

Domestic Violence: Information on Protective Orders

The University of Texas at Arlington Housing Office

What is the legal definition of family violence in Texas?

The Texas Family Code (Sec. 71.004) defines "**family violence**" as:

--any act by a member of a family or household against another member of the family or household

--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 imminent physical harm, bodily injury, assault or sexual assault....

Family violence also includes abuse by a member of a family or household toward a child of the family or household.

Under TX law, family violence also includes "**dating violence.**" Dating violence is defined in the Texas Family Code (Section 71.0021) as:

-- any act by an individual that is against another individual with whom that person has or has had a dating relationship and

--that is intended to result in physical harm, bodily injury, assault or sexual assault

--or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault or sexual assault.

"Dating relationship" means:

--a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature.

To determine if a dating relationship exists, the judge will consider:

1. the length of the relationship;
2. the nature of the relationship; and
3. the frequency and type of interaction between the persons involved in the relationship.

To read the full legal definitions of these terms, please go to www.womenslaw.org.

What is a protective order?

A protective order is a civil court order that is designed to stop violent and harassing behavior and to protect you and your family members from an abuser.

How can a protective order help me?

A protective order may order your abuser to:

- Stop committing acts of family or dating violence.
- Stop communicating with you or a family member.
- Stop threatening you or a family member.
- Stay away from your home or place of employment.
- Stay away from a school or day center that a child protected under the order attends.
- Complete a battering intervention and prevention program.
- Attend mandatory counseling.
- Not remove your child from your possession or from the jurisdiction of the court or to allow you visitation with your child.
- Stop any transfer or disposal of property.
- Stop any other behavior designed to harass, annoy, abuse, or embarrass you.
- Pay child or spousal support for a period up to two years.
- Leave your home or other specified property (if certain conditions are met).
- Turn over any firearms in his/her possession to law enforcement (unless the person is a peace officer actively engaged in employment as a sworn, full-time paid employee of a state agency).
- Perform any other acts that are necessary to prevent or reduce the likelihood of family or dating violence.

Whether a judge orders any or all of the above depends on the facts of your case.

Who is eligible for a protective order?

You can apply for a protective order if your abuser is one of the following:

- A current or former spouse
- A sibling (brother or sister)
- A blood relative such as a parent
- A relative by marriage (an in-law)
- A person with whom you have a child in common
- A current roommate
- A former roommate
- A foster parent
- A foster child
- A person who you are dating or have dated

A person who has a divorce pending is eligible for a protective order. The protective order must be filed in the court in which the divorce is pending.

Who may file for a protective order?

- a. An adult member of the family of household may file an application for a protective order for family violence committed against a member of the family or household.
- b. An adult in a dating relationship may file an application for a protective order for dating violence.
- c. Any adult may apply for a protective order to protect a child from family violence.

Note: Teenagers ARE eligible for protective orders. In some places in the state, someone might have to file on the teen's behalf. Check with your clerk of court.

The person who is the alleged victim of family violence is considered to be the “applicant.”

The victim should file for the order as soon after the incident has occurred as possible.

What does it cost to get a protective order?

Nothing, a protective order is free. You cannot be charged a fee for filing, serving, or entering a protective order.

The court may order that your abuser pay any attorney fees (if applicable), and all other fees, charges, or expenses incurred in connection with the protective order.

A domestic violence agency may be able to refer you to free legal services. The agencies below may be able to provide assistance.

The Women's Shelter
PO Box 1207
Arlington, TX 76004-1207
Office: (817) 548-0583
24 hour Hotline: (817) 460-5566
www.womensshelter.org

SE Tarrant County
813 Brown Trail
Bedford, TX 76022
Office: (817) 548-0583

District Attorney's Office: Protective Orders
Office: (817) 884-1623

What types of protective orders are available?

In Texas there are three types of Orders of Protection:

1. Temporary Ex Parte Order
2. Permanent Protective Order
3. Magistrate's Order of Emergency Protection (ie: Emergency Protective Order). These are called different things in different parts of the state. They are good for 31-61 days.

What is a Temporary Ex Parte Order and how long does it last?

A Temporary Ex Parte Order is a court order designed to provide you and your family members with **immediate** protection from your abuser. In order to get a Permanent Protective Order, you need to have a full court hearing with your abuser present. A Temporary Ex Parte Order will protect you from the time you file for the Permanent Protective Order until your full court hearing. You may receive a Temporary Ex Parte Order without your abuser present.

The court can issue a Temporary Ex Parte Order if it decides that the information given in your application for a protective order presents a clear and present danger of family violence to either you or a family member.

A Temporary Ex Parte Order lasts for the period of time specified in the order, usually until the date of your full court hearing. In most places the court will schedule a date for a formal hearing no later than the 14th day after the date the application is filed. However, in some larger counties a Temporary Ex Parte Order may last up to 20 days. In these counties you may request that a Temporary Ex Parte Order be extended for additional 20-day periods.

What is a Permanent (or Final) Protective Order and how long does it last?

A Permanent (or Final) Protective Order is a court order that is designed to stop violent and harassing behavior and to protect you and your family from the abuser.

A Permanent Protective Order is effective for the time period specified in the order up to a maximum of 2 years. If there is no time period specified in the order, then it expires on the second anniversary of the date the order was issued.