

Question

What are the legal consequences of making fraudulent claims of indigency in divorce proceedings in Texas?

Answer (Texas)

Short response

Making fraudulent claims of indigency in Texas divorce proceedings can result in dismissal of the action and the imposition of court sanctions, including financial penalties and orders to pay the opposing party's expenses. While there is no civil cause of action for perjury in this context, the court has robust procedural and statutory tools to deter and punish such misconduct.

Summary

Texas law provides clear mechanisms to address fraudulent claims of indigency in divorce cases. If a party falsely claims to be unable to pay court costs, the court may dismiss the case and impose sanctions such as fines or orders to pay the other party's legal expenses.

The legal framework is primarily statutory, with courts empowered to investigate and contest claims of indigency, and to penalize parties who abuse the process. While perjury itself does not give rise to a civil lawsuit, the consequences within the divorce proceeding are significant and designed to deter fraudulent conduct.

Background and Relevant Law

Legislative Framework

The Texas Civil Practice and Remedies Code provides the primary statutory basis for addressing fraudulent claims of indigency in civil proceedings, including divorce cases. Two key provisions are directly relevant:

Section 13.001 authorizes a court to dismiss an action if it finds that an affidavit of inability to pay (filed under Texas Rule of Civil Procedure 145) contains a false allegation of poverty. This provision applies broadly to any civil action where such an affidavit is filed, including divorce proceedings. The statute's purpose is to prevent abuse of the judicial process by parties seeking to avoid court costs through dishonest means, and dismissal is a significant consequence for such misconduct, see Tex. Civ. Prac. & Rem. Code § 13.001.

Section 10.004 empowers courts to impose sanctions on any person who signs a pleading or motion in violation of Section 10.001, which requires that factual contentions have evidentiary support. Sanctions may include directives to the violator, monetary penalties paid to the court, and orders to pay the reasonable expenses and attorney's fees incurred by the opposing party as a result of the improper filing. The sanctions must be sufficient to deter similar conduct in the future, see Tex. Civ. Prac. & Rem. Code § 10.004.

Case Law

Texas case law provides additional context for how claims of indigency are contested and adjudicated:

In [Higgins v. Randall County Sheriff's Office, 257 S.W.3d 684 \(Tex. 2008\)](#), the Texas Supreme Court explained the procedural safeguards in place for claims of indigency. If a claim is contested, the burden shifts to the applicant to prove indigency by a preponderance of the evidence. This process ensures that fraudulent claims can be challenged and, if not substantiated, denied.

[Kale v. Palmer, 791 S.W.2d 628 \(Tex. App. 1990\)](#) clarifies that Texas law does not provide a civil cause of action for perjury, even if a party loses a case due to false testimony. Remedies for perjury are limited to direct appeals or, in some cases, actions for malicious prosecution, but not for perjury itself.

Analysis

Statutory Consequences

The most direct legal consequence for making a fraudulent claim of indigency in a Texas divorce proceeding is the potential dismissal of the action. Section 13.001 of the Texas Civil Practice and Remedies Code gives courts explicit authority to dismiss a case if it finds that the affidavit of inability to pay is false. This is a powerful deterrent, as dismissal can significantly delay or even prevent a party from obtaining relief in a divorce case, see Tex. Civ. Prac. & Rem. Code § 13.001.

In addition to dismissal, Section 10.004 authorizes the court to impose sanctions for violations related to false statements in pleadings or motions. If a party knowingly files a false affidavit of indigency, the court may order that party to pay a penalty to the court, reimburse the opposing party for reasonable expenses and attorney's fees, or comply with other directives designed to prevent future misconduct. The sanctions are discretionary but must be sufficient to deter repetition of the conduct, see Tex. Civ. Prac. & Rem. Code § 10.004.

These statutory provisions work together to ensure that parties who attempt to abuse the indigency process face meaningful consequences. The threat of dismissal and financial penalties serves both punitive and deterrent functions.

Procedural Safeguards and Burden of Proof

The process for contesting claims of indigency is well established in Texas law. As outlined in [Higgins v. Randall County Sheriff's Office, 257 S.W.3d 684 \(Tex. 2008\)](#), if an opposing party or the court contests a claim of indigency, the burden shifts to the claimant to prove their inability to pay by a preponderance of the

evidence. This procedural safeguard allows for the exposure and rejection of fraudulent claims before any substantive relief is granted.

If the claimant fails to meet this burden, the court may deny the request for indigency status, and, if the claim is found to be intentionally false, proceed to dismiss the action or impose sanctions as described above. This process ensures that only those genuinely unable to pay court costs are granted relief, while those who attempt to deceive the court are penalized.

Limits on Civil Remedies for Perjury

While the statutory and procedural framework provides robust remedies within the divorce proceeding itself, Texas law does not allow for a separate civil action for perjury. As explained in [Kale v. Palmer, 791 S.W.2d 628 \(Tex. App. 1990\)](#), there is no statutory basis for a civil lawsuit against a party who commits perjury in a civil case, including divorce proceedings. The rationale is that the appropriate remedies for perjury are found within the original proceeding (such as dismissal or sanctions) or through criminal prosecution, not through a separate civil action.

This limitation means that while a party harmed by perjured testimony cannot sue for damages based solely on the perjury, they can seek relief through the court's inherent powers and the statutory mechanisms described above.

Application to Divorce Proceedings

In the context of divorce, these legal principles have particular significance. Divorce cases often involve disputes over property, child custody, and support, and the ability to proceed without paying court costs can be a substantial advantage for a party with limited means. However, the law is clear that this benefit is reserved for those who genuinely qualify.

If a party in a divorce case files a false affidavit of indigency, the opposing party may contest the claim, triggering the burden-shifting process described in Higgins. If the court determines that the claim is fraudulent, it may dismiss the case under Section 13.001 and impose sanctions under Section 10.004. These consequences are designed to protect the integrity of the judicial process and ensure fairness to all parties.

Exceptions and Caveats

There are several important caveats to consider:

No Civil Action for Perjury: As established in [Kale v. Palmer, 791 S.W.2d 628 \(Tex. App. 1990\)](#), parties cannot bring a separate civil lawsuit for perjury committed during divorce proceedings. Remedies are limited to those available within the original case or through criminal prosecution.

Burden of Proof: The burden to prove indigency falls on the claimant if the affidavit is contested. If the claimant cannot meet this burden, the court may deny indigency status without necessarily finding fraud. Only intentional falsehoods trigger the more severe consequences of dismissal and sanctions.

Judicial Discretion: The imposition of sanctions under Section 10.004 is discretionary. The court must tailor the sanction to deter future misconduct, but the specific form and amount of the sanction may vary depending on the circumstances.

Criminal Liability: While not addressed in the provided materials, it is worth noting that perjury is a criminal offense under Texas law. However, the sources provided do not discuss criminal prosecution for perjury in this context, so this analysis is limited to civil and procedural consequences.

Conclusion

In summary, Texas law provides clear and effective remedies for addressing fraudulent claims of indigency in divorce proceedings. The court may dismiss the action and impose sanctions, including financial penalties and orders to pay the opposing party's expenses, when it finds that a party has falsely claimed indigency. While there is no civil cause of action for perjury, the statutory and procedural framework ensures that such misconduct is deterred and punished within the divorce proceeding itself. The combination of dismissal, sanctions, and the burden-shifting process for contested claims of indigency serves to protect the integrity of the judicial process and promote fairness in divorce cases.

Legal Authorities

[Higgins v. Randall County Sheriff's Office, 257 S.W.3d 684 \(Tex. 2008\)](#)

Texas Supreme Court

Extract

The method of ensuring fairness, permitting interested parties to contest the claim of indigence, has also been in place for more than a century. ... If the affidavit is contested, the burden is on the applicant to prove indigence by a preponderance of the evidence. TEX.R.APP. P. 20.1(g); Pinchback, 164 S.W.2d at 20.

Summary

Procedural framework for contesting claims of indigence in Texas. If a claim of indigence is contested, the applicant must prove their indigence by a preponderance of the evidence. This implies that if a claim is fraudulent, it can be contested, and the applicant would then have to substantiate their claim with evidence. Failure to do so could result in the claim being denied, and potentially other legal consequences for making a fraudulent claim.

[Kale v. Palmer, 791 S.W.2d 628 \(Tex. App. 1990\)](#)

Texas Court of Appeals

Extract

"It is fundamental that in the absence of a statute to the contrary, an unsuccessful litigant who has lost his case because of perjured testimony, cannot maintain a civil action against the person who commits the perjury." There is no statutory provision in Texas creating such a right.

Summary

In Texas, there is no statutory provision that allows a civil action against someone for perjury, including in the context of divorce proceedings. This means that if someone makes fraudulent claims of indigency (or any other false claims) in divorce proceedings, the legal system does not provide a direct civil remedy against them for perjury. The passage suggests that the legal recourse for unjust proceedings is through direct appeal or a cause of action for malicious prosecution, but not for perjury itself.

[Tex. Civ. Prac. and Rem. Code § 10.004](#) [Tex. Civ. Prac. and Rem. Code § 10.004 Violation; Sanction](#)

Extract

A court that determines that a person has signed a pleading or motion in violation of Section CIVIL PRACTICE AND REMEDIES CODE 10.001 may impose a sanction on the person, a party represented by the person, or both. The sanction must be limited to what is sufficient to deter repetition of the conduct or comparable conduct by others similarly situated. A sanction may include any of the following: a directive to the violator to perform, or refrain from performing, an act; an order to pay a penalty into court; and an order to pay to the other party the amount of the reasonable expenses incurred by the other party because of the filing of the pleading or motion, including reasonable attorney's fees.

Summary

If a person makes fraudulent claims of indigency in divorce proceedings, which would likely be considered a violation of Section 10.001, the court may impose sanctions. These sanctions are designed to deter such conduct and may include directives to the violator, penalties, and orders to pay reasonable expenses and attorney's fees incurred by the other party.

[Tex. Civ. Prac. and Rem. Code § 13.001](#) [Tex. Civ. Prac. and Rem. Code § 13.001 Dismissal of Action](#)

Extract

A court in which an affidavit of inability to pay under Rule 145, Texas Rules of Civil Procedure, has been filed may dismiss the action on a finding that: the allegation of poverty in the affidavit is false; or the action is frivolous or malicious.

Summary

If a party in a divorce proceeding in Texas files an affidavit claiming indigency (inability to pay costs) and it is found to be false, the court has the authority to dismiss the action. This indicates that making fraudulent claims of indigency can lead to the dismissal of the case, which is a significant legal consequence. The statute applies broadly to any case involving such affidavits, not just divorce proceedings.

This memo was compiled by Vincent AI based on vLex materials available as of May 04, 2025. [View full answer on vLex](#)