TCMP — Texas Catholic Marriage Project

Insupportability and Protection of Family Rights

Consolidated Legal Memorandum

Classification: Confidential legal research memorandum

CONFIDENTIAL — INTERNAL WORK PRODUCT

Register: Attorney-facing legal

Formal legal analysis in plain English

Wednesday, October 28, 2026, 8:56 a.m. CDT

Version 1.2 — Attorney Review Draft

Prepared for TCMP research and reviewing counsel

Subject: Contesting Texas Family Code § 6.001, identifying the proper burden of proof, protecting parent and child interests, and defining counsel's authority.

Revision 1.2: Expanded appellate review and constitutional scrutiny analysis, including rational-basis review and claim-specific alternatives. Supplied date and time retained.

CONFIDENTIAL — TCMP INTERNAL WORK PRODUCT. This document is intended only for authorized recipients. It may contain sensitive legal, personal, pastoral, strategic, or organizational information. Do not copy, forward, publish, quote, upload, or distribute it without express authorization from the Texas Catholic Marriage Project.

I. Purpose and principal conclusions

This memorandum consolidates the available October 28 discussions concerning insupportability and the earlier counsel-retention discussion reflected in Before You Hire Counsel, Review Draft 3, Version 1.2. It incorporates the corrections made during the discussion rather than preserving superseded assertions as conclusions. Retrieval did not supply a complete transcript of every separate conversation from the morning; this document consolidates the visible exchange and the recovered related draft. No case-specific facts, pleadings, or orders have been supplied.

Section 6.001 is contestable: its elements require evidence and the responding spouse must have an opportunity to respond. Texas appellate decisions nevertheless accept relatively brief testimony establishing those elements. One decision also upheld partial summary judgment despite the responding spouse's belief that reconciliation remained possible. Those holdings explain the practical obstacle but do not independently resolve which burden of proof is constitutionally required. The appellate standard of review and constitutional level of scrutiny are separate. Rational-basis review does not govern every claim merely because it arises in a divorce proceeding; the applicable test depends on the right asserted, challenged government action, governing doctrine, and procedural posture.

The earlier categorical statement that preponderance necessarily governs § 6.001 was insufficiently supported. Preponderance is the ordinary civil standard; § 6.001 itself does not prescribe it. Section 105.005 expressly supplies preponderance for findings under Title 5, subject to exceptions, but does not by itself supply the burden for the Title 1 divorce ground. The constitutional adequacy of any prescribed burden requires examination of the particular deprivation, interests, error risks, and governmental interests. Existing termination and nonparent precedents must be applied within their holdings and distinguished from disputes between two fit parents.

Counsel's engagement should identify the rights requiring evaluation, accepted work, delegated acts, reserved decisions, and preservation responsibilities. TCMP's proposed threshold analysis should be presented as an argument to evaluate and preserve, rather than described as an already established universal prerequisite to divorce.

II. Questions presented

1. Can a respondent challenge insupportability under § 6.001, and why is the ground often described as effectively uncontestable?
2. What distinguishes admissibility, burden of proof, evidentiary sufficiency, summary judgment, appellate review, and constitutional scrutiny?
3. What law determines the proper burden, and when might due process require more than preponderance?
4. How should divorce grounds, child-related orders, and the distinct interests of parents and children be analyzed?
5. What should the client and counsel put in writing to define representation and preserve these issues?

TCMP — Texas Catholic Marriage Project — Confidential Internal Work Product
Unauthorized disclosure, reproduction, or distribution is prohibited.

III. The statutory ground remains subject to proof

Section 6.001 permits divorce without fault on specified conditions. Richards identifies three elements: discord or conflict makes the marriage insupportable; that discord or conflict destroys the legitimate ends of the marriage; and no reasonable expectation of reconciliation remains. The absence of a fault requirement eliminates the need to establish blame. It does not make allegations self-proving. Tex. Fam. Code § 6.001; *In re Marriage of Richards*, 991 S.W.2d 32, 37 (Tex. App.—Amarillo 1999, pet. dism'd). [1–2]

Richards rejected the proposition that no-fault divorce is categorically without a defense. The court treated the elements as factual questions and recognized a due-process problem in resolving them without an opportunity for the respondent to respond. It nevertheless affirmed: the petitioner testified to the elements, the respondent introduced no controverting evidence, and denial of the requested jury trial was harmless on that record. The case establishes contestability without promising that opposition will prevail. [2]

Alvarez supplies a concrete limit. The petitioner testified that the spouses were married and living apart, but did not establish the statutory elements. The appellate court reversed the divorce and remanded for a new trial. Separation can occur for different reasons; a petition reciting § 6.001 does not fill an evidentiary gap. *Alvarez v. Alvarez*, No. 04-13-00787-CV (Tex. App.—San Antonio Apr. 29, 2015, no pet.) (mem. op.). [3]

IV. The distinct evidentiary and procedural standards

A. Admissibility concerns what the factfinder may consider

Admissibility asks whether a particular statement, document, or opinion may be considered under the applicable evidence rules. Personal knowledge, relevance, hearsay, opinion testimony, and objections to form are examples of separate evidentiary questions. The fact that testimony closely follows statutory language does not, standing alone, establish that it is inadmissible. Conversely, a sufficiency holding on one record does not dispense with every objection on another record. Wellington expressly noted the absence of an objection to the form of the questions. [4]

B. The burden of proof concerns the required degree of persuasion

Preponderance requires the factfinder to conclude that the proposition is more likely true than not. Clear and convincing evidence requires a firm belief or conviction in the truth of the allegations. Beyond a reasonable doubt is the substantially higher criminal burden. These concern confidence in factual findings; they are not interchangeable with an appellate court's standard of review. *State v. Addington*, 588 S.W.2d 569, 570 (Tex. 1979). [6]

Preponderance is the ordinary civil baseline, as the Texas Supreme Court recognizes in *State v. Addington*. That general proposition is not a holding specifically construing § 6.001. The text of § 6.001 does not identify the required degree of persuasion. This research has not established a controlling Texas Supreme Court holding expressly selecting the trial burden for § 6.001 and

Unauthorized disclosure, reproduction, or distribution is prohibited.

adjudicating its constitutional adequacy against the particular challenge TCMP proposes. The memorandum therefore does not treat that question as resolved by the testimony cases. [1, 6]

Historical context also requires care. Phillips discusses the legislature's removal of former § 3.64's full-and-satisfactory-evidence requirement, citing Baxla. That supports an account of a reduced statutory evidentiary burden; it does not itself decide whether a particular modern deprivation constitutionally requires heightened proof. *Phillips v. Phillips*, 75 S.W.3d 564 (Tex. App.—Beaumont 2002, no pet.). [7]

C. Sufficiency concerns whether the record supports the finding

In Wellington, the wife's one-word answers affirming the elements were sufficient on the record presented, despite the husband's contrary testimony and evidence about counseling. The judge assessed credibility and weight. The case therefore demonstrates that testimony addressing the ultimate elements can support a decree without a detailed incident-by-incident narrative. It does not establish that every affirmative answer is conclusive or immune from objection. *In re Marriage of Wellington*, No. 10-07-00181-CV (Tex. App.—Waco Aug. 27, 2008, no pet.) (mem. op.). [4]

D. Traditional summary judgment requires conclusive proof

A claimant seeking traditional summary judgment must establish the claim's elements conclusively, leaving no genuine issue of material fact and showing entitlement to judgment as a matter of law. This differs from weighing competing evidence at a trial under a preponderance burden.

In Nicklas, the wife supplied a sworn declaration addressing the elements. The husband disputed insupportability and expressed belief in reconciliation, but acknowledged her contrary belief. The appellate court concluded that his belief did not create a factual dispute about hers and upheld the challenged partial summary judgment in a mandamus proceeding. It found no abuse of discretion. *In re Nicklas*, No. 12-23-00201-CV (Tex. App.—Tyler Sept. 20, 2023, orig. proceeding) (mem. op.). [5]

Nicklas is significant because a general denial or personal hope of reconciliation may not secure a trial on that record. Its posture and reasoning must be stated precisely. The decision did not eliminate the proof requirement, and it did not purport to adjudicate every constitutional challenge to the insupportability framework. [5]

E. Appellate review addresses whether the ruling must be disturbed

Wellington applied abuse-of-discretion review, treating legal and factual sufficiency as considerations within that review. That approach gives the trial court latitude in assessing testimony. Abuse of discretion does not describe the petitioner's trial burden. Nor does the existence of some supporting evidence automatically answer a properly presented constitutional objection to the governing burden or legal rule. [4]

TCMP — Texas Catholic Marriage Project — Confidential Internal Work Product
Unauthorized disclosure, reproduction, or distribution is prohibited.

V. Appellate review and constitutional scrutiny

Rational-basis review is not automatically the correct constitutional standard in every case involving § 6.001. The applicable test is claim-specific. The memorandum must distinguish the question an appellate court is reviewing from the constitutional rule it applies to answer that question. Neither deference to factual findings nor a prior decision upholding a statute substitutes for identifying the governing constitutional doctrine.

A. The three separate inquiries

A burden of proof determines the degree of persuasion required to establish a fact. An appellate standard of review determines how a reviewing court examines the ruling below. A level of constitutional scrutiny determines the justification government must provide for a challenged restriction. A court can review a constitutional issue de novo and decide that rational basis, heightened scrutiny, or another claim-specific test governs. There is no contradiction in applying those two standards together.

Rational basis generally asks whether a challenged law or classification bears a rational relationship to a legitimate governmental purpose under the governing doctrine. Strict scrutiny, where applicable, requires a compelling interest and narrow tailoring. Intermediate scrutiny and other doctrinal tests may apply to different claims. Choosing the test requires identifying the particular right and legal theory; the label family law does not decide that inquiry.

B. What the previously cited decisions actually reviewed

Richards, Wellington, Alvarez, and Nicklas principally address proof, procedure, sufficiency, or discretionary rulings. They should not be collectively described as rational-basis decisions. Wellington, for example, reviewed the decree for abuse of discretion with sufficiency considerations. Nicklas addressed a partial summary judgment through mandamus. Those holdings do not independently determine the constitutional scrutiny applicable to every challenged family-law order. [2–5]

Waite v. Waite, 64 S.W.3d 217 (Tex. App.—Houston [14th Dist.] 2001, pet. denied) (plurality opinion), is more directly relevant to constitutional challenges to § 6.001. It reviewed denial of a temporary injunction for abuse of discretion and legal conclusions de novo. In rejecting the constitutional arguments presented, the plurality used rational legislative-policy reasoning about allowing dissolution of marriages found insupportable. Its plurality status, particular claims, and procedural posture matter. The memorandum does not treat Waite as establishing rational basis for every later constitutional claim or application. [21]

C. When a different constitutional test may govern

Marriage rights require attention to the nature of the interference. *Zablocki v. Redhail*, 434 U.S. 374, 386–91 (1978), distinguished reasonable regulations from significant interference with the fundamental decision to marry and subjected the challenged restriction to rigorous scrutiny. Zablocki concerned entry into marriage. An argument extending its reasoning to involuntary

dissolution must establish the relevant protected interest and explain the proposed extension, including the other spouse's interests and contrary authority. [22]

Parental decision-making requires its own analysis. Troxel and *In re C.J.C.* protect fit-parent decisions in nonparent disputes; the protection cannot be reduced to an ordinary judicial preference about best interests. But neither decision automatically supplies strict scrutiny for every allocation dispute between two fit parents. The right holder, requested order, statutory framework, and doctrinal setting must be identified. Current § 153.002 separately prescribes a heightened evidentiary requirement in parent–nonparent suits. A heightened proof burden is not itself a constitutional scrutiny test. [12–14]

Religious-exercise claims may present an additional statutory framework. Texas Civil Practice and Remedies Code § 110.003 requires a compelling governmental interest and the least restrictive means when its requirements for a substantial burden on religious exercise by a government agency are met. Applicability, the challenged government action, the substantial burden, available defenses, procedural prerequisites, and the remedy require separate analysis. Religious disagreement with a divorce does not alone establish every element of a successful claim under the statute. [23]

Procedural due process presents another distinct inquiry. A challenge to notice, hearing procedures, or the allocation of factual error risk ordinarily requires the applicable due-process analysis, including the interests-and-error-risk framework discussed below. Santosky's analysis of the required proof for termination cannot be replaced by asking merely whether termination legislation has a conceivable rational purpose. Conversely, Santosky does not automatically impose its termination standard on every divorce or custody ruling. [9]

D. How to select the test for the particular claim

For each challenged action, identify the precise order or statutory application, the person whose right is burdened, the legal source and scope of that right, and the character and extent of the interference. Then identify the governing constitutional or statutory claim, controlling precedent, the applicable scrutiny or other test, and the evidence and justification that test requires. State separately the appellate review applicable to legal conclusions and factual or discretionary determinations.

A facial challenge and an as-applied challenge also require attention to the relevant doctrine and requested relief. Prior rejection of one theory does not dispense with analysis of a materially different preserved claim. At the same time, an as-applied label does not avoid controlling adverse precedent. Counsel must explain the distinction and preserve the actual challenge.

E. The implication for TCMP

TCMP's proposed analysis should address why a particular constitutional standard governs before asserting that the State has failed it. A ruling sustaining the statutory divorce ground does not, without additional analysis, determine the constitutional test governing every associated restriction on parental authority, religious exercise, or protected family relationships. Different

Unauthorized disclosure, reproduction, or distribution is prohibited.

issues in the same proceeding may require different tests. That proposition is an analytical requirement, not a holding that strict scrutiny necessarily governs all associated relief.

The central distinction is therefore between the State's justification for the particular deprivation and the evidence proving its factual predicate. A ruling can be challenged for an incorrect constitutional test, an inadequate legal predicate, an inadequate burden of proof, insufficient evidence, or defective procedure. Each challenge should be stated and preserved distinctly; success on one does not follow merely from asserting another.

VI. What determines the constitutionally sufficient burden

Applicable statutes, procedural rules, and binding decisions identify the prescribed burden. The Constitution supplies an independent floor. The inquiry therefore asks both what state law requires and whether that requirement adequately protects the interests affected by the particular adjudication.

Addington v. Texas, 441 U.S. 418, 423–33 (1979), explains that proof standards allocate the risk of error and reflect the importance of the interests at stake. The Court required clear and convincing evidence for indefinite involuntary civil commitment. A civil label did not make preponderance constitutionally sufficient. Its holding concerns commitment, while its explanation supplies a framework for evaluating other proposed applications. [8]

Santosky v. Kramer, 455 U.S. 745, 754–70 (1982), evaluated the private interests affected, the risk of erroneous deprivation under the procedures, and the government's countervailing interests. It held that the State must establish the grounds for complete and irrevocable termination of parental rights by at least clear and convincing evidence. That holding does not automatically impose the same standard on divorce or every custody order. An extension requires analysis of the relevant deprivation and the reasons for treating its error risks similarly. [9]

Texas authority independently illustrates the point. *In re G.M.*, 596 S.W.2d 846, 846–47 (Tex. 1980), required clear and convincing evidence for involuntary parental-rights termination notwithstanding the then-existing Family Code provision prescribing preponderance. The case supports the proposition that statutory civil procedure is subject to constitutional limits. Its termination holding should not be restated as a holding about § 6.001. [10]

For TCMP, a developed argument should identify the exact order sought, each affected right holder, the existing legal relationship, the nature and duration of the proposed restriction, the factual predicate to be proved, and the consequences of error in either direction. It should then explain why the existing burden and available safeguards are adequate or inadequate and identify the requested remedy. A higher burden cannot repair a legally insufficient predicate; predicate and proof are separate questions.

The level of constitutional scrutiny is also distinct from the burden of proof. Strict scrutiny tests the justification and fit of a governmental restriction where applicable. Clear and convincing evidence specifies the confidence required in factual findings. Invoking a fundamental right does

not, without further analysis, establish either a universal scrutiny test or a universal evidentiary burden.

VII. Divorce and child related relief require separate analysis

Section 6.406 addresses joinder of a suit affecting the parent-child relationship in specified divorce proceedings, subject to its exceptions. Joinder does not establish every fact necessary for every child-related order. The existence of a divorce ground and the legal basis for a particular allocation or restriction of parental authority must each be examined. [1]

Title 5 expressly addresses proof: § 105.005 directs that findings be based on preponderance except as otherwise provided by that title. This supplies a direct statutory starting point for covered parent-child proceedings. Its text should not be imported into Title 1 as though it expressly governs § 6.001. [11]

Current § 153.002 demonstrates an important exception. Best interest remains the primary consideration in conservatorship, possession, and access. In suits between a parent and a nonparent, however, the statute establishes a parental presumption and requires clear and convincing evidence of significant impairment to overcome it, together with specified findings. These provisions were added effective September 1, 2025. Their application to a particular case requires checking the amendment's applicability provisions. [12]

Troxel v. Granville, 530 U.S. 57, 65–73 (2000) (plurality opinion), protects parental decision-making in its nonparent-visitation setting. *In re C.J.C.*, 603 S.W.3d 804 (Tex. 2020), likewise applied the fit-parent presumption to a nonparent request in a modification proceeding. Neither should be presented as automatically resolving allocation disputes between two fit parents. The Troxel plurality did not announce a universal strict-scrutiny rule for family-law orders. [13–14]

Section 151.001 identifies parental rights and duties concerning possession, care, education, moral and religious training, and support, while making their exercise subject to the qualifications stated in the statute, including court orders. This identifies interests requiring examination; it does not resolve the constitutional validity of every order affecting them. [15]

Children's interests require their own analysis. Counsel should distinguish safety, stability, support, family relationships, and any asserted individual constitutional claim. Statutory policies should not be converted without authority into an absolute constitutional entitlement to a particular household arrangement. Identify who may assert a child's claim, possible conflicts, and whether separate representation is appropriate. The respondent's attorney does not automatically represent the children.

A. The TCMP position requiring further development

TCMP's proposed threshold analysis asks the court to identify the protected interests, lawful predicate, appropriate constitutional test, and required proof before imposing the challenged deprivation. Applied to associated child-related relief, the argument is that an adult's entitlement to seek dissolution does not itself prove the distinct facts or justification necessary to restrict another parent's authority or the child's protected relationships. This is an analytical position to

Unauthorized disclosure, reproduction, or distribution is prohibited.

develop against the actual relief requested, including contrary authority and the other parent's rights.

The proposition should not be expanded into an assertion that every parent-versus-parent order requires unfitness or that every Texas divorce requires a separate constitutional threshold hearing. The authorities reviewed do not establish either universal rule. Equally, disputing requested relief does not by itself establish consent, waiver, or forfeiture; any asserted waiver must be analyzed from the actual conduct and applicable law.

VIII. Counsel duties and the scope of representation

The earlier retention discussion connects these legal questions to the work counsel actually accepts. The engagement should distinguish lawful objectives, included tasks, general methods, technical tactics, and reserved decisions. It should say whether counsel will evaluate the statutory ground, constitutional adequacy of proof, parent and child interests, religious-exercise concerns, and preservation for review.

The Texas Disciplinary Rules supply the principal professional framework: Rules 1.01 and 1.03 address competent work and informed communication; Rule 1.02 addresses objectives, general methods, scope limitations after consultation, and settlement decisions; Rules 1.05 and 1.06 address confidentiality and conflicts; Rule 2.01 requires candid independent advice. A reasoned disagreement with TCMP's proposed extension is not itself misconduct. These duties do not require counsel to make unsupported arguments. [16]

At intake, clarify whether representation has been accepted and who is responsible for deadlines. A qualifying prospective-client consultation implicates Rule 1.18, but an unsolicited submission is not necessarily protected on the same basis. Professional confidentiality and evidentiary privilege are different; Texas Rule of Evidence 503 governs privilege. Obtain advice before copying supporters or including third parties. [16–17]

The agreement should identify rates, deposits, expense limits, billing practices, excluded work, and responsibility for appeals or canonical advice. Fee payment by another person does not automatically confer authority to direct representation or obtain confidential information. Rule 1.08(e) addresses third-party payment; Rules 1.04 and 1.16 address fees and termination obligations. [16]

Settlement authority requires special care. Permission to negotiate does not necessarily authorize acceptance, signature, or an agreed order. Qualifying mediated agreements can have binding consequences under §§ 6.602 and 153.0071. Written restrictions on counsel's authority are useful between client and counsel but do not guarantee that an act will be ineffective against third parties or that a later grievance will undo an order. [1, 12, 16]

IX. Preservation and accountability

The engagement should assign responsibility for timely pleadings, objections, evidence, rulings, jury requests where appropriate, proposed instructions, and the appellate record. Rule 33.1 ordinarily requires a timely and sufficiently specific request, objection, or motion and a ruling, or

Unauthorized disclosure, reproduction, or distribution is prohibited.

the required objection to a refusal to rule, subject to exceptions and issue-specific rules. Private instructions to counsel do not themselves place the complaint before the court. [18]

For a proof-standard challenge, identify the particular finding and deprivation, state the asserted statutory and constitutional grounds, request the desired burden and procedure, present relevant evidence or an offer of proof as appropriate, and obtain a ruling. Counsel should verify the procedural rules then applicable to the particular hearing, motion, and appellate route. The memorandum is not a substitute for case-specific preservation analysis.

If counsel appears to exceed authority, obtain the documents and a written explanation promptly; protect active deadlines separately from any grievance. Negligent representation, disloyalty, unauthorized action, and an adverse result are not interchangeable. Disciplinary rules do not themselves create a private damages action. *Pitts v. Rivas*, 709 S.W.3d 517 (Tex. 2025), an accounting case, discusses the prohibition on merely relabeling professional-negligence claims. [16, 19]

Burrow v. Arce, 997 S.W.2d 229, 237–46 (Tex. 1999), recognizes discretionary fee forfeiture for a clear and serious fiduciary breach without requiring proof of actual damages. That remedy is not automatic and does not itself vacate a settlement or judicial order. [20]

X. Proposed statement by retained counsel

The following consolidates the requested engagement safeguard. It is proposed contractual language for adaptation and agreement, rather than a representation that Texas law mandates this exact form. Complete the incorporated scope schedule before execution.

I, [counsel name and State Bar number], accept representation of [client] in [matter and cause number], effective [date]. The attached schedule identifies the client’s lawful objectives, included and excluded work, known deadlines and responsible persons, general methods, authorized expenses, communication procedures, and responsibility for trial and appellate preservation. It states whether I will evaluate the identified constitutional and proof-standard questions. Acceptance of evaluation is not a promise to assert every proposed argument.

Within that schedule, I may investigate, research, advise, obtain records lawfully, prepare authorized pleadings, conduct discovery, appear, and handle ordinary procedural and technical matters. I may explore nonbinding settlement proposals, subject to the reservations below. Additional authority must be identified in the schedule.

Without the client’s prior express authorization, confirmed in writing for the particular action and material terms, I shall not:

- Accept a settlement, communicate acceptance, or sign or authorize signature of the client’s name to an agreement, release, waiver, or agreed order.
- Consent to an order materially changing parental decision-making, possession, residence restrictions, religious formation arrangements, support, or property rights.

- Dismiss, release, or materially compromise a specifically reserved claim or defense; abandon an agreed objective; or stipulate to a contested material fact specifically reserved in the schedule.
- Waive a jury demand, agree to binding arbitration, waive appellate review, or surrender a specifically reserved protection or objection.
- Incur a single expense above [amount], exceed an aggregate limit of [amount], materially expand scope, or transfer responsibility to another firm.

Before requesting authorization, I will explain material consequences, reasonable alternatives, and time constraints sufficiently for an informed decision. Silence, bill payment, or a general instruction to handle the matter will not constitute authorization between us for reserved acts. We will specify acceptable written confirmation, retain the authorization, and agree in writing to changes in these reservations.

These terms do not override law, binding orders, or nonwaivable duties. I will promptly explain any conflict or urgent need for directions. Delegated protective steps may be taken to prevent immediate prejudice, but urgency alone does not authorize a reserved settlement, concession, or waiver. Withdrawal remains subject to applicable rules and required approval. These internal restrictions do not guarantee the external invalidity of an unauthorized act.

Counsel signature and date: _____
Client acknowledgment and agreement: _____
Incorporated scope schedule title date and version: _____

XI. Remaining research and publication decisions

Before a filing or categorical website statement, complete the authority chain for the trial burden specifically governing § 6.001. Examine controlling decisions, current jury-charge treatment and its sources, the predecessor provisions and amendments, and any relevant contrary authority. Pattern charges may assist practice but do not independently settle constitutional validity. The presently reviewed testimony cases must not be cited as though they expressly decide that issue.

For any constitutional extension, define the requested relief and supply the missing factual record. Address the rights and positions of both parents and the children, the distinction between dissolution and child-related restrictions, the statutory exceptions, the available safeguards, and the reasons the requested burden or threshold follows from binding law or a supportable extension. Religious liberty and canonical questions require their own developed sources and facts; the morning’s discussions identified them for evaluation without resolving them.

The website article Can Section 6.001 Be Contested should retain its central conclusion that proof is required, explain the distinct standards above, and state the constitutional issue as an issue. The prior unqualified sentence assigning preponderance to § 6.001 should not be republished without its direct legal basis and appropriate qualifications.

TCMP — Texas Catholic Marriage Project — Confidential Internal Work Product
Unauthorized disclosure, reproduction, or distribution is prohibited.

XII. Authorities and source record

Authorities below were consulted or carried forward from the reviewed morning draft. This is source-based research, not a comprehensive citator certification. Citation numbers identify the supporting sources; constitutional extensions are expressly identified in the analysis.

[1] Texas Family Code chapter 6, especially §§ 6.001, 6.406, 6.602 and 6.704.

https://tcss.legis.texas.gov/resources/FA/htm/FA.6.htm

[2] *In re Marriage of Richards*, 991 S.W.2d 32, 37–38 (Tex. App.—Amarillo 1999, pet. dism'd).

https://caselaw.findlaw.com/court/tx-court-of-appeals/1342457.html

[3] *Alvarez v. Alvarez*, No. 04-13-00787-CV (Tex. App.—San Antonio Apr. 29, 2015, no pet.) (mem. op.).

https://law.justia.com/cases/texas/fourth-court-of-appeals/2015/04-13-00787-cv.html

[4] *In re Marriage of Wellington*, No. 10-07-00181-CV (Tex. App.—Waco Aug. 27, 2008, no pet.) (mem. op.).

https://law.justia.com/cases/texas/tenth-court-of-appeals/2008/9095.html

[5] *In re Nicklas*, No. 12-23-00201-CV (Tex. App.—Tyler Sept. 20, 2023, orig. proceeding) (mem. op.).

https://law.justia.com/cases/texas/twelfth-court-of-appeals/2023/12-23-00201-cv.html

[6] *State v. Addington*, 588 S.W.2d 569, 570 (Tex. 1979).

https://law.justia.com/cases/texas/supreme-court/1979/b-6597-0.html

[7] *Phillips v. Phillips*, 75 S.W.3d 564 (Tex. App.—Beaumont 2002, no pet.), discussing *Baxla v. Baxla*, 522 S.W.2d 736 (Tex. Civ. App.—Dallas 1975, no writ).

https://caselaw.findlaw.com/court/tx-court-of-appeals/1067537.html

[8] *Addington v. Texas*, 441 U.S. 418, 423–33 (1979).

https://supreme.justia.com/cases/federal/us/441/418/

[9] *Santosky v. Kramer*, 455 U.S. 745, 754–70 (1982).

https://supreme.justia.com/cases/federal/us/455/745/

[10] *In re G.M.*, 596 S.W.2d 846, 846–47 (Tex. 1980).

https://law.justia.com/cases/texas/supreme-court/1980/b-8515-0.html

[11] Texas Family Code § 105.005, Title 5 findings.

https://statutes.capitol.texas.gov/GetStatute.aspx?Code=FA&Value=105

[12] Texas Family Code chapter 153, especially §§ 153.001, 153.002 and 153.0071.

https://tcss.legis.texas.gov/resources/FA/htm/FA.153.htm

[13] *Troxel v. Granville*, 530 U.S. 57, 65–73 (2000) (plurality opinion).

https://supreme.justia.com/cases/federal/us/530/57/

[14] *In re C.J.C.*, 603 S.W.3d 804 (Tex. 2020).

https://law.justia.com/cases/texas/supreme-court/2020/19-0694.html

[15] Texas Family Code § 151.001.

https://tcss.legis.texas.gov/resources/FA/htm/FA.151.htm

[16] Texas Disciplinary Rules of Professional Conduct, effective March 7, 2025, cited rules and preamble.

https://www.txcourts.gov/media/1459244/texas-disciplinary-rules-of-professional-conduct-pdf.pdf

[17] Texas Rule of Evidence 503; carried forward from Before You Hire Counsel, Review Draft 3, authorities item 4.

https://www.txcourts.gov/rules-forms/rules-standards/

[18] Texas Rule of Appellate Procedure 33.1; current rule text to be checked for the specific proceeding.

https://www.txcourts.gov/rules-forms/rules-standards/

[19] *Pitts v. Rivas*, 709 S.W.3d 517 (Tex. 2025).

https://law.justia.com/cases/texas/supreme-court/2025/23-0427.html

[20] *Burrow v. Arce*, 997 S.W.2d 229, 237–46 (Tex. 1999).

https://caselaw.findlaw.com/court/tx-supreme-court/1163583.html

[21] *Waite v. Waite*, 64 S.W.3d 217 (Tex. App.—Houston [14th Dist.] 2001, pet. denied) (plurality opinion).

https://caselaw.findlaw.com/court/tx-court-of-appeals/1337750.html

[22] *Zablocki v. Redhail*, 434 U.S. 374, 386–91 (1978).

https://supreme.justia.com/cases/federal/us/434/374/

[23] Texas Civil Practice and Remedies Code § 110.003, Religious Freedom Protected, and applicable provisions of chapter 110.

https://tcss.legis.texas.gov/resources/CP/htm/CP.110.htm

Conversation source: visible October 28 exchange on contestability, the proposed website article, and the correction concerning the proof standard; recovered related discussion on counsel authority; and TCMP_Before_You_Hire_Counsel_2026-10-28_CONFIDENTIAL_Review_Draft_3.docx, Version 1.2, dated October 28, 2026, 3:30 a.m. CDT. The source draft was used for scope and continuity, not treated as independent judicial authority.