

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 rights and duties:

(1) the right to have physical possession, to direct the moral and religious training, and to designate the residence of the child;

(2) the duty of care, control, protection, and reasonable discipline of the child;

(3) the duty to support the child, including providing the child with clothing, food, shelter, medical and dental care, and education;

(4) the 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 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 make decisions concerning the child's education; and

(11) any other right or duty existing between a parent

and child by virtue of law.

(b) The duty of a parent to support his or her child 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).

(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 court order affecting the rights and duties;

(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.

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:

Acts 2005, 79th Leg., Ch. 924 (H.B. 383), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 972 (S.B. 228), Sec. 6, eff. September 1, 2007.

Sec. 151.002. RIGHTS OF A LIVING CHILD AFTER AN ABORTION OR PREMATURE BIRTH; CIVIL PENALTY; CRIMINAL OFFENSE. (a) A living human child born alive after an abortion or premature birth is

entitled to the same rights, powers, and privileges as are granted by the laws of this state to any other child born alive after the normal gestation period.

(b) In this code, "born alive" means the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which, after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached. Each product of the birth is considered born alive.

(c) For purposes of this section, a physician-patient relationship is established between a child born alive after an abortion and the physician who performed or attempted to perform the abortion. The physician must exercise the same degree of professional skill, care, and diligence to preserve the life and health of the child as a reasonably diligent and conscientious physician would render to any other child born alive at the same gestational age. In this subsection, "professional skill, care, and diligence" includes a requirement that the physician who performed or attempted the abortion ensure that the child born alive be immediately transferred to a hospital.

(d) A woman on whom an abortion, as defined by Section [245.002](#), Health and Safety Code, is performed or attempted to be performed may not be held liable under this section.

(e) A physician who violates Subsection (c) by failing to provide the appropriate medical treatment to a child born alive after an abortion or an attempted abortion is liable to the state for a civil penalty of not less than \$100,000. The attorney general may bring a suit to collect the penalty. In addition to the civil penalty, the attorney general may recover reasonable attorney's fees. The civil penalty described in this subsection is in addition to any other recovery authorized under other law.

(f) A person who has knowledge of a failure to comply with this section shall report to the attorney general. The identity and any personally identifiable information of the person reporting the failure to comply with this section is confidential under

Chapter 552, Government Code.

(g) A physician or health care practitioner who violates Subsection (c) by failing to provide the appropriate medical treatment to a child born alive after an abortion or an attempted abortion commits an offense. An offense under this subsection is a felony of the third degree.

Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995.

Renumbered from Sec. 151.004 by Acts 2001, 77th Leg., ch. 821, Sec. 2.13, eff. June 14, 2001.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1272 (H.B. 16), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1272 (H.B. 16), Sec. 2, eff. September 1, 2019.

Sec. 151.003. LIMITATION ON STATE AGENCY ACTION. A state agency may not adopt rules or policies or take any other action that violates the fundamental right and duty of a parent to direct the upbringing of the parent's child.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 6.18(a), eff. Sept. 1, 1999. Renumbered from Sec. 151.005 by Acts 2001, 77th Leg., ch. 821, Sec. 2.13, eff. June 14, 2001.