 20-9042, issued on Friday, March 13, 2020 and restated below, applies to all proceedings under Subtitle E, Title 5, of the Family Code and specifically, to the deadlines in Texas Family Code Section 263.401 which may or must be modified or suspended, as clearly stated in the Order, to avoid the risks of disaster and still protect the interests of all involved in these difficult circumstances. Please link [here](#) to read the full order.

On March 13, 2020, pursuant to authority granted by the Texas Government Code Section 22.0035(b), [1] the Supreme Court of Texas issued Misc. Docket No. 20-9042 stating in pertinent part that, subject only to constitutional limitations, all courts in Texas may in any case, civil or criminal – and must to avoid risk to court staff, parties, attorneys, jurors, and the public – without a participant's consent:

- Modify or suspend any and all deadlines and procedures, whether prescribed by statute, rule, or order, for a stated period of time ending no later than 30 days after the Governor's state of disaster has been lifted;

- Allow or require anyone involved in any hearing, deposition, or other proceeding of any kind—including but not limited to a party, attorney, witness, or court reporter, but not including a juror—to participate remotely, such as by teleconferencing, videoconferencing, or other means;
- Consider as evidence sworn statements made out of court or sworn testimony given remotely, out of court, such as by teleconferencing, videoconferencing, or other means;
- Conduct proceedings away from the court’s usual location, but in the county of venue, and only with reasonable notice and access to the participants and the public;
- Require every participant in a proceeding to alert the court if the participant has, or knows of another participant who has, COVID-19 or flu-like symptoms, or a fever, cough or sneezing; and
- Take any other reasonable action to avoid exposing court proceedings to the threat of COVID-19.

The order is set to expire on May 8, 2020, unless it is extended by the Chief Justice of the Supreme Court of Texas. Please link [here](#) to read the full order.

Please also stay tuned for more guidance from the Children’s Commission regarding various matters affecting child protection cases across the state, including but not limited to Service Plans, Family Visitation, Permanency Review Hearings, and Attorney-Client meetings. At this time please be aware that the Texas Department of Family and Protective Services (DFPS) would like all attorneys and judges handling child protection cases to be reminded that not considering Motions to Participate, Motions for Court Ordered Services, and Orders in Aid of Investigation may leave fewer options to keep families together.

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