William P. Statsky

Texas Supplement to Accompany

Family Law

Fifth Edition

Prepared by

David Jarosewski
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In this supplement, a page reference follows each head (Statsky–000). This page reference correlates with William Statsky’s textbook, Family Law, Fifth Edition.

This supplement is not a practice guide. It should not be relied on to answer legal questions concerning actual client situations. Statements of statutes are not complete or verbatim; they are paraphrased unless an exact quote is indicated by quotation marks. The legal assistant or practitioner must consult primary and secondary sources of Florida law concerning specific client situations.
INTRODUCTION TO FAMILY LAW AND PRACTICE

Your State Statutory Code (Statsky 17)

The bulk of primary Texas Family Law is found in the Texas Family Code. The code is divided into five titles:

1. Title One: The Marriage Relationship (creation of the relationship, property rights and liabilities, and Dissolution of the Relationship)
2. Title Two: Child in Relation to the Family (limitations of minority, parental immunity, name change)
3. Title Three: Juvenile Justice Code
4. Title Four: Protective Orders and Family Violence
5. Title Five: The Parent-Child Relationship (suit affecting the relationship, judicial resources, administrative services, protection of the child)

West Group’s Texas Family Code Annotated is commonly found in Texas law offices. Citation examples are below. The year of publication is noted in parenthesis.

Hard Bound Volume: TEX. FAM. CODE ANN. § 1.003 (Vernon 19__)  
Pocket Part: TEX. FAM. CODE ANN. § 1.003 (Vernon Supp. 200__)

Court Rules (Statsky 17)

The Texas Rules of Civil Procedure governs the procedure of civil litigation, including pleadings, service of process, discovery, and conduct of trials.

State Court Opinions and Digests (Statsky 17)

Opinions of the 14 Texas Courts of Appeal, the Texas Supreme Court, and the Texas Court of Criminal Appeals are reported in West’s Southwestern Reporter, which is currently published in its third series. A Texas Case version of the Southwestern Reporter that includes only cases from Texas courts is commonly found in Texas law offices.

The Texas Digest, Second Series is a unit of West’s American Digest System and serves as an index to the Southwestern Reporter.

Practice Manual (Statsky 17)

Family Law practice manuals commonly found in Texas law offices include West’s Handbook of Texas Law by Judge Don Koons. Additionally, a number of Texas-specific family law formbooks have been published.
ETHICS (Statsky 28)

The Texas Disciplinary Rules of Professional Conduct regulates attorney conduct in Texas.

Fees (Statsky 30)

Attorney fees are governed by Rule 1.04 of the Texas Disciplinary Rules of Professional Conduct. A comment to the rules notes that contingent fees in family law cases should be discouraged because they may tend to encourage divorce rather than reconciliation. Additionally, except as to the division of marital property, there is no corpus in family law litigation from which a contingent fee can be paid.

Recovery of fees paid by an attorney to a legal assistant is possible in some instances. The requirements for recovery, as set out in Gill Savings Assoc. v. International Supply Co., Inc., 759 S.W.2d 697 (Tex.App.-Dallas 1988), are as follows:

1. The legal assistant must be qualified to perform the services rendered.
2. All work is supervised by an attorney.
3. The work is that which an attorney would usually do.
4. The services are reasonable and necessary.

Sex with a Client (Statsky 37)

This has been a topic of considerable debate within the Texas Bar recently, but no formal rule has been adopted.

Contempt of Court (Statsky 42)

Contempt of a court other than a justice or municipal court is punishable in Texas by confinement for not more than six months, a fine of not more than $500, or both, for each act. Texas Government Code § 29.002.
No supplemental material.
PREMARITAL AGREEMENTS (Statsky 68)

Texas has adopted the Uniform Premarital Agreement Act (Texas Family Code § 4.001 et. seq.). Additionally, once they are married, Texas spouses may at any time partition or exchange any part of the community property, and may agree that income from the separate property of one of these remain separate property as well.

COHABITATION AGREEMENTS (Statsky 90)

An agreement made in consideration of “nonmarital conjugal cohabitation” must be in writing and signed by the party obligated by the agreement, just as with agreements in contemplation of marriage. Texas Family Code § 1.108.

Putative Spouse Doctrine (Statsky 94)

While maintenance (alimony) for unmarried cohabitants is not authorized by the code (Texas Family Code § 8.011), it is specifically allowed in the case of putative spouses in § 8.010. As to the division of property acquired during a putative marriage, Texas courts generally grant the putative spouse (innocent party) the same rights as a lawful spouse. See Davis v. Davis, 521 S.W.2d 603 (Tex.1975).

Regarding children born during a putative marriage, the “husband” is their presumed biological father.
Breach of Promise to Marry *(Statsky 104)*

Texas recognizes breach of promise to marry as a cause of action and prescribes a one-year statute of limitations. However, there have been no appellate cases reported for nearly 30 years.

**CEREMONIAL MARRIAGE *(Statsky 118)*

The requirements for a ceremonial or formal marriage are set out in Texas Family Code § 2.001 et. seq. Notable provisions include the following:

1. A marriage license may not be issued to persons of the same sex.
2. Applicants for a marriage license must be 18 years of age, or at least 14 years of age with parental consent.
3. No blood test is required.
4. An application cannot be issued to a person who was divorced within the preceding 30 days, unless a court grants a waiver.
5. There is a 72-hour waiting period after the license is issued before the ceremony can be held, unless a court grants a waiver.

**COMMON LAW MARRIAGE *(Statsky 123)*

In Texas, a common law marriage is known as an “informal marriage.” The informality refers to the manner in which the marriage was created, not its validity. The husband-wife relationship in a common law or informal marriage is no different from a ceremonial or formal marriage.

There are two ways to prove an informal marriage. First, if it is an issue in a court proceeding, an informal marriage may be proved by showing all of the following:

1. The man and woman agreed to be married.
2. After the agreement they lived together in Texas as husband and wife.
3. They represented to others that they were married.

Secondly, an informal marriage may be proved by a written declaration, signed by the parties, acknowledging the three points set out above. This document is then recorded in the county clerk’s office.

In the event the parties separate and cease living together, a presumption exists that they did not enter into an agreement to marry if neither party, within two years of separating, commences a proceeding to establish the fact of the marriage.
Texas has no proceeding or remedy known as legal separation. Injunctive relief and orders regarding the parties and their property are available in Texas only in conjunction with annulment, divorce, or a family violence protective order.

The Texas Family Code refers to the cause of action as an “annulment” or “a suit to annul a marriage.”

OVERVIEW OF GROUNDS FOR ANNULMENT (Statsky 152)

Marriages are voidable based on the following:

1. Underage marriage
2. Influence of alcohol or narcotics
3. Impotency
4. Fraud duress, force
5. Mental incapacity
6. Concealed Divorce
7. Marriage less than 72 hours after issuance of license.

Prior Existing Marriage (Bigamy) (Statsky 153)

The existence of a prior marriage is one of the two situations in which any attempted marriage is void under the Texas Family Code. Since the marriage is already void, there is no need for a suit for annulment. Parties in this situation sometimes seek judicial relief by filing a suit to declare marriage void, as opposed to a suit to annul a marriage.

When two or more marriages of a person to different spouses are alleged, there is a statutory presumption that the most recent marriage is valid.
Consanguinity and Affinity Limitations (*Statsky 154*)

The second instance of an attempted marriage being void (as opposed to voidable) under the Texas Family Code is when the parties are too closely related by blood or marriage.

In Texas, one may not marry his or her

1. Ancestor or descendant
2. Brother or sister, by whole or half blood, or adoption
3. Parent’s brother or sister, of whole or half blood
4. Son or daughter of a brother or sister of the whole or half blood, or by adoption

Nonage (*Statsky 156*)

Persons from 14 to 17 years of age must have parental or court consent to marry, and any marriage without such consent is voidable.

Legitimacy of Children from an Annulled Marriage (*Statsky 173*)

Texas no longer uses the term *illegitimate* to describe children born outside the marriage. The proper term is now *child without a presumed biological father*. Children of a voidable marriage have a presumed biological father, using the same rules that apply to children of a valid marriage.

Alimony and Disposition of Property Acquired before the Marriage Was Annulled (*Statsky 173*)

Alimony may be awarded in a suit to annul a marriage if the requesting party is otherwise entitled to it.

Disposition of property of an annulled marriage is pursuant to the same rules that apply to a valid marriage.

Interspousal Immunity (*Statsky 175*)

The Texas Supreme Court has abolished the interspousal immunity doctrine.
**NO-FAULT GROUNDS FOR DIVORCE (Statsky 181)**

Only one no-fault ground exists in Texas:

**Insupportability:** A court may grant a divorce without regard to a fault if the marriage has become insupportable because of discord or conflict of personalities that destroys the legitimate ends of the marital relationship and prevents any reasonable expectation of reconciliation.

**FAULT GROUNDS FOR DIVORCE (Statsky 187)**

Grounds for which a divorce is awarded in favor of one party (fault) are as follows:

1. **Cruelty:** Cruel treatment that renders further living together insupportable.
2. **Adultery:** (Note that the crimes of adultery and fornication, and the torts of criminal conversation and alienation of affection are not recognized in Texas.)
3. **Conviction of Felony:** Conviction of a felony, and confinement in a penitentiary for one year.
4. **Abandonment:** Abandonment of the complaining spouse by the other spouse and remaining away for one year.
5. **Living apart:** Spouses living apart for three years without “cohabitation.”
6. **Confinement in Mental Health Hospital:** Confinement for three years with “adjustment” being unlikely.

Since a party is virtually assured of obtaining a divorce on the no-fault ground of insupportability, as a practical matter, this is usually the only ground stated in the petition. Fault grounds are pleaded only in seeking an unequal division of community property or to attain some advantage as to other contested issues in the case, such as child custody.

**DEFENSES TO THE FAULT GROUNDS FOR DIVORCE (Statsky 188)**

Other than contesting particular elements of a pleaded ground for divorce, the only recognized defense is **condonation.**
JUDICIAL SEPARATION (Statsky 190)

Texas law does not provide for judicial separation. Aside from the injunctive relief available under a family violence order, the only relief or remedies available must be granted in conjunction with a suit for divorce or annulment.

SEPARATE MAINTENANCE (Statsky 191)

Texas law does not authorize an action for separate maintenance.

Bifurcated Divorce (Statsky 193)

Divorce proceedings in Texas are not bifurcated. All issues (dissolution of the marriage, property issues, and, where applicable, parent/child issues) are resolved at the same time.

DOMICILE (Statsky 194)

Domicile and residency are jurisdictional requirements. Prior to filing the petition, one of the parties must be:

1. Domiciled in Texas for six months, and
2. A resident of the forum county for 90 days.

Personal Jurisdiction, Long-Arm Statute (Statsky 201)

Texas courts may exercise personal jurisdiction over nonresidents in divorce actions if both of the following are true:

1. Texas was the last marital residence of the respondent.
2. Suit is filed within two years after the residency in Texas ceased.

Additionally, Texas Family Code § 102.11 provides a “laundry list” of circumstances in which personal jurisdiction over nonresidents exists in suits affecting the parent-child relationship. The long-arm jurisdiction provisions of the Interstate Uniform Family Support Act, adopted in Texas Family Code § 159.0210, are virtually identical.

Venue (Statsky 203)

A divorce action is filed in a county in which one of the parties has resided for the 90-day period preceding filing.
Pleadings *(Statsky 204)*

In Texas, the parties are referred to as **petitioner** and **respondent**. The petitioner’s pleading is called the **petition**. Typical provisions include the following:

- The discovery rules that will govern the case
- Identification of the parties
- The court’s jurisdiction
- The fact of the marriage and separation
- Whether children were born to or adopted by the marriage
- The following requests:
  - Custody and support requests if there are children
  - Division of community property
  - Name change
  - Attorney fees
  - Injunctive relief
  - Preliminary orders concerning use of property, child custody support, and visitation

The respondent’s pleading is called the **answer**. As a practical matter, it will usually consist of a brief statement, called a **general denial**, denying the allegations in the petitioner’s petition. The respondent may also include in the answer a counterclaim for divorce.

Each party, in its initial pleading, must include and sign an Alternative Dispute Resolution Statement declaring that the party will attempt in good faith, to resolve the case through ADR.

The formal notice of the suit, called the summons in some states, is known in Texas as the **citation**.

Waiting Period *(Statsky 207)*

Texas requires a waiting period of 60 days after filing suit before the court may enter judgment (grant a decree of divorce). This period does not preclude a court from granting temporary relief in the form of a temporary restraining order, temporary injunction, or other temporary orders addressing issues such as use of property, child custody, support, and visitation while the case is pending.

Discovery *(Statsky 207)*

The Texas Rules of Civil Procedure, which governs all procedural matters in litigation, sets out three sets of discovery rules, recognizing the different discovery needs for different types of cases. Each plaintiff or, in the case of domestic relations, the petitioner must allege in the original petition which set of rules will apply to the case.

**Level 1**, the simplest discovery plan, applies to any divorce not involving children in which a party pleads that the value of the marital estate is not more than $50,000. Under Level 1, depositions for each side are limited to no more than six hours, although the parties may agree to expand the time up to a total of 10 hours. Interrogatories served by a party are limited to no more than 25, excluding those requesting identification or authentication of documents.

**Level 2** applies in virtually all other cases. (In very complex cases, the court tailors a discovery control plan to the circumstances of the specific suit, which is known as **Level 3** discovery.) Under Level 2, depositions for each side are limited to no more than 50 hours. As under
Level 1, interrogatories served by a party are limited to no more than 25, excluding those requesting identification or authentication of documents. The court may always modify the discovery plan.

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**DIVORCE JUDGMENT (Statsky 216)**

In Texas, a divorce decree does not become final until 30 days after its signing by the judge. During that 30-day period

1. The parties may not remarry without permission of the court, unless they marry each other.
2. Either party may ask for a new trial.
3. Either party may perfect an appeal to the court of appeals.
4. The judge has power to set the decree aside and order a new trial, or modify the decree on the motion of a party or on its own motion.

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**ENFORCEMENT OF DIVORCE JUDGMENT (Statsky 219)**

In addition to those remedies listed in the text, a Texas litigant may request that the court issue, after notice and hearing, a “turn-over order,” in which the opposing party is ordered to surrender or turn over a particular item or items.
Parties can always enter into an agreement for the payment of alimony or maintenance. In absence of such an agreement, court-ordered alimony can exist in two forms.

1. Temporary alimony (temporary spousal support) is paid while the case is pending and ends when the divorce is final.
2. Post judgment alimony (maintenance) is relatively new in Texas. Instituted in 1997, maintenance is defined in Texas Family Code § 8.001 as “periodic payments from the future earnings of one spouse for the support of the other spouse.” Eligibility for and duration of maintenance are limited. In fact, there is a statutory presumption that maintenance is not warranted.

Eligibility (Statsky 255)

1. The spouse from whom maintenance is sought was convicted of or received deferred adjudication for a criminal offense that constitutes an act of family violence under the Family Code, and that act occurred within two years before suit was filed for dissolution (divorce, annulment, suit to declare a marriage void) or while the suit is pending.
2. The marriage was 10 years or longer, and the spouse seeking maintenance
   a. Is unable to support himself or herself
   b. Is custodian of a child with substantial care or supervision needs because of a disability
   c. Lacks earning capacity to provide for his or her minimum needs

Factors in Determining Maintenance (Statsky 255)

1. Financial resources of requesting spouse
2. Education and employment skills of both spouses
3. Duration of marriage
4. Age, employment history, earning ability, physical/emotional condition of the requesting spouse
5. Ability of paying spouse to meet own needs and child support obligations while paying maintenance
6. Destruction or concealment of the marital estate by either party
7. Comparative financial resources
8. Contribution of one spouse to the other’s education, training, or increased earning power
9. Property brought into the marriage
10. Contribution as a homemaker
11. Marital misconduct of spouse seeking maintenance
12. Efforts of the requesting spouse to pursue employment counseling

**Duration (Statsky 255)**

Generally maintenance is limited to the shortest time required for the requesting spouse to gain employment or skills, with a maximum of three years. If a spouse is unable to support him or herself, maintenance may be ordered for an indefinite period with a periodic review.

**Amount (Statsky 255)**

A court may not order maintenance in an amount more than the lesser of

1. $2,500 per month
2. 20% of the paying spouse’s average monthly gross income.

**Community Property (Statsky 259)**

Under Texas community property law, three distinct marital property estates exist:

1. Husband’s separate property
2. Wife’s separate property
3. Community property

Each of the three estates is viewed as an independent entity, able to deal with the other two in arms-length transactions. In dividing the community property, the court may order reimbursements and contributions among the three estates for monies loaned or advanced among them. For example, if the husband’s separate property house in which the parties lived were improved using community funds, the community may be entitled to a reimbursement of some of those funds from the husband’s separate property.

Separate property consists of all property acquired prior to marriage and all property acquired during marriage by gift, devise (will), or descent (intestate succession). A recovery for personal injuries sustained during marriage is also considered separate property, except that portion compensating for lost wages or loss of earning capacity, which is considered community.

Conversely, community property consists of all property acquired during the marriage except by gift, devise, or descent.

All property owned by either of the parties is presumed to be community property. A party seeking to characterize any asset as separate property bears the burden of proof.
Proper characterization of an asset as separate rather than community is important because the court cannot award the separate property of one spouse to the other. A court can, however, set aside separate property for the use and benefit of minor children of the party who are in the custody of the other party.

Community property, absent agreement of the parties, is to be divided by the court in a just and right manner, having due regard for the rights of each party and any children of the marriage (Texas Family Code § 7.001). Neither party is entitled to an equal division of the community property. Factors supporting an unequal division include the following:

1. Need for support
2. Fault as grounds for divorce
3. Age, income, health, and other differences between the parties

See *Muff v. Muff*, 615 S.W.2d 696 (Tex.1981) for a list of factors.
Terms relating to child custody in Texas:

- **Child**: A person under the age of 18 years who has not been married or had disabilities of minority removed by a court. It also includes a person over 18 years for whom a person may be obligated to pay child support.

- **Parent-child relationship**: The legal relationship between a child and the person(s) recognized or presumed by law to be the child’s parents. The parents have statutory rights and duties as to the child.

- **Joint managing conservators**: Persons who share parental powers and decision-making concerning the child. One of them often has more authority than the other regarding determination of domicile, school, and medical care.

- **Parent**: The biological or adoptive mother of a child; the biological, presumed biological, adjudicated biological, or adoptive father of a child. Except as modified by court order, such persons have all the rights and duties of parents as set out in Texas Family Code § 151.003.

- **Possessory conservator**: Any person who has a court-ordered right to have possession of a child at specified times (commonly called visitation). This may include grandparents.

- **Sole managing conservator**: The person who has exclusive authority, by virtue of court order, to make major decisions concerning the child, including determining the domicile of the child.

- **Suit affecting the parent-child relationship (SAPCR)**: Any suit concerning the creation or termination of the parent-child relationship, and the parental rights and duties of the parties. This includes divorce with children, paternity, adoption, termination, and any action to set or modify child custody, support, visitation, or the rights and duties of parents.

**Custody (Statsky 302)**

There is a rebuttable presumption that appointing the parents joint managing conservators is in the best interest of the child.

**Visitation (Statsky 304)**

Visitation is not a major issue of contention as it once was. Where the parties and attorneys formerly negotiated and haggled over the number of weekends or hours for visitation, they now accept with little discussion the standard visitation order set out in Texas Family Code § 153.312. This standard order is presumed to be in the best interests of the child. However, a court will almost always approve any agreement of the parties.

**Wishes of the Child (Statsky 317)**

At age 12, a child may choose the managing conservator, subject to court approval.
BIOLOGICAL PARENT VS. PSYCHOLOGICAL PARENT

(Statsky 330)

Texas Family Code § 153.131 requires that one parent be appointed managing conservator, or that both parents be appointed joint managing conservators, unless the court finds that such appointment would significantly impair the child’s health or emotional development.

CHANGING THE CHILD’S SURNAME (Statsky 332)

It is unusual for a child’s name to be changed except in conjunction with an adoption. Changing a child’s name alone does not create or terminate a parent-child relationship with anyone. Further, notice of the requested name change must be given to the other parent.

MODIFICATION OF THE CUSTODY ORDER BY THE STATE THAT ISSUED THE ORDER (Statsky 332)

Criteria for modifying an order relating to custody, parental powers and duties, and visitation are set out in various sections of the code. Generally, modification requires either an agreement of the parties or a showing of a material and substantial change of circumstances affecting one of the parties or the child, or that the current order is unworkable.
Child Support (Statsky 347)

Texas law allows a court great discretion in setting child support, both as to the amount of the support and the manner in which it is paid, as long as the court finds that it is in the best interest of the child. A court may order any of the following:

• An amount less than the state guidelines
• Periodic payments
• Lump sum payments
• Setting aside of property
• Purchase of an annuity

Child-Support Guidelines (Statsky 356)

Texas child-support guidelines base the amount of support on a percentage of the obligor’s monthly net resources. The amount provided by the guidelines is presumed to be reasonable and in the best interests of the child.

<table>
<thead>
<tr>
<th>Number of Children</th>
<th>Percentage of Monthly Net Resources</th>
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<tr>
<td>1 child</td>
<td>20%</td>
</tr>
<tr>
<td>2 children</td>
<td>25%</td>
</tr>
<tr>
<td>3 children</td>
<td>30%</td>
</tr>
<tr>
<td>4 children</td>
<td>35%</td>
</tr>
<tr>
<td>5 children</td>
<td>40%</td>
</tr>
<tr>
<td>6 or more children</td>
<td>not less than 40%</td>
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Since setting child support involves a simple mathematical calculation, any contest over child support will likely be over the amount of the obligor’s available monthly net resources. In determining the total of these resources, the court may not consider the available resources of a new spouse.

The obligor’s resources include the following:

• Wages and salary income
• Commissions
• Overtime
• Tips
• Bonuses
• Interest and dividend income
• Royalties
• Self-employment income
• Net rental income
• All other income

To determine the net resources available, the court deducts the following:

• Social security taxes
• Federal income tax for a single person claiming one exemption and the standard deduction
• State income taxes, if any
• Union dues
• Health insurance expenses for the child or children subject of the order.

The Second Family (Statsky 358)

Texas law provides a method for determining the amount of support where the obligor’s children live in more than one household. See Texas Family Code § 154.129 for a table.

MODIFICATION OF CHILD-SUPPORT ORDERS (Statsky 359)

Child-support orders may be modified, as can other orders affecting the parent-child relationship, by agreement of the parties, or by a showing that “the circumstances of the child or a person affected by the order have materially and substantially changed since the rendition of the order.” Texas Family Code § 156.401.

Income Withholding (Statsky 372)

In addition to signing a final order in a suit affecting the parent-child relationship, the court will also sign a separate Employer’s Wage Withholding Order when periodic child-support payments are ordered. The Employer’s Wage Withholding Order is directed generically to “The Employer of _____,” and a copy is served upon the obligor’s current employer.

Issuance of the order by the court is mandatory; anytime a court orders periodic child-support payments it must also order that income be withheld from the obligor’s earnings. However, upon agreement of the parties, or on the court’s finding of good cause, service of the order on the employer may be deferred until an arrear occurs.

License Denial or Revocation (Statsky 374)

Texas law authorizes the suspension of licenses and permits as a tool for enforcing child-support obligations. Authorities issuing licenses and permits subject to suspension are listed in Texas Family Code § 232.002. Virtually all occupational, business, professional, and recreational licenses issued by the State of Texas are included, with the exception of teacher’s certificates or licenses.
No supplemental material.
Right of Election (*Statsky 400*)

In Texas, the surviving spouse (husband or wife) may elect to take either the property that is left to pass to him or her under the will of the deceased spouse, or the property that would otherwise pass through intestacy.

**THE BATTERED WIFE (*Statsky 408*)**

In addition to traditional injunctions enjoining parties from harming others or their property, Texas courts may issue family violence protective orders. While the procedure for applying for and winning court approval for such orders is similar to traditional TROs, and temporary and permanent injunctions, the response by law enforcement officials is quite different. Violations of traditional injunctions are frequently met with a hands-off attitude by police who view them as civil matters to be left to attorneys and judges to sort out, all to the frustration of victims. In contrast, a violation of a family violence protective order is recognized as a criminal act in and of itself, for which law enforcement officers will act accordingly, even arresting the alleged offender on the spot.

**MARITAL RAPE (*Statsky 414*)**

The sexual assault provisions of the Texas Penal Code make no exception or defense for an alleged offending spouse.
ILLEGITIMACY AND PATERNITY PROCEEDINGS

ILLEGITIMACY (Statsky 421)

The term illegitimate is no longer used to describe a child born outside of marriage. For purposes of paternity, a child falls into one of the following categories:

- Has a presumed biological father
- Has an adjudicated biological father
- Is without a presumed biological father

The code sets out several circumstances in which the presumption is made (Texas Family Code § 151.002). When a man is presumed or has been adjudicated to be the biological father of a child, he has all the rights and duties of a parent as set out in Texas Family Code § 151.003.

An alleged father’s paternity may be established either voluntarily or involuntarily through a paternity action. A man can even sue to establish his paternity of a child when another man is the presumed biological father. The statute of limitations for a contested paternity suit expires on the second anniversary of the date the child becomes an adult.
AGE OF MAJORITY AND EMANCIPATION (Statsky 439)

The age of majority in Texas is generally 18 years (Texas Civil Practice and Remedies Code § 129.001). Some specific activities, such as purchasing alcoholic beverages, require a minimum age of 21 years.

Minors who are 17 years of age, or who are living by themselves at age 16, may petition in their own name to have the disabilities of minority removed.

A person becomes criminally liable as an adult at age 17. Children 10 years of age or older and under the age of 17 years who violate the criminal laws of Texas are said to have engaged in delinquent conduct. They are subject to the jurisdiction of a juvenile court, pursuant to the Juvenile Justice Code, which is a part of the Texas Family Code. In short, a juvenile justice proceeding is a suit affecting the parent-child relationship.

EDUCATION (Statsky 443)

School attendance is compulsory to age 18 years. Some narrow exemptions to the rule exist. See Texas Education Code § 25.085 and § 25.086.
WHO MAY BE ADOPTED? (*Statsky* 454)

Adults as well as children may be adopted in Texas.

ADOPTION PROCEDURE (*Statsky* 458)

A child can have but one legal mother and one legal father at a time. Therefore, adoptions frequently involve a proceeding to terminate the rights of one or both of the previous parents, if either is living. The termination action can be either voluntary or involuntary as to the person whose parental status is ending. An involuntary termination requires proof of statutory grounds; all terminations, whether voluntary or involuntary, must be shown to be in the child’s best interest.

Putative Father Registry (*Statsky* 473)

The Texas Bureau of Vital Statistics maintains a paternity registry to protect the rights of fathers who wish to assume responsibility for children they have fathered, and to expedite adoptions in situations where biological fathers do not assume responsibility.
No supplemental material.
INTRAFAMILY TORTS (*Statsky 505*)

Spouses are not immune from suit by each other. The Texas Supreme Court abolished the intraspousal immunity doctrine in *Price v. Price*, 732 S.W.2d 316 (Tex. 1987).

Parents do enjoy limited immunity from suit by their children. Parental immunity does not apply, however, to intentional torts.

Loss of Consortium (*Statsky 512*)

The Texas Supreme Court has recognized the concept of parental consortium, allowing children of persons who suffer serious, permanent, and disabling injuries to recover damages.

OTHER TORTS (*Statsky 514*)

Texas has abolished the actions of alienation of affections and criminal conversation.

VICARIOUS LIABILITY OF FAMILY MEMBERS (*Statsky 516*)

Parents may be held vicariously liable for damages up to $25,000 for property damage resulting from the child’s willful and malicious act, or for the child’s negligence if the parent failed to exercise control or discipline of the child. Furthermore, if the willful damage is to an inn or hotel, attorney fees may be awarded in addition to actual damages.