

But what about me?

NON-PARENT RIGHTS IN THE STATE OF TEXAS



IT IS DIFFICULT FOR NON-PARENTS TO NAVIGATE THE REALM OF FAMILY LAW IN TEXAS

Many people who are not a child's biological parent but have a significant impact in the child's life continually face challenges in gaining custody of that child. Children living in single-parent households often interact with and are raised by individuals who are not their biological parent.[1]

What rights and courses of action do non-parents have in Texas family law?

WHO CAN BRING A CUSTODY SUIT?

A non-parent must have standing in order to bring a custody suit in Texas. There are three ways a non-parent can demonstrate standing:



1

If the person has had care, control, and possession of the child for at least six months, they can file suit.[2]

2

Where there is significant impairment of the child's physical and emotional health, a blood relative in the first, second, or third degree can file a lawsuit.[3]

3

Standing is established if both biological parents consent to the non-parent custody suit.[4]

THE "FIT PARENT" PRESUMPTION



Even where a non-parent establishes standing, Texas courts will operate under the "fit parent presumption." [5] This means that the courts will presume that a biological parent "adequately cares for his or her own children." [6]

The burden is on the non-parent to show that the child's biological parent or parents are unfit to care for the child.

The Texas Supreme Court found in the recent case *In re C.J.C.* that the "fit parent presumption" remains in later suits to modify custody orders, which effectively strengthens biological parent rights against non-parents in child custody suits.[7]

SOURCES

[1] Stephanie Kramer, *U.S. has world's highest rate of children living in single parent households*, PEW RESEARCH CENTER, (Dec. 21, 2019), <https://pewrsr.ch/2LLvbxW>.

[2] Texas Fam. Code §102.003.

[3] Relatives here include but are not limited to grandparents, great-grandparents, and siblings of the biological parents (aunts and uncles of the child); Tex. Fam. Code §102.004.

[4] *Id.*

[5] *Troxel v. Granville*, 530 U.S. 57, 68 (2000).

[6] *In re C.J.C.*, 603 S.W.3d 804, 808 (Tex. 2020).

[7] *Id.* at 818-19.

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