



## INFORMATION FOR CLIENTS OF TEXAS ATTORNEYS

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# Ending the Violence: How to Obtain a Texas Protective Order

The Texas Department of Public Safety reports that in 2006, there were 186,868 incidents of documented family violence statewide. However, the Texas Health and Human Services Commission estimates that as many as 982,916 Texas women were actually battered that year. In Texas, more than 800 women were killed by their domestic partners from 1998 to 2005. These

statistics indicate that although family violence is an inexcusable crime, it is prevalent in today's society. If you or someone you know is a victim of family violence, you are not alone.

Although the legal system is unfamiliar territory for most people, it can offer some protection from family violence through the use of a legal document known as a protective order.

### What is a protective order?

A protective order is a civil court order that is designed to stop an abuser from continuing acts of violence, threatening, harassing, or stalking. A judge can create various conditions of a protective order. For example, a judge may order a respondent — the person restricted by the order — to vacate a residence, pay child support, attend counseling, and/or not possess a firearm. Abusers who violate a protective order can be fined, arrested, or both.

### Who is eligible for a protective order?

Victims of family violence are eligible for a protective order. In Texas, "family violence" means an 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, but does not include defensive measures to protect oneself.

An application for a protective order may be filed by an adult member of the dating relationship or any adult may apply for a protective order to protect a child from family violence. In addition, a prosecuting attorney or the Department of Protective and Regulatory Services may file an application for the protection of any person alleged to be a victim of family violence.

Please contact your local law enforcement or domestic violence pre-





vention agency immediately if you or someone you care about is a victim of family violence. Even if you are not eligible for a protective order, other options may be available.

### How do you obtain a protective order?

The first step is to complete an application. The application may be obtained through the office of the county or district attorney, a private attorney, or a legal aid program. In some communities, domestic violence advocacy groups also provide assistance in obtaining protective orders. The application for a protective order must be filed in either the county where the victim lives or the county where the offender lives and the applicant's address can be kept confidential. There are no minimum time limits to establish residency, so even if you have not lived in the same county for very long, you may still file an application for a protective order in that county. Protective orders are available in every county in Texas.

### How much does a protective order cost?

Applying for a protective order is free. An applicant for a protective order may not be charged a fee by the county or district attorney's office or by a sheriff or constable in connection with the filing, serving, modifying, or withdrawing of a protective order. There is also no cost for certifying copies, court reporter fees, or any other service related to a protective order. However, if the

applicant chooses to use a private attorney for assistance, the applicant may still have to pay for the attorney's time in assisting with the protective order. In this case, the court can order a respondent who has committed family violence to pay the private attorney's fees.

### How long does a protective order last?

If the court reviewing the application determines that there is a real threat of immediate family violence, the court may issue a temporary ex parte order that is valid for up to 20 days. The court will then set a hearing date for a final protective order, usually no more than 14 days after the application is submitted. At this hearing, the court will decide whether to grant a final protective order. If granted, the final protective order may be effective for up to two years. If a person subject to the protective order is imprisoned on the date the protective order would expire, the period for which the order is effective can be extended and the order will expire one year after the person is released from confinement. A new protective order can also be requested after an earlier protective order has expired or while one is still in effect, so long as the earlier protective order is set to expire within 30 days of the date the new application for a protective order is filed.

### What does a protective order actually do?

No piece of paper can protect you from all incidents of violence; however,

a protective order provides a good deterrent in most situations. A protective order can require the abuser to stay away from the victim's home, workplace, and children's schools (if the children are protected persons in the order). It can order the abuser to stop communicating in a harassing manner with or threatening the victim. Protective orders can require the abuser to attend counseling, to pay child support, and to pay spousal support. All of the provisions in the order can be enforced in court. Some violations, but not all, can result in the police taking the abuser to jail if he or she violates the order. ❖

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The information contained in this article was taken from a brochure, *Ending the Violence: How To Obtain a Texas Protective Order*, prepared as a public service by the Texas Young Lawyers Association. Order copies of the complete brochure by writing the Public Information Department, State Bar of Texas, P.O. Box 12487, Austin, TX 78711-2487; by calling (800)204-2222, Ext. 1800; or by visiting [www.texasbar.com](http://www.texasbar.com).