

# EXAM SPECIFICATIONS FOR FAMILY LAW

**PURPOSE OF THE EXAM.** The purpose of the certification exam is to require an examinee to demonstrate substantial knowledge of significant legal concepts and corresponding skills in the specialty area.

**EXAM FORMAT.** The exam consists of a three-hour morning session with three essay questions each worth 100 points and a three-hour afternoon session with 100 multiple-choice questions (10 of which involve professional ethics) each worth 2 points. The exam (essay and multiple-choice) must be taken by laptop (supplied by the examinee).

**ESSAY QUESTIONS.** Essay questions consist of a fact pattern followed by a series of questions (usually 4-6) for an examinee to answer. Essays are designed to require an examinee to recognize and analyze issues in the fact pattern and explain how those issues should be resolved. The fact patterns will involve situations you would likely encounter in your practice. Essays typically involve suits affecting the parent child relationship, marital property issues, and evidence and procedure. Examinees should ensure they provide the specific information each question requests and communicate their response as clearly as possible. An organized, clearly written answer using complete sentences will almost always receive a higher score than a choppy, disorganized one. To pass the exam, examinees must be able to clearly express answers in a manner that would be persuasive to the decision-maker in a case.

**MULTIPLE-CHOICE QUESTIONS.** These questions are designed to test a breadth of issues in the specialty area and require an examinee to select the option that represents the best available answer.

**EXAM GRADING.** The required passing score is 350. All exam materials are confidential and not available for review. Essay answers are graded anonymously and identified only by an assigned examinee number. Multiple-choice answers are computer graded. Successful examinees are notified that they passed but are not provided with their specific score. Unsuccessful examinees are notified of their exam score. Exams that score 10 points below the passing grade are automatically regraded. Exam results are final.

**REQUIRED KNOWLEDGE, SKILLS, AND ABILITIES.** An examinee is expected to understand all aspects of marriage dissolution, including conservatorship, child support and marital property. An examinee must have a complete understanding and working knowledge of Title 1, Title 2, Title 4, and Title 5 of the Texas Family Code. An examinee is also expected to be familiar with the procedures for resolving family law cases under the Texas Family Code and the Texas Rules of Civil Procedure. The examinee should additionally understand the general application of the Texas Rules of Civil Procedure and Texas Rules of Evidence, provisions in the Texas Constitution and other Texas laws relating to family law. Finally, the examinee needs to know how certain federal laws impact Texas family law cases [tax, bankruptcy, Health Insurance Portability and Accountability Act (HIPAA), Consolidated Omnibus Budget Reconciliation Act (COBRA), Employee Retirement Income Security Act of 1974 (ERISA), Indian Child Welfare Act (ICWA)]. An examinee must also demonstrate the ability to:

- Communicate effectively and persuasively to clients, counsel, and courts;
- Develop and evaluate strategies for solving a problem or accomplishing an objective;
- Analyze and apply legal rules and principles;
- Analyze, sort, and use facts, plan, and direct factual investigations;
- Organize and manage a legal task efficiently within time constraints;

- Represent a client consistent with applicable ethical standards;
- Invoke and utilize the procedures normally required in the specialty area, including pleadings and filings;
- Evaluate a case; including theories of recovery and available remedies, elements of damages, if any, develop pre-trial strategy and proposals for settlement;
- Draft pleadings; identify appropriate parties; identify causes of action and affirmative defenses;
- Conduct discovery;
- Draft pre-trial motions;
- Conduct voir dire;
- Examine and cross-examine lay and expert witnesses;
- Present, and object to, evidence;
- Use documentary evidence;
- Compose arguments;
- Preserve error;
- Draft trial motions and briefs;
- Draft jury instructions;
- Draft post-trial motions;
- Draft judgments and settlement agreements; and
- Enforce judgments and settlement agreements.

**EXAM TOPICS.** The following is a listing of topics on which essays and multiple-choice questions in the specialty area exam may be based on.

**NOTE: NOT ALL TOPICS LISTED BELOW WILL BE COVERED ON ANY GIVEN EXAM. EXAMINEES WILL BE TESTED ON RULES AND LAWS IN EFFECT AT THE TIME OF THE EXAM, UNLESS OTHERWISE SPECIFIED.**

1. **Establishing or contesting the validity of a marriage, as well as U.S. Supreme Court cases dealing with the right to marry.**
2. **Establishing legal and procedural requirements for family law cases including jurisdiction, venue and transfer of cases involving dissolution of marriage, suits affecting the parent-child relationship (original and modifications).**
3. **Determining or contesting parentage; Adoption.**
4. **Terminating parental rights.**
5. **Child Support.**
  - A. Using or contesting the Child Support Guidelines set forth in Section 154 of the Texas Family Code
  - B. Calculating and applying child support
  - C. Enforcing or modifying child support
  - D. Drafting child support documents
  - E. Jurisdiction over child support matters, including UIFSA
  - F. Attorney General involvement in child support matters
  - G. Liens and levies on financial institution accounts
  - H. Support obligation by Trust
  - I. Medical Support

- 6. Conservatorship.**
  - A. Securing or contesting conservatorship
  - B. Modifying conservatorship
  - C. Standing in suits affecting the parent-child relationship (original and modifications)
  - D. Venue in suits affecting the parent-child relationship (original and modifications)
  - E. Jurisdiction over conservatorship matters, including UCCJEA
  - F. Possession and/or access to child
  - G. Third party conservatorship and possession and/or access, including grandparents
  - H. Enforcement
- 7. Spousal Maintenance.**
  - A. Eligibility for maintenance including factors used in determining eligibility
  - B. Determining duration and amount of maintenance
  - C. Basis for modification of maintenance order
  - D. Enforcement of order
  - E. Income withholding including modification, reduction, or termination of withholding order
- 8. Marital Property.**
  - A. Establishing the character of marital property, including the use of the principles of tracing
  - B. Reimbursement both common law and statutory
  - C. Methods of effectively establishing the value of marital property
  - D. Understanding and applying the factors used in property division
  - E. Effectively applying the principles of spousal liability, third party creditors and liabilities on property owned by spouses
  - F. Fraud, constructive fraud, and breach of fiduciary duty
  - G. Determining the effect of bankruptcy proceedings on the disposition of marital property, spousal maintenance, and alimony
  - H. Retirement benefits
  - I. Employee benefits (e.g., vested, and unvested stock options, restricted stock, and other employee benefits)
  - J. Premarital and Marital Property Agreements
- 9. Tax Related Issues.** Recognizing federal income tax issues relating to:
  - A. Reporting income during the marriage
  - B. Reporting income during the year of divorce
  - C. Filing federal income tax returns during the pendency of the divorce and in the year of divorce
  - D. The division of marital property upon divorce
  - E. The homestead laws, liens, and exemptions on property division during and following the year of divorce
  - F. Child support payments
  - G. Alimony payments
- 10. Negotiating and Drafting Settlement Agreements, including, but not limited to, agreements between counsel and parties, Rule 11, Mediated Settlement Agreements, Informal Settlement Agreements, and other settlement agreements.**
  - A. Methods of Alternate Dispute Resolution
  - B. Effectively negotiating the division of marital property
  - C. Effectively negotiating and drafting marital property agreements (including premarital, post marital, partition and exchange agreements, agreements to convert, agreements incident to divorce, and all applicable contract law)
  - D. Differences in Mediated Settlement Agreements, Informal Settlement Agreements, and Rule 11 Agreements

**11. Trial of Family Law Cases.**

- A. Effectively trying the family case, including use of all applicable provisions of the Texas Rules of Civil Procedure and the persuasive presentation of evidence under the Texas Rules of Evidence
- B. Temporary orders
- C. Summary Judgments
- D. Discovery
- E. Effectively using the provisions of the Civil Practice and Remedies Code
  - (1) Frivolous pleading and claims
  - (2) Limitations
  - (3) Declaratory judgments
  - (4) Attorney fees
  - (5) Receivership
  - (6) Temporary Restraining Orders and Injunctions
- F. Claims between spouses, including economic and non-economic torts and third-party claims
- G. The Uniform Fraudulent Transfer Act under Chapter 24 of the Texas Business and Commerce Code

**12. Appeals and Bills of Review in Family Law Cases.**

- A. Appeals of Associate Judge rulings
- B. Preserving error at trial
- C. Appeals from final judgments
- D. Interlocutory appeals
- E. Bills of Review
- F. Habeas Corpus
- G. Mandamus

**13. Protective Orders and Family Violence, including Chapter 25 of the Texas Penal Code concerning offenses against the family.**

**14. State statutes involving harmful access by computer; Federal and State Wiretapping Act; Unlawful Intercepted, Use and Disclosure of Wire, Oral or Electronic Communications, Unlawful Access to Stored Communications; Breach of Computer Security, including harmful access by computer:**

- A. Federal Interception and Use of Communication Statute [18 USC §2510 - 2522 (1968)] [a/k/a The Federal Wiretap Act as amended by the Federal Electronic Communication Privacy Act (1986)] [a/k/a the Intentional Interception and Disclosure of Wire, Oral, or Electronic Communications Prohibited (18 USC §2511)]: Inception of Communications [§18 USC 2511(1)(a)]; Use of Intercepted Communications [§18 USC 2511(1)(c)]; and Disclosure of Intercepted Communications [18 USC 2511 (1)(d)]
- B. Unlawful Interception, Use or Disclosure of Wire, Oral or Electronic Communications [Texas Penal Code §16.02], including Detection, Interception and Use of Wire, Oral or Electronic Communications [Texas Code of Criminal Procedure Article 18.20]
- C. The Federal Stored Communications Act [18 USC §2701]
- D. The Texas Stored Communications Act, Unlawful access to stored communications [Texas Penal Code §16.05]
- E. Interception of Communication [CPRC §123.001]
- F. Unauthorized Access to Computer
  - (1) Breach of Computer Security [Texas Penal Code §3302]
  - (2) The Federal Unauthorized Computer Access Act [18 USC §1030]

G. Harmful Access by computer [CPRC §143.001, §143.002]

H. Online Impersonation [Texas Penal Code §33.07]

**15. HIPAA, COBRA, and “The Texas Medical Records Privacy Act” [Texas Health & Safety Code, Chapter 181].**

**16. The Texas Disciplinary Rules of Professional Conduct.** The ethics questions regarding this topic will involve an array of hypothetical fact situations which will cover several different aspects of ethical issues that arise in the practice of law. The questions will not be limited to the practice of any one specialty area, and consequently, an examinee is advised to be familiar with all provisions of the TDRPC.