FAMILY CODE

TITLE 6. CIVIL PROCEDURE

CHAPTER 301. DISCOVERY PROCEDURES FOR CIVIL ACTIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 301.001. APPLICABILITY OF CHAPTER. This chapter applies only to a civil action brought under this code.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.003. DRAFT EXPERT REPORTS AND DISCLOSURES PROTECTED. A draft expert report or draft disclosure required under this chapter is protected from discovery, regardless of the form in which the draft is recorded.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

SUBCHAPTER B. REQUEST FOR DISCLOSURE

Sec. 301.051. REQUEST. Not later than the 30th day before the last day of any applicable discovery period, a party may obtain disclosure from another party of the information or material described by Section 301.052 by serving the other party the following request:

"Under Subchapter B, Chapter 301, Family Code, you are requested to disclose, not later than the 30th day after the date of service of this request, the information or material described by Section (state applicable provision of Section 301.052)."

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.052. CONTENT. (a) A party may request disclosure under Section 301.051 of any or all of the following:

(1) the correct names of the parties to the action;

(2) the name, address, and telephone number of any potential parties;

(3) the legal theories and, in general, the factual bases of the responding party's claims or defenses;

(4) the amount and any method of calculating economic damages;

(5) the name, address, and telephone number of any person having knowledge of relevant facts and a brief statement of each identified person's connection with the action;

(6) for any testifying expert:

(A) the expert's name, address, and telephone number;

(B) the subject matter on which the expert will testify;

(C) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for those impressions and opinions, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting that information; and

(D) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:

(i) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and

(ii) the expert's current resume and biography;

(7) any discoverable settlement agreement described by Rule 192.3(g), Texas Rules of Civil Procedure;

(8) any discoverable witness statement described by Rule 192.3(h), Texas Rules of Civil Procedure;

(9) in an action alleging physical or mental injury and damages from the occurrence that is the subject of the action:

(A) all medical records and bills that are reasonably related to the injuries or damages asserted; or

(B) an authorization permitting the disclosure of the information described by Paragraph (A);

(10) in an action alleging physical or mental injury and damages from the occurrence that is the subject of the action,

all medical records and bills obtained by the responding party through an authorization provided by the requesting party; and

(11) the name, address, and telephone number of any person who may be designated as a responsible third party.

(b) For purposes of Subsection (a)(3), the responding party is not required to compile all evidence that may be offered at trial.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Amended by:

Acts 2025, 89th Leg., R.S., Ch. 616 (H.B. 3180), Sec. 1, eff. September 1, 2025.

Sec. 301.053. RESPONSE. The responding party must serve a written response on the requesting party not later than the 30th day after the date the requesting party serves a request under Section 301.051, except that:

(1) a defendant served with a request before the defendant's answer is due is not required to respond until the 50th day after the date the request is served; and

(2) a response to a request under Section 301.052(a)(6) is governed by Subchapter C.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.054. PRODUCTION OF DOCUMENTS AND TANGIBLE ITEMS. The responding party shall provide copies of documents and other tangible items with the response to a request served under Section 301.051 unless:

(1) the responsive documents are voluminous;

(2) the responding party states a reasonable time and place for the production of the documents;

(3) the responding party produces the documents at the time and place stated under Subdivision (2) unless otherwise agreed by the parties or ordered by the court; and

(4) the responding party provides the requesting party a reasonable opportunity to inspect the documents.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.055. WORK PRODUCT OBJECTION PROHIBITED. A party may not assert a work product privilege for or object on the basis of a work product privilege to a request served under Section 301.051.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.056. CERTAIN RESPONSES NOT ADMISSIBLE. A response to a request under Section 301.052(a)(3) or (4) that has been changed by an amended or supplemental response is not admissible and may not be used for impeachment.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

SUBCHAPTER C. DISCOVERY REGARDING TESTIFYING EXPERT WITNESSES

Sec. 301.101. PERMISSIBLE DISCOVERY METHODS. A party may request another party to designate and disclose information concerning testifying expert witnesses only through:

(1) a disclosure request served under Section 301.051; or

(2) a deposition or report permitted by this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.102. DEADLINE FOR RESPONSE. Unless otherwise ordered by the court, a responding party shall provide the information requested under Section 301.052(a)(6) not later than the later of:

(1) the 30th day after the date the request is served; or

(2) either, as applicable:

(A) with respect to an expert testifying for a

party seeking affirmative relief, the 90th day before the end of the discovery period; or

(B) with respect to an expert not described by Paragraph (A), the 60th day before the end of the discovery period. Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.103. DEPOSITION AVAILABILITY. (a) A party seeking affirmative relief shall make an expert retained by, employed by, or otherwise under the control of the party available for a deposition in accordance with this section.

(b) If a party seeking affirmative relief does not provide a report of the party's expert's factual observations, tests, supporting data, calculations, photographs, and opinions when the party designates the expert, the party shall make the expert available for a deposition reasonably promptly after the designation. If the deposition cannot be reasonably concluded more than 15 days before the deadline for designating other experts due to the actions of the party who designated the expert, the court shall extend the deadline for other experts testifying on the same subject.

(c) If a party seeking affirmative relief provides a report of the party's expert's factual observations, tests, supporting data, calculations, photographs, and opinions when the party designates the expert, the party is not required to make the expert available for a deposition until reasonably promptly after all other experts have been designated.

(d) A party not seeking affirmative relief shall make an expert retained by, employed by, or otherwise under the control of the party available for a deposition reasonably promptly after the party designates the expert and the experts testifying on the same subject for the party seeking affirmative relief have been deposed. Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.104. CONTENT OF ORAL DEPOSITIONS AND COURT-ORDERED REPORTS. In addition to a disclosure request served under Section

301.051, a party may obtain discovery by oral deposition and a report prepared in accordance with Section 301.105 of:

(1) the subject matter on which a testifying expert is expected to testify;

(2) the expert's mental impressions and opinions;

(3) the facts known to the expert, regardless of when the factual information is acquired, that relate to or form the basis of the expert's mental impressions and opinions; and

(4) other discoverable items, including documents not produced in response to a disclosure request.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.105. COURT-ORDERED REPORTS. If the discoverable factual observations, tests, supporting data, calculations, photographs, or opinions of an expert are not recorded and reduced to tangible form, the court may order that information be reduced to tangible form and produced in addition to the deposition.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.106. AMENDMENT AND SUPPLEMENTATION OF DISCOVERY. A party's duty to amend and supplement written discovery regarding a testifying expert is governed by Rule 193.5, Texas Rules of Civil Procedure. If a party retains, employs, or otherwise controls an expert witness, the party must amend or supplement the expert's deposition testimony or written report only with regard to the expert's mental impressions or opinions and the basis for those impressions or opinions.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.107. COST OF EXPERT WITNESSES. When a party takes the oral deposition of an expert witness retained by an opposing party, the party retaining the expert shall pay all reasonable fees charged by the expert for time spent in preparing for, giving, reviewing, and correcting the deposition.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.

Sec. 301.108. EXPERT COMMUNICATIONS PROTECTED. Communications between a party's attorney and a testifying expert witness in an action subject to this chapter are protected from discovery regardless of the form of the communications, except to the extent that the communications:

(1) relate to compensation for the expert's study or testimony;

(2) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions the expert will express; or

(3) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions the expert will express.

Added by Acts 2023, 88th Leg., R.S., Ch. 844 (H.B. 2850), Sec. 1, eff. September 1, 2023.