

Who Can File

Length of PO

Requirements

Prohibitions

Additional information &amp; Tips

### Magistrate's Order for Emergency Protection (MOEP)

1. Magistrate's own motion;
2. Victim of family violence, trafficking, sexual assault, or stalking;
3. Victim's guardian;
4. Peace officer or
5. Prosecutor  
Code of Crim. Pro., Title 1, Ch. 17, Art. 17.292(a)

31-61 days  
61-91 days for family violence involving the use or display of deadly weapon.  
Art. 17.292 (j)

Arrest and confinement of the offender. Application must be brought within 48 hours of arrest. CCP, Art. 14.06

Committing family violence, sexual assault or stalking;  
Threats/harassment to family, household member or victim; Being near victim and defined locations;  
Possessing a firearm.  
Art. 17.292(c)

- \*Criminally enforceable.
- \*Mandatory when family violence involves serious bodily injury or display of deadly weapon.
- \*GPS may be ordered.
- \*Physical address can be removed from order.
- \*Cannot be extended.
- \*Can supersede custody/visitation order if issued subsequently.
- \*Law Enforcement must enter into TCIC within 24 hours.

### Temporary Ex Parte Protective Order (TEPPO)

1. An adult member of the family, household, or marriage;
2. Any adult to protect a child;
3. A member of a dating relationship (regardless of age);
4. A prosecutor or
5. DFPS  
Tex. Fam. Code, Title 4, Ch. 82, Sec. 82.002 or
1. Victim of sexual assault, indecency with a child, stalking, trafficking or compelling prosecution;
2. Victim's parent or guardian;
3. Prosecutor  
CCP, Title 1, Ch7A, Art. 7A.01(a)

Until the hearing for final protective order, up to 20 days. May be extended for additional 20 day periods. Tex. Fam. Code, Title 4, Sec. 83.002

Finding of clear and present danger of family violence, sexual assault, stalking or trafficking. Tex. Fam. Code Title 4, Ch. 83, Sec. 83.001; CCP, Art. 7A.02.

Occupying the shared home, upon applicant's sworn affidavit and testimony that (1) she resided on premises within past 30 days, (2) family violence occurred within 30 days and (3) clear and present danger family violence will occur against member of the household. Same prohibited acts as set forth in the FVPO and SAPO, including refraining from doing other acts as specified. Tex. Fam. Code Sec. 83.006 and 83.001

- \*Criminally enforceable after service of order on offender.
- \*Requested in application for PO, issued by judge outside the presence of offender. Intended to be a short-term protection while applicant awaits protective order hearing.

### Family Violence Protective Order (FVPO)

1. An adult member of the family, household or marriage;
2. Any adult to protect a child;
3. A member of a dating relationship (regardless of age);
4. A prosecutor or
5. DFPS  
Tex. Fam. Code, Title 4, Ch. 82, Sec. 82.002

Standard of two years, but can be longer in cases of serious bodily injury or two or more prior protective orders. Tex. Fam. Code Sec. 85.025

Finding that family or dating violence has occurred and is likely to occur in the future. Tex. Fam. Code, Sec. 85.001.

Removing or harming child, property (Tex. Fam. Code Ch. 85.021 - civil enforcement only); committing family violence; direct or indirect threats or harassment (or at all in some cases); proximity to victim and certain locations; harassing, abusive, embarrassing behaviors; possessing a firearm; interfering with custody of pet/service animal. Tex. Fam. Code Sec. 85.022

- \*Criminally enforceable in all counties, states, territories except as noted above.
- \*Can order access to child, spousal/child support with civil enforcement only.
- \*No fee is to be assessed to applicant.
- \*Can require offender to attend BIPP.
- \*No criminal case is required
- \*Cannot apply to both victim and offender in same order.
- \*Law enforcement must enter into TCIC within 3 days.

### Sexual Assault (SAPO), Stalking & Trafficking Protective Order

1. Victim of sexual assault, indecency with a child, stalking, trafficking or compelling prostitution;
  2. Victim's parent or guardian;
  3. Prosecutor  
CCP, Title 1, Ch7A, Art. 7A.01(a)
- Specific to Stalking PO: A person in a proceeding related to the criminal offense of stalking. CCP, Art. 6.09.

For the life of the offender and victim, or shorter. If no stated duration, then 2 years.  
CCP, Title1, Ch. 7A, Art. 7A.07(a)

Finding of reasonable grounds to believe that applicant is victim of sexual assault, abuse, stalking or trafficking. Art. 7A.03(a).

Or Probable cause that stalking occurred and defendant is likely to stalk in the future. Art. 6.09.

Threats/harassment of victim, victim's family or household (whether communicated directly or indirectly); Proximity to residence, employment, child care facility or school;  
Harassing, abusive and embarrassing behaviors;  
Possessing firearm.  
CCP, Art. 7A.05

- \*No criminal case is required.
- \*Criminally enforceable in all counties, states, territories
- \*NO requirement to prove future harm to victim.

### Military Protective Order (MPO)

Victim (with assistance from victim advocate) can request issuance from offender's commanding officer (who is advised by Judge Advocate).  
DoD Instruction 6400.06, 6.1.2, 6.3.3, 6.4.3.9

Within commander's discretion.  
DoD instruction 6400.06, 6.1.2.4

Necessity to safeguard a victim, quell a disturbance, and maintain good order and discipline. DoD Instruction 6400.06, 6.1.2.1

Contacting the victim, or household members. Taking specific actions that support the MPO. Tailored to meet the needs of the victim. DoD Instruction 6400.06, 6.1.2.2, 6.1.2.4

- \*May be issued in conjunction with civil PO.
- \*May be enforced outside of U.S., and off base.
- \*Cannot be issued against civilian.

### Hate Crime Protective Order

A person in a proceeding related to criminal homicide, trafficking, sexual assault, assault, arson, criminal mischief or graffiti in which it is alleged that the defendant intentionally selected the victim because of bias or prejudice against a group identified by race, color, disability, religion, national origin, ancestry, age, gender or sexual preference.  
CCP, Title 1, Ch. 6, Art. 6.08(a).

Standard of two years but can be longer in cases of serious bodily injury or two or more prior protective orders. Texas Fam. Code, Title 4, Sec. 85.025

Probable cause that one of the above listed offenses occurred because of bias or prejudice and that the defendant is likely to engage in future similar conduct. CCP Title 1, Ch. 6, Art. 6.08

Same prohibitions as can be set forth in FVPO.  
CCP Title 1, Ch. 6, Art. 6.08

- \*Criminally enforceable in the same manner as FVPO.
- \*Criminal case is required.
- \*Law enforcement must enter PO into TCIC within 10 days.

## Protective Orders in Texas: A Primer for Advocates

For more information, contact the Texas Association Against Sexual Assault at (512) 474-7190 or the Texas Council on Family Violence at 1-800-525-1978. Version 1/2017