TEXAS CIVIL PROTECTION ORDERS

Survivors across the country seek safety through civil protection orders. Courts use these vital orders to issue stay away orders, or order an abuser pay medical bills, and even make temporary custody decisions. The remedies are important, but jurisdictions often have several types of orders and the distinctions are not always clear. This resource provides a brief overview of the different types of civil protection orders in each jurisdiction, answering vital questions such as: who can apply; and who can be restrained? The orders included in this resource are limited to those where a survivor can apply themselves, other protective measures may exist in your jurisdiction—reach out to VRLC's TA team if you have questions!

In Texas, there are 2 types of civil protection orders:

- **Protective Orders for Sexual Assault, Trafficking, Stalking, and Other Crimes** are available for individuals seeking protection from someone who committed certain conduct against them including sexual assault, trafficking, and stalking (TCCP Art. 7B.001, et seq.).

- **Family Violence Protective Orders** are available for individuals seeking protection from domestic violence committed by a family or household member or from an individual they are dating (Tex. Fam. Code §§ 71.004; 82.001-82.043).

PROTECTIVE ORDER FOR SEXUAL ASSAULT, TRAFFICKING, STALKING, AND OTHER CRIMES

Who can apply?	Anyone who is a victim of certain outlined criminal offenses, including: sexual assault, trafficking, sexual abuse of children or older adults, stalking, and burglary. An attorney for the state involved in prosecution of the conduct leading to the request for a protective order may also file on the survivor's behalf. The attorney may not file if the survivor requests that they do not, unless the survivor is under age 18. *TCCP Art. 7B.001(a).*
Can minors apply?	Yes. Any adult, including a parent or guardian of the minor, or a prosecuting attorney may also apply on behalf of a minor. *TCCP Art. 7B.001.*
Who can be restrained?	Anyone without regard to the relationship between the applicant and the alleged offender. *TCCP Art. 7B.001*
What types of relief may a court order?	The court may order actions necessary or appropriate to reduce or prevent the likelihood of future harm to the victim, including: • Prohibiting respondent from communicating with the applicant or any member of their family; • Ordering respondent stay away from applicant's residence, place of school or work, or any member of the applicant's family; • Prohibiting respondent from engaging in conduct that is reasonably likely to harass, or embarrass the applicant or the applicant's family; *continued on next page*

PROTECTIVE ORDER FOR SEXUAL ASSAULT, TRAFFICKING, STALKING, AND OTHER CRIMES

What types of relief may a court order?	• Prohibiting respondent from possessing a firearm (unless they are a member of law enforcement); • Prohibiting respondent from monitoring the applicant's property or electronic devices; and • Prohibiting respondent from following the applicant or any of the applicant's family members. *TCCP Art. 7B.005*
How long does the order last?	A temporary ex parte order typically lasts 20 days, though it may be renewed until a full hearing is able to take place. *TCCP Art. 7B.007(a); TCCP Art. 7B.008; Tex. Fam. Code §§ 83.002; 85.026(d).* A final order may be granted for any length of time, up to and including the lifetime of the offender or victim. If no duration is stated, the order is effective for 2 years. *TCCP Art. 7B.007(a).* The court must order a lifetime order if the respondent was convicted of the offense that led the applicant to seek a protective order and the conviction requires lifetime registration as a sex offender. *TCCP Art. 7B.007(a-1).*
Can the order be renewed?	Yes. Renewal can be requested either before or after the original order expires. If the request for renewal is made before the original order expires, the petitioner must show threatened harm that reasonably places the applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault. *continued on next page*

PROTECTIVE ORDER FOR SEXUAL ASSAULT, TRAFFICKING, STALKING, AND OTHER CRIMES

Can the order be renewed?	If the renewal request is made after the original order expires, the petitioner must show a violation before the order expired or threatened harm that reasonably places the applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault and that the violation was not grounds for any other protective order. *TCCP Art. 7B.008; Tex. Fam. Code §§82.008, 82.0085*
Is a hearing with the respondent required?	A temporary ex parte order can be granted without additional notice to respondent, or a hearing. For a final order, a hearing with notice to the respondent is required. The respondent and applicant are required to appear, but the court may continue the hearing upon request of the applicant, or upon request by the prosecuting attorney. *TCCP Art. 7B.008; Tex. Fam. Code §§ 84.001-002.*

FAMILY VIOLENCE PROTECTIVE ORDERS

Who can apply?	Any adult may apply if they have experienced **family violence** or on behalf of a child victim of **family violence**; anyone who has experienced **dating violence** may apply. In addition, a prosecuting attorney or the Department of Family and Protective Services may file on behalf of any person alleged to be a victim of family violence. *Tex. Fam. Code § 82.002.* **Family violence** is: • An act by a member of a **family** or **household** against another intended to result in physical harm, bodily injury, assault, or sexual assault, or that is a threat that reasonably places the member in fear of one of the above; • Abuse of a child; or • **Dating violence.** *Tex. Fam. Code § 71.004.* **Dating violence** is an act committed against someone with whom the actor has a **dating relationship** (or because of the existence of such a relationship) that is intended to result in physical harm, bodily injury, assault, or sexual assault, or that is a threat that reasonably places the member in fear of one of the above. *Tex. Fam. Code § 71.0021(a).* See "Who can be restrained?" for definitions of **family**, **household,** and **dating relationship**.
Can minors apply?	A minor may apply independently if they are dating the respondent and the order is for dating violence. Otherwise, an adult can apply for the order on behalf of a child. Also, a prosecuting attorney or the Department of Family and Protective Services may file on behalf of a minor. *Tex. Fam. Code § 82.002.*

FAMILY VIOLENCE PROTECTIVE ORDERS

Who can be restrained?	The respondent must be a member of the applicant's **family** or **household** or a person with whom the applicant has or has had a **dating relationship**. *Tex. Fam. Code §§ 71.004, 71.0021.* **Family** means individuals who are: • Related by blood or marriage; • Current or former spouses; • Those with a child in common; or • A foster child and parent. *Tex. Fam. Code § 71.003.* **Household** means Those living in the same dwelling regardless of their relation. Member of a household includes former residents. *Tex. Fam. Code §§ 71.005-71.006.* **Dating relationship** means: A relationship between two individuals who have a continuing romantic or intimate relationship. The court shall consider: • The length of the relationship; • The nature of the relationship; and • The frequency and type of interaction. *Tex. Fam. Code § 71.021.*
What types of relief may a court order?	The court may issue an order that includes provisions necessary or appropriate to prevent or reduce the likelihood of family violence, including any of the following provisions: *continued on next page*

FAMILY VIOLENCE PROTECTIVE ORDERS

What types of relief may a court order?	• Prohibit a party from removing a child from the household; • Prohibit a party from transferring or otherwise interfering with mutually owned property; • Prohibit a party from removing, harming, threatening, or otherwise interfering with a pet or other animal; • Grant a party exclusive possession of a residence; • Exclude a party from a residence; • Provide for the custody of a child of a party; • Require child or spousal support; • Require respondent to complete a battering intervention program or other counseling; • Prohibit respondent from committing family violence; • Prohibit respondent from communicating with any person named in the order or that person's family members; • Stay away from the residence, place of work or school, or other relevant place of petitioner, petitioner's children, or members of petitioner's family; • Prohibit respondent from engaging in conduct that is reasonably likely to harass, or embarrass the petitioner or family; • Prohibit respondent from possessing a firearm (unless they are a member of law enforcement); and • Prohibit respondent from monitoring petitioner's property or electronic devices. *Tex. Fam. Code §§ 85.021-85.022.*
How long does the order last?	A temporary ex parte order typically lasts 20 days, though it may be renewed until a full hearing is able to take place. *Tex. Fam. Code §§ 83.002; 85.026(d).* *continued on next page*

FAMILY VIOLENCE PROTECTIVE ORDERS

How long does the order last?	A final order generally lasts up to 2 years. The court may issue an order lasting longer than 2 years, up to a time period deemed sufficient to protect the applicant, if the respondent: • Committed a felony offense involving family violence against the applicant or a member of the applicant's family or household (regardless of if they have been charged); • Caused the serious bodily injury of the applicant or a member of the applicant's family or household; or • Was the subject of 2 or more prior orders to protect the applicant and found by the court to have commited family violence. *Tex. Fam. Code § 85.025(a).* The protection order will automatically be extended if the respondent is confined on the date of expiration. The extension is for 1 year from release date if sentence for confinement was for 5+ years or 2 years from release date if sentence for confinement was for 5 years or less. *Tex. Fam. Code § 85.025 (c).*
Can the order be renewed?	Yes. Renewal can be requested either before or after the original order expires. If before, petitioner must show threatened harm that reasonably places the applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault. If after, petitioner must show a violation before the order expired or threatened harm that reasonably places the applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault and that the violation was not grounds for any other protective order. *Tex. Fam. Code §§82.008, 82.0085*

FAMILY VIOLENCE PROTECTIVE ORDERS

Is a hearing with the respondent required?	A temporary ex parte order can be granted without additional notice to respondent or a hearing. For a final order, a hearing with notice to the respondent is required. The respondent and applicant are required to appear but, the court may continue the hearing upon request of the applicant, or upon request by the prosecuting attorney. *Tex. Fam. Code §§ 84.001-002.*

HOW TO APPLY

Forms are available at the applicable county courthouse and online at https://www.txcourts.gov/rules-forms/forms/

Also see the Texas Supreme Court's protective order kit at:
https://www.txcourts.gov/media/1457024/protective-order-kit-english.pdf

Applicant can file a petition in the county (in either district court, juvenile court (having the jurisdiction of a district court), statutory county court, or constitutional county court) where either the applicant or respondent resides or any county in which the incident is alleged to have occurred.
Tex. Fam. Code Ann. § 82.003.

SCAN ME!

For specific questions about how to use this guide, or if you have any other questions, VRLC is here to help!

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