

Getting a Protective Order for Victims of Family Violence

If you are a victim of family violence, you may ask a court for a protective order. A protective order issued by a court orders someone to not hurt or threaten to hurt you, not contact you or go near you, your children, other family members, your home, where you work, or your children's schools. A protective order can also prohibit someone from having a gun or a license to carry a gun. The person can be arrested by the police for violating the order.

When can you get a protective order? You can get a protective order if someone has hurt you, or threatened to hurt you, *and* you have a close relationship with that person, *and* you are afraid that person may hurt you again. You have a close relationship with someone if you are or were married, dating, or living together; have a child together; or are close relatives.

How can you get a protective order?

- The easiest way to get a protective order is to contact your county or district attorney's office. In most cases, they will have a lawyer that helps people get protective orders. You can also ask them who in your county helps people get protective orders.
- If you cannot get a protective order through your county or district attorney's office, you can contact your local legal aid office or the State Bar of Texas' Lawyer Referral Service at 1-800-252-9690 for help finding a lawyer. For more information about finding a lawyer, go to the How to Find a Lawyer video on this website or go to the State Bar's Referral Directory: Legal Services and Other Resources for Low-Income Texans on the Resources section of this website.
- If you cannot find a lawyer, the Texas Supreme Court has approved a protective order kit for use in any county in Texas. **The kit is for people who want a protective order but do not have a lawyer. You do not have to be a lawyer to use the kit.**

To ask for a protective order:

- Start by filling out the forms in the Protective Order Kit, which can be downloaded from this website. There are 4 forms: the **Application for Protective Order**, **Temporary Ex Parte Protective Order**, **Protective Order**, and **Respondent Information**. There is an instruction sheet for each form, but if you need more help, contact the Family Violence Legal Line: 800-374-HOPE.
- **The Application for Protective Order is your request to the court for a Protective Order.** The Application for Protective Order can be supported by an affidavit or declaration which is included in the kit. The kit has instructions to help you determine which form—the affidavit or declaration—to use for your situation.

- **The Temporary Ex Parte Protective Order included in the kit is used by the court if you said in your Application that you need protection right away.** You must include an affidavit or declaration in your Application for Protective Order if you want a court to provide you with protection right away. Be ready to testify at a hearing when you file your application at the courthouse. Keep in mind, a Temporary Ex Parte Protective Order is temporary and only valid for the time specified in the order.
- You may also ask the judge to order the other person to leave the home in the Temporary Ex-Parte Protective Order. If you ask the judge to remove someone from the home, your Application for Protective Order must include a completed Affidavit or Declaration form that describes the family violence that has occurred. For a judge to order the other person to leave the home, the family violence must have happened within the 30 days before you file an Application for Protective Order.

What to do after you fill out the forms in the Protective Order Kit:

- After you fill out the Application for Protective Order and Affidavit or Declaration forms, take them and 2 copies to the courthouse in the county where you or the other person lives to officially “file” them. If you have a pending divorce or custody case against the other person, file the forms in the same county as that pending case. There is not a fee to file an Application for Protective Order. When you file the papers, ask for a court date.
- Once your Application for Protective Order is filed, you must have the other person “served” *before* the court hearing. This means that someone – but not you – will give the other person a copy of your Application for Protective Order. The other person will also receive a copy of the Affidavit or Declaration form included in the Application for Protective Order. If the other person is in the military, a copy of the Application for Protective Order and Affidavit or Declaration form will be sent to the officials on base. The clerk can arrange for law enforcement to “serve” the other person the court papers at no charge to you.
- If you want a Temporary Ex-Parte Protective Order, you need to ask for a hearing with the judge when you go to the courthouse to file the Application for Protective Order. Remember, your Application for Protective Order must include a completed Affidavit or Declaration. Bring the Temporary Ex-Parte Protective Order form with you to the courthouse. If the judge signs the Temporary Ex-Parte Protective Order, the other person will receive a copy of it.

After the other person has been served with your Application for Protective Order:

- You will go to court for a protective order hearing. Please review the information about how to get ready for your hearing in the instructions titled “Get Ready for Court” in the

kit. Bring a copy of the Protective Order form and Respondent Information form to the hearing.

- After the hearing, if the judge agrees you need protection, the judge will sign your Protective Order. The judge will also decide how long the protective order will be valid.
- If the judge signs your Protective Order, complete the Respondent Information form and take both forms to the court clerk and ask for copies.
- Make sure to keep a copy of your signed Protective Order with you at all times. Make sure copies of your signed Protective Order are sent to your children's daycare, babysitter, school, and to the other person's military superior if they have one.

If your protective order ends when the other person is in prison, it will be automatically extended to one year after the other person is released from prison. Even though the extension is automatic, you have to make sure law enforcement officers know about the extended deadline. To do this, contact the victim assistance coordinator in the district or county attorney's office about 2 or 3 weeks before the other person is due to be released from prison. Ask the victim assistance coordinator about having your protective order extended. If you are not able to get your protective order extended through a victim assistance coordinator, or if your county does not have a victim assistance coordinator, call Texas Legal Services Center at 1-888-343-4414.

Please be careful and stay safe. Anyone who uses your computer can see what websites and pages you have visited. You cannot completely clear it. If you think this may happen, please use a safer computer, call your local shelter, or call the National Domestic Violence Hotline at 800-799-SAFE (7233) or TTY: 800-787-3224. There is also information about personal safety planning in the kit, with telephone numbers for law enforcement, hotlines, legal services, and counseling and support services.

Always keep your protective order with you. Make sure your local police department has a copy of the Protective Order. Call the police if the other person violates the Protective Order. Give copies of the order to family members, friends, schools and neighbors.