

## **Question**

If a judge in Texas deprived a litigant of their home and property without a hearing, issued an order without findings, and temporarily terminated their parental rights, is this action significant enough to invalidate the entire case due to awarding relief before the burden of proof was met and depriving the litigant of significant rights?

## **Answer (Texas)**

### **Short response**

Based on Texas law, a judge's actions that deprive a litigant of their home, property, and temporary parental rights without a hearing and without making required findings would likely constitute a significant due process violation sufficient to invalidate the case upon appeal. Such actions would fail to meet the "clear and convincing evidence" standard required for termination of parental rights and violate the fundamental due process requirements of notice and opportunity to be heard.

### **Summary**

When a judge in Texas deprives a litigant of significant interests such as their home, property, and parental rights without providing a hearing and without issuing findings to support the order, this constitutes a serious violation of procedural due process rights protected by both the United States and Texas Constitutions. Texas law explicitly requires clear and convincing evidence and specific procedural safeguards before parental rights can be terminated, even temporarily, including notice, opportunity to be heard, appointment of counsel for indigent parents, and specific findings that support the court's decision. The failure to provide these procedural protections represents a fundamental violation of due process.

The actions described would likely be sufficient grounds to invalidate the entire case because they strike at core constitutional guarantees. Texas courts have consistently held that procedural due process rights in parental termination cases are of paramount importance due to the fundamental nature of the rights at stake. When a judge awards relief before the burden of proof is met through proper procedures, the entire proceeding is tainted by the denial of basic constitutional protections. While certain due process claims must be timely raised to be preserved for appeal, violations of this magnitude involving fundamental rights would likely be considered harmful error warranting reversal.

# **Background and Relevant Law**

## **Legislative Framework**

Texas law provides strong procedural protections for parental rights and property interests. The Texas Family Code contains specific provisions that establish procedural requirements for cases involving the termination of parental rights, even on a temporary basis.

## **Burden of Proof for Termination of Parental Rights**

Texas Family Code § 161.001 establishes that termination of the parent-child relationship requires clear and convincing evidence: "The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence... that termination is in the best interest of the child." [Tex. Fam. Code § 161.001](#). This high evidentiary standard underscores the constitutional importance of parental rights.

## **Requirement for Hearings**

Texas law mandates hearings at various stages of child protection proceedings. When a child is taken into possession without a court order, [Tex. Fam. Code § 262.105](#) requires that the person taking possession "without unnecessary delay, shall: file a suit affecting the parent-child relationship; request the court to appoint an attorney ad litem for the child; and request an initial hearing to be held by no later than the first business day after the date the child is taken into possession."

Furthermore, [Tex. Fam. Code § 262.201](#) mandates that "a full adversary hearing shall be held not later than the 14th day after the date the child was taken into possession by the governmental entity" unless specific extensions are granted. This requirement underscores the legislative recognition that prompt hearings are essential to protecting parents' due process rights.

## **Right to Legal Representation**

[Tex. Fam. Code § 107.013](#) provides that in cases where termination of parental rights is requested, "the court shall appoint an attorney ad litem to represent the interests of: an indigent parent of the child who responds in opposition to the termination or appointment." This provision ensures that parents have legal representation to protect their fundamental rights.

## **Constitutional Framework**

The due process requirements in parental rights cases stem from both federal and state constitutional provisions. The Fourteenth Amendment of the United States Constitution prohibits states from depriving individuals of "life, liberty, or property, without due process of law." Similarly, Article I, Section 19 of the Texas Constitution provides that no citizen shall be

"deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land."

## Case Law

Texas courts have consistently emphasized the fundamental nature of parental rights and the necessity of procedural due process in cases involving these rights.

### Due Process Requirements

In [Campbell v. Stucki, 220 S.W.3d 562 \(Tex. App. 2007\)](#), the court explained the constitutional protections against deprivation of rights without due process: "The Fourteenth Amendment of the United States Constitution protects against deprivation of life, liberty, or property by the State 'without due process of law.' U.S. CONST. amend. XIV, § 1; Covarrubias v. Tex. Dep't Criminal Justice-Inst. Div., 52 S.W.3d 318, 324 (Tex.App.-Corpus Christi 2001, no pet.). The Texas Constitution states that no citizen of this state shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the 'due course of the law of the land.' TEX. CONST. art. I, § 19."

The Texas Supreme Court, in [Martinez v. Texas Department of Protective & Regulatory Services, 116 S.W.3d 266 \(Tex. 2003\)](#), affirmed that "at a minimum, due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner." The court further recognized that "parents have a constitutionally recognized liberty interest in the care, custody, and control of—and right of association with—their children" and thus are "entitled to procedural due process in connection with the termination proceeding."

### Clear and Convincing Evidence Standard

Texas courts have consistently held that the termination of parental rights requires a heightened burden of proof. In [In re L.M.I., 119 S.W.3d 707 \(Tex. 2003\)](#), the Texas Supreme Court emphasized that "the clear and convincing evidence requirement necessarily means that the burden of proof that an affidavit of relinquishment was voluntarily executed cannot be shifted to a parent. There must be clear and convincing evidence, from the record as a whole, that the affidavit was knowingly and voluntarily executed."

This standard was established by the Texas Supreme Court in *In Interest of G.M.*, [596 S.W.2d 846](#) (Tex. 1980), which held: "The right to enjoy a natural family unit is no less important than the right to liberty which requires at least a clear and convincing standard of proof to inhibit such liberty through involuntary and indefinite confinement in a mental institution. Termination is a drastic remedy and is of such weight and gravity that due process requires the state to justify termination of the parent-child relationship by proof more substantial than a preponderance of the evidence."

## **Framework for Evaluating Due Process Claims**

Texas courts employ a specific framework for analyzing due process claims. As explained in [In re A.J., 559 S.W.3d 713 \(Tex. App. 2018\)](#): "In analyzing a claim of deprivation of procedural due process, we apply a two-part test: (1) whether the complaining party has a liberty or property interest entitled to protection; and (2) if so, what process is due."

To determine what process is due, courts apply the balancing test from *Mathews v. Eldridge*, as referenced in [In re Interest of J.R., 652 S.W.3d 508 \(Tex. App. 2022\)](#): "In a due process analysis, the Supreme Court of Texas invoked the balancing test laid out in *Mathews v. Eldridge*, ... *Mathews* directs courts to balance three factors in determining what procedural safeguards are required by the federal due process clause: (1) the private interest affected by the official action; (2) the risk of erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or alternative procedural safeguards; and (3) the government's interests, including the function involved and the fiscal and administrative costs that the additional or substitute procedural requirements would entail."

## **Consequences of Procedural Errors**

Texas courts have addressed the consequences of procedural errors in cases involving termination of parental rights. In [In Interest of S.R.M., 601 S.W.2d 766 \(Tex. Ct. App. 1980\)](#), the court held that a judgment should be reversed because the trial court terminated parental rights upon unpled grounds and without sufficient evidence: "The appellant maintains that the judgment should be reversed because the trial court terminated her parental rights to the child upon unpled grounds... We agree that the judgment should be reversed because the trial court terminated the appellant's parental rights to the child upon unpled grounds."

## **Analysis**

### **Parental Rights as Constitutionally Protected Interests**

Parental rights are recognized as constitutionally protected interests that trigger due process protections. In [In re Interest of J.R., 652 S.W.3d 508 \(Tex. App. 2022\)](#), the court affirmed that "procedural due process rules are meant to protect persons from the mistaken or unjustified deprivation of life, liberty, or property." The court in [In re J.H., 13-21-00175-CV \(Tex. App. Nov 04, 2021\)](#) emphasized that "termination proceedings should be strictly scrutinized, and involuntary termination statutes are strictly construed in favor of the parent."

When a judge temporarily terminates parental rights without a hearing and without findings, this directly infringes upon this constitutionally protected interest. As noted in [In re A.J., 559 S.W.3d 713 \(Tex. App. 2018\)](#), "at a minimum, due process requires notice and an opportunity to be heard at a

meaningful time and in a meaningful manner." The failure to provide a hearing deprives the parent of this fundamental opportunity.

## **Property Rights as Constitutionally Protected Interests**

Similarly, the deprivation of a litigant's home and property without a hearing implicates constitutionally protected property interests. In [Thoyakulathu v. Brennan, 192 S.W.3d 849 \(Tex. App. 2006\)](#), the court recognized that "a cause of action is a species of property protected by the Fourteenth Amendment's Due Process Clause" and that "due process requires that state procedures must provide proper procedural safeguards before a claimant's property interest is destroyed."

The court further stated that "a restriction on litigants' use of established adjudicatory procedures denies due process when such restriction is 'the equivalent of denying them an opportunity to be heard upon their claimed right[s]'." When a judge deprives a litigant of their home and property without a hearing, this constitutes a denial of the opportunity to be heard on their claimed property rights.

## **Failure to Meet the "Clear and Convincing Evidence" Standard**

Texas law requires that the termination of parental rights be supported by "clear and convincing evidence." This standard is mandated by both statute ([Tex. Fam. Code § 161.001](#)) and case law ([In re L.M.I., 119 S.W.3d 707 \(Tex. 2003\)](#)). As emphasized in [W.L. v. Tex. Dep't of Family & Protective Servs., NO. 03-19-00827-CV \(Tex. App. Mar 12, 2020\)](#), this standard is "that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established."

When a judge issues an order without findings and without a hearing, it is impossible to determine whether this standard has been met. The absence of findings means there is no demonstration that the judge considered the relevant factors and applied the appropriate legal standard. The absence of a hearing means that the litigant had no opportunity to present evidence or challenge the evidence against them, which is essential to the fact-finding process.

## **Application of the Mathews Balancing Test**

Applying the Mathews balancing test referenced in [In re Interest of J.R., 652 S.W.3d 508 \(Tex. App. 2022\)](#) supports the conclusion that the judge's actions constituted a violation of due process:

1. Private Interest: The private interests at stake—parental rights and property rights—are of fundamental importance. As recognized in [In re K.B., 683 S.W.3d 850 \(Tex. App. 2024\)](#), "observing that termination cases implicate fundamental liberties, Texas courts begin with the

premise that our proceedings to terminate parental rights must comply with the requirements of procedural due process."

2. Risk of Erroneous Deprivation: The risk of erroneous deprivation is extremely high when decisions are made without a hearing and without findings. The absence of these procedural safeguards means that the judge's decision-making process is opaque and potentially arbitrary.
3. Government Interest: While the government has an interest in protecting children and efficient judicial administration, these interests do not justify dispensing with fundamental procedural safeguards. As noted in [In re L.M.I., 119 S.W.3d 707 \(Tex. 2003\)](#), "before a State may sever completely and irrevocably the rights of parents in their natural child, due process requires that the State support its allegations by at least clear and convincing evidence."

## **Time Limitations for Challenging Orders**

It is important to note that [Tex. Fam. Code § 161.211](#) places limitations on challenges to termination orders: "Notwithstanding Rule 329, Texas Rules of Civil Procedure, the validity of an order terminating the parental rights of a person who has been personally served... is not subject to collateral or direct attack after the sixth month after the date the order was signed." This suggests that challenges to the judge's actions should be raised promptly to ensure they are not barred by this limitation.

## **Preservation of Due Process Claims**

Texas courts have held that due process claims must generally be preserved by raising them in the trial court. In [In re J.H., 13-21-00175-CV \(Tex. App. Nov 04, 2021\)](#), the court noted that "even constitutional complaints can be waived absent a timely objection" and that "complaints about due process violations must be raised and ruled on in the trial court in order to be preserved for appeal."

However, the severity of the due process violations described—deprivation of home, property, and parental rights without a hearing or findings—may be considered fundamental error that can be raised for the first time on appeal. The complete failure to provide basic procedural safeguards for such fundamental rights strikes at the heart of the judicial process itself.

## **Exceptions and Caveats**

### **Temporary vs. Permanent Orders**

The question refers to "temporarily terminated" parental rights, which suggests the order may have been intended as a temporary rather than permanent measure. While temporary orders may involve somewhat different procedures than permanent termination orders, they still require due process. As noted in [Tex. Fam. Code § 109.001](#), even temporary orders during the pendency of an appeal require "notice and hearing."

## **Emergency Situations**

Texas law does provide for emergency removal of children in certain situations. [Tex. Fam. Code § 262.101](#) allows for taking possession of a child without prior notice and hearing, but only if supported by an affidavit showing "an immediate danger to the physical health or safety of the child" and that "there is no time, consistent with the physical health or safety of the child, for a full adversary hearing." Even in these emergency situations, [Tex. Fam. Code § 262.105](#) requires that an initial hearing be held "no later than the first business day after the date the child is taken into possession."

If the judge's actions were taken in response to an emergency situation, there might be some justification for expedited proceedings. However, this would not justify the complete absence of a hearing or findings, especially when property rights are also affected.

## **Standing to Raise Due Process Claims**

To successfully challenge the judge's actions, the litigant must have standing to raise due process claims. This generally requires that they have a recognized liberty or property interest at stake, which would clearly be the case for a parent whose parental rights and property are at issue.

## **Conclusion**

Based on the legislative framework, constitutional principles, and case law of Texas, a judge's actions that deprive a litigant of their home, property, and parental rights without a hearing and without findings would likely constitute a significant due process violation sufficient to invalidate the case. This conclusion is supported by several key principles:

1. **Fundamental Nature of the Rights at Stake:** Both parental rights and property rights are constitutionally protected interests that trigger due process protections. Texas courts have consistently recognized the fundamental nature of these rights and the necessity of procedural safeguards to protect them.
2. **Clear and Convincing Evidence Standard:** Texas law requires that the termination of parental rights be supported by clear and convincing evidence. Without a hearing and findings, it is impossible to determine whether this standard has been met.
3. **Procedural Requirements:** Texas law mandates specific procedures for cases involving the termination of parental rights, including hearings, appointment of counsel for indigent parents, and specific findings. The failure to provide these procedures constitutes a violation of both statutory requirements and constitutional due process guarantees.
4. **Balancing of Interests:** Applying the Mathews balancing test, the private interests at stake are of fundamental importance, the risk of erroneous deprivation is high when decisions are made without proper

procedures, and the government's interests do not justify dispensing with basic procedural safeguards.

When a judge deprives a litigant of their home, property, and parental rights without a hearing and without findings, they undermine the very foundation of due process: the opportunity to be heard at a meaningful time and in a meaningful manner. Such actions represent a fundamental breakdown of the judicial process and would likely be considered sufficient grounds to invalidate the entire case upon appeal or other appropriate legal challenge.

It is important to note that any challenge to the judge's actions should be raised promptly to ensure it is not barred by statutory limitations. However, given the gravity of the due process violations described, there is a strong argument that they constitute fundamental error that can be raised even if not preserved in the trial court.

In summary, when a judge awards relief before the burden of proof has been met and deprives a litigant of significant rights without basic procedural protections, this action is significant enough to invalidate the entire case under Texas law.

## **Legal Authorities**

[G. M., In Interest of, 596 S.W.2d 846 \(Tex. 1980\)](#)

### **Texas Supreme Court**

#### **Extract**

The right to enjoy a natural family unit is no less important than the right to liberty which requires at least a clear and convincing standard of proof to inhibit such liberty through involuntary and indefinite confinement in a mental institution. Termination is a drastic remedy and is of such weight and gravity that due process requires the state to justify termination of the parent-child relationship by proof more substantial than a preponderance of the evidence. Hereafter, the 'clear and convincing evidence' standard of proof will be required in all proceedings for involuntary termination of the parent-child relationship.

#### **Summary**

The Texas Supreme Court requires a "clear and convincing evidence" standard of proof for involuntary termination of the parent-child relationship. This is a higher standard than the "preponderance of the evidence" standard typically used in civil cases. The passage emphasizes the importance of due process and the need for substantial justification before terminating parental rights. This suggests that if a judge issued an order terminating parental rights without meeting this standard, it could be significant enough to invalidate the case.

[In re L.M.I., 119 S.W.3d 707 \(Tex. 2003\)](#)

**Texas Supreme Court**

**Extract**

Justice Owen, applying a different approach, cites the requirement under the Constitution and the Texas Family Code that the ultimate burden of proof, based on clear and convincing evidence, remains with the party seeking to terminate the parental rights... The clear and convincing evidence requirement necessarily means that the burden of proof that an affidavit of relinquishment was voluntarily executed cannot be shifted to a parent. There must be clear and convincing evidence, from the record as a whole, that the affidavit was knowingly and voluntarily executed... Today we hold that the Due Process Clause of the Fourteenth Amendment demands more than this. Before a State may sever completely and irrevocably the rights of parents in their natural child, due process requires that the State support its allegations by at least clear and convincing evidence.

**Summary**

The passage from "In re L.M.I." highlights the constitutional and statutory requirements that the burden of proof in parental rights termination cases must be met with clear and convincing evidence. It emphasizes that due process requires the state to support its allegations with this level of evidence before terminating parental rights. This is relevant to the question as it underscores the necessity of meeting the burden of proof and the potential invalidation of actions taken without such evidence.

[Thoyakulathu v. Brennan, 192 S.W.3d 849 \(Tex. App. 2006\)](#)

**Texas Court of Appeals**

**Extract**

A restriction on litigants' use of established adjudicatory procedures denies due process when such restriction is 'the equivalent of denying them an opportunity to be heard upon their claimed right[s].'*Boddie v. Connecticut*, 401 U.S. 371, 380, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971). A cause of action is a species of property protected by the Fourteenth Amendment's Due Process Clause. See *Logan*, 455 U.S. at 428, 102 S.Ct. 1148. Therefore, statutory procedures that deprive someone of a statutory right must be held up to constitutional analysis. *Id.* at 432, 102 S.Ct. 1148. Due process requires that state procedures must provide proper procedural safeguards before a claimant's property interest is destroyed. *Id.*; *Bank of Am. Nat'l Trust & Sav. Ass'n v. Dallas Cent. Appraisal Dist.*, 765 S.W.2d 451, 453 (Tex.App.-Dallas 1988, writ denied).

## **Summary**

Importance of due process and procedural safeguards when a litigant's property interests are at stake. It emphasizes that denying a litigant the opportunity to be heard is a violation of due process. This is relevant to the question as it addresses the deprivation of property and parental rights without a hearing, which could be seen as a denial of due process.

[In re J.H., 13-21-00175-CV \(Tex. App. Nov 04, 2021\)](#)

## **Texas Court of Appeals**

### **Extract**

Even constitutional complaints can be waived absent a timely objection. See In re B.L.D., 113 S.W.3d 340, 353 (Tex. 2003) ('Appellate review of potentially reversible error never presented to a trial court would undermine the Legislature's dual intent to ensure finality in these [parental termination] cases and expedite their resolution.'); see also In re M.W., No. 13-19-00593-CV, 2020 WL 1887769, at \*3 (Tex. App.-Corpus Christi-Edinburg Apr. 16, 2020, no pet.) (mem. op.) ('[C]omplaints about due process violations must be raised and ruled on in the trial court in order to be preserved for appeal.'). ... Termination proceedings should be strictly scrutinized, and involuntary termination statutes are strictly construed in favor of the parent. Holick v. Smith, 685 S.W.2d 18, 20 (Tex. 1985); Ybarra v. Tex. Dep't of Hum. Servs., 869 S.W.2d 574, 576 (Tex. App.- Corpus Christi-Edinburg 1993, no writ); see also In re C.M.D., No. 13-20-00402-CV, 2021 WL 497302, at \*3 (Tex. App.-Corpus Christi-Edinburg February 11, 2021, no pet.) (mem. op.). 'Due process 'expresses the requirement of 'fundamental fairness,' a requirement as opaque as its importance is lofty.' ... A two-part test is applied when analyzing a due process claim, namely: (1) whether the complaining party has a liberty or property interest entitled to protection; and (2) if so, what process is due. Id. at 719. To assess what process is due, a court balances: (1) the private interest affected by the proceeding or official action; (2) the countervailing governmental interest supporting use of the challenged proceeding; and (3) the risk that the procedure will lead to erroneous decisions. In re K.S.L., 538 S.W.3d at 114. 'Courts must weigh these factors to determine whether the fundamental requirements of due process have been met by affording an opportunity to be heard at a meaningful time and in a meaningful manner under the circumstances of the case.' In re A. J., 559 S.W.3d at 720.

## **Summary**

Importance of raising due process complaints timely in the trial court to preserve them for appeal. It emphasizes that termination proceedings are strictly scrutinized and that due process requires fundamental fairness. The two-part test for due process claims is outlined, which involves determining if there is a protected interest and what process is due by balancing private and governmental interests and the risk of erroneous decisions. This is

relevant to the question as it addresses the procedural fairness required in cases involving deprivation of significant rights.

[Martinez v. Texas Department of Protective & Regulatory Services, 116 S.W.3d 266 \(Tex. 2003\)](#)

## **Texas Supreme Court**

### **Extract**

The Due Process Clause of the Fourteenth Amendment encompasses three types of protection: ... The procedural component guarantees fair procedure. ... Questions of procedural due process require an analysis of whether the plaintiff has a constitutionally protected property or liberty interest at stake, and if so, what process is due to sufficiently protect that interest. ... At a minimum, due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. ... Parents have a constitutionally recognized liberty interest in the care, custody, and control of—and right of association with—their children. ... Consequently, Martinez is entitled to procedural due process in connection with the termination proceeding.

### **Summary**

Procedural due process rights under the Fourteenth Amendment, emphasizing the necessity of notice and an opportunity to be heard when a constitutionally protected property or liberty interest is at stake. In the context of parental rights, the passage highlights that parents have a recognized liberty interest in the care and custody of their children, which entitles them to procedural due process in termination proceedings. This suggests that any deprivation of such rights without due process could be significant enough to challenge the validity of the proceedings.

[In re Interest of J.R., 652 S.W.3d 508 \(Tex. App. 2022\)](#)

## **Texas Court of Appeals**

### **Extract**

A violation of substantive due process occurs when the government deprives individuals of constitutionally protected rights by an arbitrary use of power. ... Procedural due process rules are meant to protect persons from the mistaken or unjustified deprivation of life, liberty, or property. ... Due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. ... In a due process analysis, the Supreme Court of Texas invoked the balancing test laid out in *Mathews v. Eldridge*, ... *Mathews* directs courts to balance three factors in determining what procedural safeguards are required by the federal due process clause: (1)

the private interest affected by the official action; (2) the risk of erroneous deprivation of such interest through the procedures used and the probable value, if any, of additional or alternative procedural safeguards; and (3) the government's interests, including the function involved and the fiscal and administrative costs that the additional or substitute procedural requirements would entail.

## **Summary**

The passage highlights the importance of due process, which requires notice and an opportunity to be heard. It also references the Mathews v. Eldridge balancing test, which is used to determine the necessary procedural safeguards. This is relevant to the question as it addresses the deprivation of rights without due process, which could potentially invalidate a case if due process is not followed.

[Campbell v. Stucki, 220 S.W.3d 562 \(Tex. App. 2007\)](#)

### **Texas Court of Appeals**

#### **Extract**

The Fourteenth Amendment of the United States Constitution protects against deprivation of life, liberty, or property by the State 'without due process of law.' U.S. CONST. amend. XIV, § 1; Covarrubias v. Tex. Dep't Criminal Justice-Inst. Div., 52 S.W.3d 318, 324 (Tex.App.-Corpus Christi 2001, no pet.). The Texas Constitution states that no citizen of this state shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the 'due course of the law of the land.' TEX. CONST. art. I, § 19. In the area of procedural due process, the protections afforded under the Texas Constitution are congruent with those in the federal constitution.

## **Summary**

The passage highlights the constitutional protections against deprivation of life, liberty, or property without due process of law, as provided by both the Fourteenth Amendment of the U.S. Constitution and Article I, Section 19 of the Texas Constitution. These protections are congruent, meaning they are aligned and provide similar safeguards. This is relevant to the question as it underscores the necessity of due process in judicial actions, such as depriving a litigant of their home, property, or parental rights. If due process was not followed, it could be significant enough to challenge the validity of the case.

[In re S.F.M.](#)

### **Texas Court of Appeals**

## **Extract**

The United States Constitution provides that no State shall 'deprive any person of life, liberty, or property without due process of law.' U.S. CONST. Amend. XIV, § 1; see TEX. CONST. art. 1, § 19. In analyzing a claim of deprivation of procedural due process, courts apply a two-part test: (1) whether the complaining party has a liberty or property interest entitled to protection; and if so, (2) what process is due. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 428 (1982); *Univ. of Tex. Med. Sch. v. Than*, 901 S.W.2d 926, 929 (Tex. 1995).

## **Summary**

The passage provides insight into the constitutional requirement for due process before depriving a person of life, liberty, or property. It outlines a two-part test to determine if due process was violated, which is relevant to the question of whether a judge's actions could invalidate a case if due process was not followed.

[V.A. C. v. J. L. W., NO. 03-18-00202-CV \(Tex. App. Aug 28, 2018\)](#)

## **Texas Court of Appeals**

### **Extract**

Termination of parental rights requires proof of one of the predicate grounds in section 161.001(b)(1) of the Texas Family Code and that termination is in the best interest of the child. See *id.* § 161.001(b)(1), (2); *In re A.V.*, 113 S.W. 3d 355, 362 (Tex. 2003). The applicable standard of proof is 'clear and convincing evidence.' Tex. Fam. Code § 161.206(a); see *In re J.F.C.*, 96 S.W. 3d 256, 263 (Tex. 2002) ('Due process requires the application of the clear and convincing standard of proof in parental termination cases.'). The clear and convincing burden of proof is 'that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.'

## **Summary**

The termination of parental rights in Texas requires a specific legal process. This process includes proving one of the predicate grounds under section 161.001(b)(1) of the Texas Family Code and demonstrating that termination is in the child's best interest. The standard of proof required is "clear and convincing evidence," which is a higher standard than a preponderance of the evidence. This standard is necessary to satisfy due process requirements in parental termination cases. The passage emphasizes the importance of meeting this burden of proof to ensure that due process rights are not violated.

[In re Interest of C.B., 659 S.W.3d 504 \(Tex. App. 2023\)](#)

**Texas Court of Appeals**

**Extract**

To determine whether the trial court violated C.S.B.'s due process rights by denying his motion for continuance and proceeding to a termination trial without a showing of competence to stand criminal trial, we consider the Mathews factors. See R.M.T., 352 S.W.3d at 20. Concerning the private interests affected by the court's decision, both the parent's and child's interests must be considered. See *In re M.S.*, 115 S.W.3d 534, 547 (Tex. 2003). A parent's right to maintain custody and raise his child is an interest far more precious than any property right. *Id.* Thus, C.S.B.'s interest weighs heavily in favor of strong procedural protections. See R.M.T., 352 S.W.3d at 20.

**Summary**

Importance of due process rights in the context of terminating parental rights, emphasizing that a parent's right to custody is a significant interest that requires strong procedural protections. This suggests that any action that deprives a parent of their rights without proper procedure could be significant enough to challenge the validity of the case. The passage also references the Mathews factors, which are used to evaluate due process claims, indicating that procedural fairness is crucial in such cases.

[In re L.D.C., NUMBER 13-17-00053-CV \(Tex. App. Dec 13, 2018\)](#)

**Texas Court of Appeals**

**Extract**

The Fourteenth Amendment of the United States Constitution protects against deprivation of life, liberty, or property by the state 'without due process of law.' U.S. CONST. amend XIV; *Parratt v. Taylor*, 451 U.S. 527, 537 (1981). 'The opportunity to be heard is the fundamental requirement of due process; it is an opportunity which must be granted at a meaningful time and in a meaningful manner.' *Covarrubias v. Tex. Dep't. of Crim. Justice-Inst. Div.*, 52 S.W.3d 318, 324 (Tex. App.—Corpus Christi 2001, no pet.) (citing *Parratt*, 451 U.S. at 540). Evaluating procedural due process is a two-step process. *Id.* First, we must determine whether an existing liberty or property interest was interfered with, and secondly, we determine whether the procedures were constitutionally sufficient. *Id.*

**Summary**

The Fourteenth Amendment requires due process before deprivation of life, liberty, or property. The passage outlines a two-step process to evaluate

procedural due process: determining interference with a liberty or property interest and assessing the sufficiency of the procedures. This is generally applicable to cases where significant rights are at stake, such as deprivation of property or parental rights.

### [In re Interest of G.X.H., 584 S.W.3d 543 \(Tex. App. 2019\)](#)

#### **Texas Court of Appeals**

##### **Extract**

The U.S. Constitution prohibits a state from 'depriv[ing] any person of life, liberty, or property, without due process of law....' U.S. Const. amend. XIV, § 1. The Texas Constitution states, 'No citizen of this State shall be deprived of life, liberty, property, privileges or immunities, or in any manner disfranchised, except by the due course of the law of the land.' Tex. Const. art. I, § 19. Because the Department has not suggested otherwise, we presume the due course of law analysis under the Texas Constitution mirrors the due process analysis under the U.S. Constitution. *Reynoso v. Dibs US, Inc.*, 541 S.W.3d 331, 338 (Tex. App.—Houston [14th Dist.] 2017, no pet.). A violation of substantive due process occurs when the government deprives individuals of constitutionally protected rights by an arbitrary use of power. *Id.* Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property. *Id.* at 339 (citing *Carey v. Piphus*, 435 U.S. 247, 260, 98 S.Ct. 1042, 55 L.Ed.2d 252 (1978) ). Due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Univ. of Tex. Med. Sch. at Houston v. Than*, 901 S.W.2d 926, 930 (Tex. 1995).

##### **Summary**

The passage highlights the constitutional requirement for due process, which includes notice and an opportunity to be heard. This is directly relevant to the question of whether a judge's actions in depriving a litigant of property and parental rights without a hearing could invalidate a case. The passage suggests that such actions could indeed violate due process rights, potentially invalidating the case.

### [S. R. M., In Interest of, 601 S.W.2d 766 \(Tex. Ct. App. 1980\)](#)

#### **Texas Civil Court of Appeals**

##### **Extract**

The appellant maintains that the judgment should be reversed because the trial court terminated her parental rights to the child upon unpled grounds... We agree that the judgment should be reversed because the trial court terminated the appellant's parental rights to the child upon unpled

grounds... The appellant further contends that the judgment should be reversed because the evidence is legally insufficient to support the trial court's challenged findings upon the unpled grounds for termination. Our Texas Supreme Court has determined that in involuntary parent-child termination proceedings, the essential facts must be proved by 'the clear and convincing evidence standard.'

## **Summary**

A judgment can be reversed if parental rights are terminated on unpled grounds or if the evidence is legally insufficient to support the findings. The Texas Supreme Court requires that essential facts in such proceedings be proved by a "clear and convincing evidence standard." This suggests that if a judge issues an order without proper findings or without meeting the burden of proof, it could be significant enough to invalidate the case.

[In re E.L.T., 93 S.W.3d 372 \(Tex. App. 2002\)](#)

## **Texas Court of Appeals**

### **Extract**

Although I concur in the result the majority reaches, I write separately regarding the failure of Texas law to adequately address parental competency in the context of termination of parental rights. As the majority correctly states, no existing statute or rule requires a trial court in a termination proceeding to hold a hearing to determine a parent's competency. Thus, under certain limited circumstances, there can be no guarantee that a party is effectively able to provide counsel with necessary or relevant data to prevent a wrongful deprivation of parental rights... No Texas case specifically addresses a due process right to a parental competency hearing prior to a proceeding to terminate parental rights... In criminal cases, 'the due process right to a fair trial prevents the government from subjecting a person to trial whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel, and to assist in preparing his defense.' Alcott v. State, 51 S.W.3d 596, 598 (Tex.Crim.App.2001). The same due process protection should be provided to a parent facing the involuntary deprivation of the fundamental right to direct a child's upbringing.

## **Summary**

The passage highlights a significant gap in Texas law regarding the requirement for a hearing to determine parental competency in termination proceedings. It emphasizes the importance of due process rights, particularly in cases where parental rights are at stake, drawing parallels to criminal cases where competency is a critical factor. The passage suggests that the lack of procedural safeguards, such as a competency hearing, could lead to wrongful deprivation of parental rights, which is a significant due process concern.

[W.L. v. Tex. Dep't of Family & Protective Servs., NO. 03-19-00827-CV \(Tex. App. Mar 12, 2020\)](#)

## **Texas Court of Appeals**

### **Extract**

To terminate parental rights, the Department has the burden to prove one of the predicate grounds in section 161.001(b)(1) of the Texas Family Code and that termination is in the best interest of the child. See Tex. Fam. Code § 161.001(b)(1), (2); *In re A.V.*, 113 S.W.3d 355, 362 (Tex. 2003). The applicable standard of proof is the clear and convincing standard. Tex. Fam. Code § 161.206(a); see *In re J.F.C.*, 96 S.W.3d 256, 263 (Tex. 2002) (explaining that due process requires clear and convincing standard of proof in parental termination cases). The clear and convincing standard is 'that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.'

### **Summary**

Burden of proof required for the termination of parental rights in Texas, which is the "clear and convincing" standard. This standard is necessary to ensure due process and fundamental fairness in such proceedings. If a judge issued an order without meeting this burden of proof, it could be a significant procedural error.

[In re K.B., 683 S.W.3d 850 \(Tex. App. 2024\)](#)

## **Texas Court of Appeals**

### **Extract**

Observing that termination cases implicate fundamental liberties, Texas courts begin with the premise that our proceedings to terminate parental rights must comply with the requirements of procedural due process. *In re B.L.D.*, 113 S.W.3d 340, 351-52 (Tex. 2003). The phrase 'due process,' although incapable of precise definition, expresses the requirement of fundamental fairness... It is already established that in proceedings to terminate parental rights, in Texas, indigent parents are entitled to appointed counsel, see Tex. Fam. Code § 107.013(a)(1), and that as a matter of due process, the statutory right to appointed counsel embodies the right to effective counsel... Additionally, due process demands that indigent parents be provided with a transcript of proceedings in which their parental rights were terminated.

## **Summary**

Texas courts emphasize the importance of procedural due process in cases involving the termination of parental rights. This includes the right to effective counsel and access to transcripts of proceedings. The deprivation of significant rights without due process, such as a hearing or findings, could potentially invalidate a case if it is determined that procedural due process was not followed.

[In re A.J., 559 S.W.3d 713 \(Tex. App. 2018\)](#)

## **Texas Court of Appeals**

### **Extract**

In this case, J.B.J., Jr. was never statutorily admonished of his right to counsel or timely appointed counsel before trial. The commencement of trial on October 12, 2017, was a critical stage of the termination proceedings, at which the indigent father was not represented by counsel. Thus, J.B.J., Jr. contends that he was denied procedural due process by the trial court's failure to advise him of his right to counsel prior to the beginning of his trial. In analyzing a claim of deprivation of procedural due process, we apply a two-part test: (1) whether the complaining party has a liberty or property interest entitled to protection; and (2) if so, what process is due. ... At a minimum, due process requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. *Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S.Ct. 893, 902, 47 L.Ed.2d 18 (1976). What process is due in any given situation is measured by a flexible standard that depends on the practical requirements of the circumstances.

## **Summary**

Procedural due process is a critical component in cases involving the termination of parental rights. The passage highlights the necessity of advising a parent of their right to counsel and ensuring they have representation, especially at critical stages of the proceedings. The failure to provide such due process, including notice and an opportunity to be heard, can be grounds for challenging the validity of the proceedings. The passage also outlines a two-part test to determine if due process was violated, focusing on whether there is a protected liberty or property interest and what process is due.

[In re G.C., 66 S.W.3d 517 \(Tex. App. 2002\)](#)

## **Texas Court of Appeals**

## **Extract**

Appellant also argues that this statutory scheme violates her due process rights under the Fourteenth Amendment of the United States Constitution and her due course of law guarantees under Article I, Section 19 of the Texas Constitution... Therefore, we must determine whether Appellant has a liberty or property interest that is entitled to procedural due process protection, and if she does, what process is due... Therefore, we hold that Appellant's right to retain custody of her children is a constitutionally protected liberty interest and must be afforded procedural due process.

## **Summary**

Framework for evaluating procedural due process claims, which is relevant to the question of whether the judge's actions could invalidate the case.

[Rodarte v. Cox, 828 S.W.2d 65 \(Tex. App. 1991\)](#)

## **Texas Court of Appeals**

### **Extract**

When a conflict arises between the individual's protected interest under the fourteenth amendment and the countervailing compelling state interest, the individual is protected by the due process guarantee of the amendment. But in a case, such as this one, in which due process unquestionably applies, the question remains what process is due. *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S.Ct. 2593, 2600, 33 L.Ed.2d 484 (1972). Due process is flexible and calls for such procedural protections as the particular situation demands. *Id.* The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.' *Armstrong v. Manzo*, 380 U.S. 545, 552, 85 S.Ct. 1187, 1191, 14 L.Ed.2d 62 (1965).

## **Summary**

Due process under the Fourteenth Amendment requires that individuals be given the opportunity to be heard at a meaningful time and in a meaningful manner. This principle is generally applicable to cases where significant rights, such as parental rights, are at stake. The passage emphasizes the flexibility of due process and the necessity for procedural protections tailored to the specific situation.

[Roper v. Jolliffe, 493 S.W.3d 624 \(Tex. App. 2015\)](#)

## **Texas Court of Appeals**

## **Extract**

In resolving these issues, we first determine whether Roper has a liberty or property interest entitled to procedural due process protection and, if so, we determine what process is due. Univ. of Tex. Med. Sch. at Houston v. Than, 901 S.W.2d 926, 929 (Tex.1995). Due process at a minimum requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner. Mathews v. Eldridge, 424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976) ; Than, 901 S.W.2d at 930.

## **Summary**

If these procedural due process rights are not met, it could be significant enough to challenge the validity of the judicial action.

### [Tex. Fam. Code § 107.013 Tex. Fam. Code § 107.013 Mandatory Appointment of Attorney Ad Litem For Parent](#)

## **Extract**

In a suit filed by a governmental entity under Subtitle E in which termination of the parent-child relationship or the appointment of a conservator for a child is requested, the court shall appoint an attorney ad litem to represent the interests of: an indigent parent of the child who responds in opposition to the termination or appointment; ... if a parent is not represented by an attorney at the parent's first appearance in court, the court shall inform the parent of: the right to be represented by an attorney; and if the parent is indigent and appears in opposition to the suit, the right to an attorney ad litem appointed by the court.

## **Summary**

In cases where a governmental entity seeks to terminate parental rights or appoint a conservator, the court is required to appoint an attorney ad litem for indigent parents who oppose the action. This ensures that the parent's rights are protected and that they have legal representation. The failure to appoint an attorney ad litem or inform the parent of their rights could be significant in evaluating whether the parent's rights were adequately protected in the legal process.

### [Tex. Fam. Code § 109.001 Tex. Fam. Code § 109.001 Temporary Orders During Pendency of Appeal](#)

## **Extract**

In a suit affecting the parent-child relationship, on the motion of any party or on the court's own motion and after notice and hearing, the court may

make any order necessary to preserve and protect the safety and welfare of the child during the pendency of an appeal as the court may deem necessary and equitable. ... A temporary order rendered under this section is not subject to interlocutory appeal.

## **Summary**

In cases affecting the parent-child relationship, the court has the authority to issue temporary orders to protect the child's safety and welfare during an appeal. These orders can be made on the court's own motion or on the motion of any party, but they require notice and a hearing. The passage also notes that temporary orders under this section are not subject to interlocutory appeal, meaning they cannot be appealed before the final judgment in the case. This suggests that the court's actions in issuing temporary orders are intended to be protective and are not easily overturned before the case is fully resolved.

### [Tex. Fam. Code § 161.211 Tex. Fam. Code § 161.211 Direct Or Collateral Attack On Termination Order](#)

## **Extract**

(a) Notwithstanding Rule 329, Texas Rules of Civil Procedure, the validity of an order terminating the parental rights of a person who has been personally served or who has executed an affidavit of relinquishment of parental rights or an affidavit of waiver of interest in a child or whose rights have been terminated under Section FAMILY CODE 161.002(b) is not subject to collateral or direct attack after the sixth month after the date the order was signed. (b) Notwithstanding Rule 329, Texas Rules of Civil Procedure, the validity of an order terminating the parental rights of a person who is served by citation by publication is not subject to collateral or direct attack after the sixth month after the date the order was signed. (c) A direct or collateral attack on an order terminating parental rights based on an unrevoked affidavit of relinquishment of parental rights or affidavit of waiver of interest in a child is limited to issues relating to fraud, duress, or coercion in the execution of the affidavit.

## **Summary**

Limitations on attacking the validity of an order terminating parental rights in Texas. Specifically, it states that such orders are not subject to collateral or direct attack after six months from the date the order was signed, except in cases involving fraud, duress, or coercion related to affidavits of relinquishment or waiver of interest. This suggests that if the order in question was signed more than six months ago, it may not be possible to invalidate the entire case based on the issues described, unless there is evidence of fraud, duress, or coercion.

[Tex. Fam. Code § 262.201 Tex. Fam. Code § 262.201 Full Adversary Hearing: Findings of the Court](#)

**Extract**

In a suit filed under Section FAMILY CODE 262.101 or FAMILY CODE 262.105, unless the child has already been returned to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession and the temporary order, if any, has been dissolved, a full adversary hearing shall be held not later than the 14th day after the date the child was taken into possession by the governmental entity, unless the court grants an extension under Subsection (e) or (e-1).

**Summary**

Texas law requires a full adversary hearing to be held within 14 days after a child is taken into possession by a governmental entity, unless an extension is granted. This hearing is crucial to determine whether the child should be returned to the parent or if there is sufficient evidence to justify the child's continued removal. The requirement for a hearing and the necessity of findings suggest that depriving a litigant of their home, property, and parental rights without such a hearing and findings could be significant enough to challenge the validity of the case.

[Tex. Fam. Code § 262.101 Tex. Fam. Code § 262.101 Filing Petition Before Taking Possession of Child](#)

**Extract**

An original suit filed by a governmental entity that requests permission to take possession of a child without prior notice and a hearing must be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that: there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse; continuation in the home would be contrary to the child's welfare; there is no time, consistent with the physical health or safety of the child, for a full adversary hearing under Subchapter C; the child would not be adequately protected in the child's home with an order for the removal of the alleged perpetrator under Section FAMILY CODE 262.1015 or FAMILY CODE 262.1016 or a protective order issued under Title 4; placing the child with a relative or designated caregiver or with a caregiver under a parental child safety placement agreement authorized by Subchapter L, Chapter 264: (A) was offered but refused; (B) was not possible because there was no time, consistent with the physical health or safety of the child and the nature of the emergency, to conduct the caregiver evaluation; or (C) would pose an immediate danger to the physical health or safety of the child; and reasonable efforts, consistent with the circumstances and providing for the

safety of the child, were made to prevent or eliminate the need for the removal of the child.

## **Summary**

The Texas Family Code § 262.101 outlines the requirements for a governmental entity to take possession of a child without prior notice and a hearing. It mandates that such actions must be supported by an affidavit detailing immediate danger to the child and the lack of time for a full adversary hearing. This suggests that any deprivation of parental rights without meeting these criteria could be challenged as improper.

### [Tex. Fam. Code § 262.105 Tex. Fam. Code § 262.105 Filing Petition After Taking Possession of Child In Emergency](#)

## **Extract**

When a child is taken into possession without a court order, the person taking the child into possession, without unnecessary delay, shall: file a suit affecting the parent-child relationship; request the court to appoint an attorney ad litem for the child; and request an initial hearing to be held by no later than the first business day after the date the child is taken into possession.

## **Summary**

Procedural requirements when a child is taken into possession without a court order. It mandates that a suit affecting the parent-child relationship must be filed, an attorney ad litem must be appointed for the child, and an initial hearing must be requested promptly. This suggests that due process is required even in emergency situations, and the lack of a hearing or findings could be significant procedural errors. The statute emphasizes the necessity of a hearing, which implies that bypassing this step could potentially invalidate actions taken without meeting the burden of proof.

### [Tex. Fam. Code § 161.001 Tex. Fam. Code § 161.001 Involuntary Termination of Parent-Child Relationship](#)

## **Extract**

The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence... that termination is in the best interest of the child.

## **Summary**

The termination of the parent-child relationship in Texas requires a court to find clear and convincing evidence that termination is in the best interest of the child. This implies that a hearing and specific findings are necessary to meet the burden of proof. If a judge issued an order without findings and deprived a litigant of significant rights without a hearing, it could be argued that the procedural requirements were not met, potentially invalidating the case.

### DIALOGIC DUE PROCESS.

**University of Pennsylvania Law Review - University of Pennsylvania, Law School - Parkin, Jason - 2019-04-01**

#### **Extract**

For over forty years, since its decision in *Mathews v. Eldridge*, the Supreme Court has evaluated the constitutionality of procedural rules based on a fact-intensive cost--benefit analysis. (16) Under *Mathews*, courts must consider three factors when determining the 'specific dictates' of procedural due process: [f]irst, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. (17)

## **Summary**

The Supreme Court's decision in *Mathews v. Eldridge* provides a framework for evaluating procedural due process claims. This framework requires consideration of the private interest affected, the risk of erroneous deprivation, and the government's interest. This is relevant to the question as it provides a basis for assessing whether the judge's actions in the Texas case could be considered a violation of due process.

### A WORKABLE SUBSTANTIVE DUE PROCESS.

**Notre Dame Law Review - University of Notre Dame Law School - Tymkovich, Timothy M. - 2020-05-01**

#### **Extract**

Finally, in cases challenging judicial action, a state court decision will violate substantive due process only if it is an 'arbitrary or capricious' abuse of power... If the challenge to judicial action has to do with the procedures

used in court, then 'procedural' due process applies, and courts ask whether the procedures were fair under Supreme Court caselaw.

## **Summary**

Standards for evaluating judicial actions under substantive and procedural due process. It indicates that a state court decision can violate substantive due process if it is an "arbitrary or capricious" abuse of power. For procedural due process, the fairness of the procedures used in court is evaluated. This is relevant to the question as it provides a framework for assessing whether the judge's actions in the described scenario could be considered a violation of due process, potentially invalidating the case.

### **SUBSTANTIVE DUE PROCESS AND THE ORIGINAL MEANING OF THE FOURTEENTH AMENDMENT'S DUE PROCESS CLAUSE.**

**Faulkner Law Review - Thomas Goode Jones School of Law - Upham, David R. - 2019-09-22**

## **Extract**

The very prohibition itself suggests a prior rightful state a rule that every human person, by right, enjoys life, liberty, and property and should not be deprived of the same except for some good cause... As Justice Curtis said a decade before the Fourteenth Amendment, within the Due Process Clause 'is necessarily implied and included the right to answer to and contest the charge, and the consequent right to be discharged from it, unless it is proved'... due process of law means 'legal proceedings according to the rules and forms which have been established for the protection of private rights.'

## **Summary**

The passage highlights the fundamental principle that individuals should not be deprived of life, liberty, or property without due process, which includes the right to a hearing and the opportunity to contest charges. This principle is crucial in evaluating whether a judge's actions in depriving a litigant of property and parental rights without a hearing and findings are significant enough to invalidate a case.

### **Schoolhouse Property.**

**Yale Law Journal - Yale University, School of Law - Tanius, Sherry Maria - 2022-03-01**

## **Extract**

The Due Process Clause forbids government actors, including public-school officials, (1) from interfering with an individual's 'life, liberty, or property, without due process of law.' (2) The Clause protects some of the interests most vital to American democracy. The Supreme Court has understood the principal value of the Clause as promoting accurate decision making, (3) thus restraining arbitrary government action. (4) Procedural protections - often in the form of notice and opportunity to be heard before a government decision maker--function, in addition to facilitating accuracy of the substantive decision, (5) to promote participatory and dignitary values (6) and advance fundamental fairness. (7)

## **Summary**

The Due Process Clause is a fundamental constitutional protection that requires government actors, including judges, to provide notice and an opportunity to be heard before depriving an individual of life, liberty, or property. This principle is designed to prevent arbitrary government action and ensure fairness in decision-making. The passage highlights the importance of procedural protections in promoting accurate and fair outcomes.

[Seeba v. Dep't of Justice, 022123 MSPB, PH-0752-17-0162-I-1](#)

## **Merit Systems Protection Board**

### **Extract**

The essential requirements of due process. ... are notice and an opportunity to respond. The opportunity to present reasons, either in person or in writing, why proposed action should not be taken is a fundamental due process requirement. The tenured public employee is entitled to oral or written notice of the charges against him, an explanation of the employer's evidence, and an opportunity to present his side of the story.

### **Summary**

Due process requires notice and an opportunity to respond before depriving an individual of a significant property interest. This principle is generally applicable and not limited to employment cases. The passage highlights the fundamental due process requirement of allowing an individual to present reasons against the proposed action, which is relevant to the question of whether a judge's actions in depriving a litigant of property and parental rights without a hearing could invalidate a case.