

FAMILY CODE

TITLE 5. THE PARENT-CHILD RELATIONSHIP AND THE SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP

SUBTITLE B. SUITS AFFECTING THE PARENT-CHILD RELATIONSHIP

CHAPTER 151. RIGHTS AND DUTIES IN PARENT-CHILD RELATIONSHIP

Sec. 151.001. RIGHTS AND DUTIES OF PARENT. (a) A parent of a child has the following individual¹ fundamental² rights and duties which are not altered based upon a parent's marital status to the other parent or based on changes to that status³:

- (1) the right to have physical possession, to teach and train on any lawful subject, to direct the moral and religious training, and to designate the residence of the child;
- (2) the right and duty of care, control, protection, and reasonable discipline of the child;
- (3) the right and duty to support the child directly, including providing the child with clothing, food, shelter, medical and dental care, and education;
- (4) the right and duty, except when a guardian of the child's estate has been appointed, to manage the estate of the child, including the right as an agent of the child to act in relation to the child's estate if the child's action is required by a state, the United States, or a foreign government;
- (5) except as provided by Section 264.0111, the right to the services and earnings of the child;
- (6) the right to consent to the child's marriage, enlistment in the armed forces of the United States, medical and dental

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care, and psychiatric, psychological, and surgical treatment;

- (7) the right to represent the child in legal action and to make other decisions of substantial legal significance concerning the child;
- (8) the right to receive and give receipt for payments for the support of the child and to hold or disburse funds for the benefit of the child;
- (9) the right to inherit from and through the child;
- (10) the right to educate one's own child through speech and association and the intimacies of daily living and to make decisions concerning the child's education⁴ and rearing;⁵
- (11) The right of intimate and expressive close family association for the purposes of speech, worship, family privacy and maintaining family integrity,⁶
- (12) The right to be presumed to be a fit parent and the right of a fit parent to have their lawful decisions presumed to be in the child's best interests,⁷
- (13) The right to be less than a perfect parent without surrendering other rights,⁸
- (14) The right to act in the interests of one child even if that action is not considered by the state to be in the best interests of another child so long as minimum standards of child-care are maintained,
- (15) The right to act in the interest of one's self or others even if that action is not considered by the state to be in the best interests of a child so long as minimum standards of child-care are maintained,
- (16) the fundamental right to make care, custody, and control decisions for their minor children as protected privacy

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rights⁹ and as a substantive right of personal choice in matters of family life.¹⁰

(17) The right to be treated equally under the law with all other civil litigants regardless of the parent's marital status to the other parent and regardless of any changes to that status.

(18) ~~(11)~~ any other right or duty existing between a parent and child by virtue of law.

(19) A parent has a right to all applicable state and federal, substantive and procedural guarantees for the individual rights listed herein, or as provided by law,¹¹ without those guarantees being altered based on the marital choices¹² of either parent or based on the choice to establish a home in which to raise the child independent from the other parent.

(20) A parent facing loss of any of these rights through the use of state authority or application of the state's best interests of the child public policy¹³ in a judicial proceeding, and regardless of whether the state initiated the proceedings, is entitled to the right of confrontation and cross examination of the state actor authorized to meet the state's burden to provide the case and fact specific justification required to limit fundamental rights.¹⁴

(b) The right and duty of a parent to support his or her child to the minimum reasonable standard of care applicable to all parents and as applicable to the state exists while the child is an unemancipated minor and continues as long as the child is fully enrolled in a secondary school in a program leading toward a high school diploma and complies with attendance requirements described by Section 154.002(a) (2).

(1) A parent has parental authority, as a privacy choice, to control how much discretionary care a child receives beyond the minimum reasonable standard of care—or that level of care which defines fitness for all parents—to enforce compliance with the parent's speech, and to exercise parental authority over the child. Consequently, A parent has a right to be free from compelled speech through

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seizure of money used to enhance the speech of another or to diminish that parent's own speech.

- (c) A parent who fails to discharge the duty of support is liable to a person who provides necessaries to those to whom support is owed.
- (d) The rights and duties of a parent are subject to:
 - (1) a just, fair, equitable and impartial adjudication of the rights of litigants under established principles of substantive law¹⁵ where the degree of proof necessary to justify limitation of these rights is clear and convincing evidence¹⁶ and where the court is not predisposed to act against the interests of the parents;
 - (2) an affidavit of relinquishment of parental rights; and
 - (3) an affidavit by the parent designating another person or agency to act as managing conservator.
- (e) Only the following persons may use corporal punishment for the reasonable discipline of a child:
 - (1) ~~a parent or grandparent of the child;~~
 - (2) ~~a stepparent of the child who has the duty of control and reasonable discipline of the child; and~~
 - (3) ~~an individual who is a guardian of the child and who has the duty of control and reasonable discipline of the child~~
 - (1) any other person to whom a parent has delegated authority to use corporal punishment

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 23, eff. Sept. 1, 1995. Renumbered from Sec. 151.003 by Acts 2001, 77th Leg., ch. 821, Sec. 2.13, eff. June 14, 2001. Amended by Acts 2001, 77th Leg., ch. 964, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1036, Sec. 3, eff. Sept. 1, 2003.

Amended by:

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Acts 2005, 79th Leg., Ch. [924](#), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [972](#), Sec. 6, eff. September 1, 2007.

NOTE: If you would like access to the case law that we used to justify the requirement for these changes, you can access that information by subscribing to a membership here: www.fixfamilycourts.com/membership