

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 17-9014

ORDER AMENDING TEXAS PLAN FOR RECOGNITION AND REGULATION OF SPECIALIZATION IN THE LAW AND ADOPTING STANDARDS FOR ATTORNEY CERTIFICATION IN CHILD WELFARE LAW

ORDERED that:

1. Section XII of the Texas Plan for Recognition and Regulation of Specialization in the Law is amended as follows, effective immediately.
2. The Standards for Attorney Certification in Child Welfare Law are adopted as follows, effective immediately.
3. 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 the order for publication in the *Texas Register*.

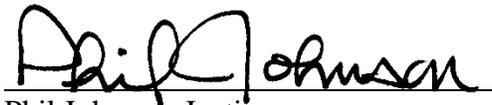
Dated: February 14, 2017.



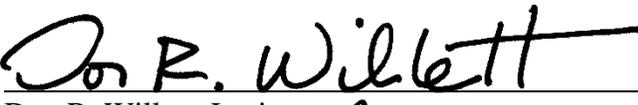
Nathan L. Hecht, Chief Justice



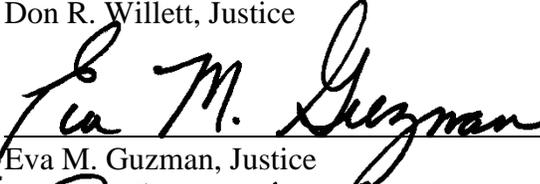
Paul W. Green, Justice



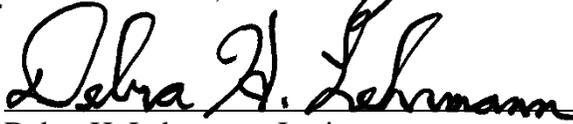
Phil Johnson, Justice



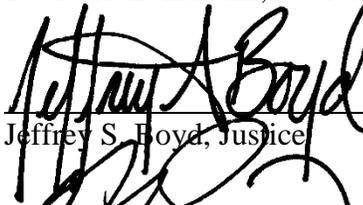
Don R. Willett, Justice



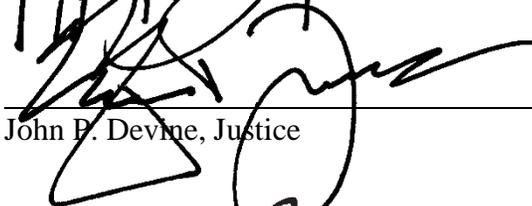
Eva M. Guzman, Justice



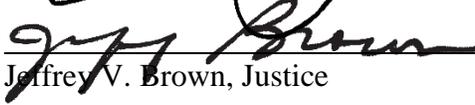
Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

TEXAS PLAN FOR RECOGNITION AND REGULATION OF SPECIALIZATION IN THE LAW

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SECTION XII RETAINED JURISDICTION OF SUPREME COURT

The jurisdiction of the TBLS shall be limited to ~~nineteen~~ twenty areas of law: Criminal Law; Labor and Employment Law; Family Law; Estate Planning and Probate Law; Civil Trial Law; Personal Injury Trial Law; Immigration and Nationality Law; Real Estate Law; Tax Law; Bankruptcy Law; Oil, Gas and Mineral Law; Civil Appellate Law; Administrative Law; Consumer and Commercial Law; Juvenile Law; Health Law; Workers' Compensation Law; Criminal Appellate Law; ~~and~~ Construction Law; and Child Welfare Law; and to the development and operation of the program in the recognition and regulation of specialization in the law, provided, however, that the number and type of areas included in the program and the jurisdiction of the TBLS may be enlarged, altered, or terminated from time to time by the Supreme Court of Texas.

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TEXAS BOARD OF LEGAL SPECIALIZATION STANDARDS FOR ATTORNEY CERTIFICATION

PART II SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. You will also need to refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.

SECTION XX CHILD WELFARE LAW

A. DEFINITIONS.

1. “Child welfare law” involves litigating suits under Title 5, Subtitle E of the Texas Family Code and issues that arise in suits by a governmental entity for the protection of an abused or neglected child, including but not limited to the possession and conservatorship of a child, the termination of parental rights, the placement of a child in foster care, or the adoption of a child. Practitioners of child welfare law must have:
 - knowledge of applicable federal law, including the Indian Child Welfare Act, the Adoption and Safe Families Act, the Fostering Connections to Success and Adoption Act, the Safe and Stable Families Act, the Strengthening Families Act, the Every Student Succeeds Act, constitutional law, education law, immigration law, and disability law;
 - knowledge of applicable state law, including the Texas Education Code, the Texas Penal Code, guardianship law, and juvenile law; and
 - experience in the trial or appeal of judicial or administrative proceedings involving a governmental entity for the protection of an abused or neglected child.
2. “Lead counsel” is the lawyer who takes primary responsibility for the representation of the client in the case. To be considered lead counsel in a case at the trial level, the applicant must make an opening statement or closing argument, and conduct significant direct and cross-examination of live witnesses at trial. To be considered lead counsel in an appeal, applicant must be a signatory to and perform substantial work in drafting the briefs for that party.
3. “Post-trial proceedings” include prosecuting or defending against an appeal or original proceeding in an intermediate appellate court or in the Supreme Court of Texas and proceedings to correct an action of the trial court incident to an appeal.

- B. SUBSTANTIAL INVOLVEMENT. To demonstrate substantial involvement and special competence in child welfare law practice, applicant must meet the following minimum requirements.

1. **Certification.**

a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 25% of his or her time practicing child welfare law in Texas during each of the three years immediately preceding the application.

b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas child welfare law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) In the three years immediately preceding the application, applicant must have served as lead counsel for a party or child from inception of the case or time of appointment or engagement to final judgment in 10 cases that meet one of these requirements:

(a) a contested child welfare case in a trial court of record that involves oral testimony and factual findings, excluding default judgments;

or

(b) an appeal in a child welfare case that is fully briefed on the merits at the appellate level.

Under (b), an appeal that applicant prosecutes or defends in an intermediate appellate court and in the Supreme Court of Texas counts as one case.

(2) In the three years immediately preceding the application, applicant must also have participated in 20 cases that meet one of these requirements:

(a) a contested child welfare case in which applicant served as lead counsel for a party or a child and that was resolved without a trial on the merits; or

(b) post-trial proceedings in which applicant played a substantial role.

c. **Certification without Examination.** TBLS may grant certification in child welfare law without requiring a written examination to an applicant who:

(1) has been licensed for 10 years;

(2) is certified by TBLS in family law;

(3) meets all of the requirements of these standards; and

(4) applies for certification no later than three years after the effective date of the specialty area.

2. **Recertification.** Applicant must have devoted a minimum of 25% of his or her time practicing child welfare law in Texas during each year of the five-year period of certification unless applicant meets the exception in Part I-General Requirements, Section VI, C, 1(b).

C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of five names and addresses of persons to be contacted as references to attest to his or her competence in child welfare law. These persons must be substantially involved in child welfare law, and be familiar with the applicant's child welfare law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving child welfare law matters within the three years immediately preceding application.
2. **Recertification.** Applicant must submit names of persons with whom he or she had dealings involving child welfare law matters since certification or the most recent recertification.
3. **Reference Types.** Applicants must submit the following types of references:
 - a. Four Texas attorneys who are substantially involved in child welfare law. Applicant must have participated at trial or on appeal or in the negotiation of a child welfare matter in alignment with or in opposition to the attorney.
 - b. One Texas trial court judge, associate judge, or appellate justice before whom applicant has appeared as lead counsel for a party or a child in a contested child welfare case in a trial or appellate court.