



Protective Order Guide

FOR PRO BONO ATTORNEYS

Pro Bono Attorney,

Thank you for stepping up to support victims of domestic violence, stalking, and sexual assault. Committing your time and expertise to secure protective orders for these survivors is invaluable in addressing one of the largest unmet needs in Texas. The demand for protective orders far outpaces the resources available to help, resulting in lengthy wait times for victims who need immediate protection. With your help, we can make a real difference in helping victims find safety.

This guide is designed to be your comprehensive resource for every step in filing and obtaining a protective order on behalf of your client. Inside, you will find essential forms, sample pleadings, templates, tools, and direct links to relevant rules and statutes. It is meant to supplement our recorded trainings on survivor law, the dynamics of power-based abuse and how trauma impacts victims and their interaction with the judicial process, and our protective order overview. Be sure to watch those trainings prior to accepting your first pro bono client.

Each case is unique and there may be nuances or unforeseen challenges, whether legal or factual, that are not fully addressed here. This guide provides a strong foundation for navigating the process, but your expertise and judgment, along with the specific facts of your case, will help you tailor the approach to best serve your client's needs.

Texas Advocacy Project will be here to support you throughout the process. Our experienced family law attorneys will hold weekly office hours, and you can always reach out with any questions.

Thank you for your dedication in helping these victims find safety and rebuild their lives.

Texas Advocacy Project

DISCLAIMER: *This guide is for informational purposes only and does not constitute legal advice. It is not a substitute for independent legal judgment. Laws and procedures may change, and attorneys should verify current legal standards before providing advice or representation.*

TABLE OF CONTENTS

- Section 1: Protective Order Law3
 - What is a Protective Order?3
 - Who is Eligible for a Protective Order?.....3
 - What is the Legal Standard for Obtaining a Protective Order?3
 - Other Protective Orders4
 - Temporary Ex Parte Protective Order (TXPO)4
 - How long does a protective order last?.....4
 - What are the Benefits of a Protective Order?.....5
- Section 2: Step-by-Step Guide.....6
 - STEP 1: INITIAL CLIENT CONSULTATION.....6
 - Confidentiality6
 - Listening to Their Story.....6
 - Determine Type of Protective Order7
 - Does Your Client Need a Temporary Ex Parte Protective Order (TXPO)?7
 - Explain the Process8
 - Gather and Preserve Evidence8
 - STEP 2: PREPARING THE APPLICATION8
 - A. Completing the Application9
 - B. Attachments to Application14
 - C. Completing the Affidavit/Declaration14
 - D. Complete the Proposed TXPO or Protective Order16
 - E. TCIC Form17
 - STEP 3: FILE THE APPLICATION.....18
 - A. Determine Venue.....18
 - B. File Required Documents18
 - C. Set the Hearing.....19
 - D. Fees19
 - E. Service20
 - STEP 4: PREPARE FOR THE HEARING24
 - A. Check Local and Court Rules24
 - B. Agreed Protective Order24
 - C. Evidence.....25
 - D. Prepare with your Client.....28
 - E. Other29
 - STEP 5: ATTEND THE HEARING29
 - STEP 6: AFTER THE HEARING.....31

Section 1: Protective Order Law

What is a Protective Order?

A protective order is a court order aimed at preventing further acts of family or dating violence, sexual assault, stalking, or trafficking by restricting an abuser's contact with the victim. The laws regarding protective orders are found in Sections 81-86 of the Texas Family Code.

Generally, a protective order can (1) protect the victim from being hurt or threatened by the respondent; (2) prohibit the respondent from contacting or approaching the victim, the victim's family, pets, the home, the workplace, and the children's school/child-care facility; (3) order the respondent to vacate the residence; (5) prohibit the respondent from possessing a firearm; and (6) prohibit the respondent from tracking or monitoring the victim and the victim's family members.

Who is Eligible for a Protective Order?

Victims of "family violence" are eligible for a protective order under Texas law. "Family violence" is defined as "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." [Tex. Fam. Code § 71.004\(1\)](#).

"Family violence" also includes abuse to a child, including physical, mental, or emotional injury that results in substantial harm or genuine threat; sexual conduct; failure to make a reasonable effort to prevent harm by another person; and compelling or encouraging the child to engage in sexual conduct. [Tex. Fam. Code § 261.001](#). The definition also includes those in a "dating relationship", which is defined as "a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature." [Tex. Fam. Code § 71.0021\(b\) \(2023\)](#).

The term "family" is defined expansively to include, "individuals related by consanguinity or affinity, individuals who are former spouses of each other, individuals who are the parents of the same child without regard to marriage, and foster child and foster parent, without regard to whether those individuals reside together. [Tex. Fam. Code § 71.003](#).

The term "household" means persons living together in the same dwelling, regardless of whether they are related to one another. [Tex. Fam. Code § 71.005](#). "Member of a household" also includes a person who previously lived in the household. [Tex. Fam. Code § 71.006](#).

What is the Legal Standard for Obtaining a Protective Order?

Family Violence Protective Order

The court **shall** issue a protective order if it **finds that family violence has occurred**. [Tex. Fam. Code § 85.001\(b\)\(1\)](#). This is a recent change as of September 1, 2024. The former law required a finding that family violence is also likely to occur in the future. That is no longer required to obtain a protective order.

Any adult member of the family or household may file an application for a protective order to protect themselves of any other member of the applicant's family or household. [Tex. Fam. Code § 82.002](#).

The parties may also agree in writing to a protective order, but it must be approved by the court. The judge can set any duration for the protective order, but it cannot exceed two years unless the court finds that the respondent committed a felony involving family violence, caused serious bodily injury to the applicant or a member of your client's household, or was the subject of two or more previous protective orders. [Tex. Fam. Code § 85.025](#).

Other Protective Orders

The applicant can also get a protective order if the respondent committed certain serious crimes, even if there is no relationship between the parties (a "7B Protective Order"). [Tex. Code Crim. Proc. art. 7B.001](#). These crimes are listed in [article 7B.001\(a\)\(1\) of the Texas Code of Criminal Procedure](#). The most common offenses include trafficking, sexual abuse of a child, indecency with a child, sexual assault, and stalking. The victim does not have to have reported the crime to the police to be eligible for this type of protective order.

As with the family violence protective order, the court **shall** issue a protective order if it finds there are **reasonable grounds to believe** that the applicant is a victim of a qualifying crime. [Tex. Code Crim. Proc. art. 7B.003](#). "Reasonable grounds" is essentially equivalent to the probable cause standard. The victim also does not have to show that there is a risk of future harm. The court has the discretion to make the protective order effective for life. [Tex. Code Crim. Proc. art. 7B.007](#).

Temporary Ex Parte Protective Order (TXPO)

If the applicant for a protective order can show that there is a **clear and present danger of family violence**, the court may enter a Temporary Ex Parte Protective Order ("TXPO") without notice to the respondent. [Tex. Fam. Code §83.001](#). The TXPO is a temporary measure intended to keep the applicant safe until the protective order hearing. A TXPO is available when pursuing either a Family Violence Protective Order or a 7B Protective Order. [Tex. Code Crim. Proc. art. 7B.002](#).

There is a real threat to the applicant when the respondent is served with notice of a protective order hearing. The TXPO is designed to protect the applicant during the window between when the protective order is filed and the hearing. It does not resolve the situation permanently.

How long does a protective order last?

The court can grant a Family Violence Protective Order for any duration, "not to exceed two years." [Tex. Fam. Code §85.025\(a\)\(1\)](#). However, the court may grant a protective order for any amount of time, including up to a lifetime, if the respondent (1) committed a felony offense involving family violence against your client (whether or not the respondent has been charged with the crime), (2) caused serious bodily injury to your client, or (3) was the subject of two or more previous protective orders involving your client. [Tex. Fam. Code §85.025\(a-1\)](#).

The 7B Protective Order can be granted for the “duration of the lives of the offender and victim” or for a shorter period of time. [Tex. Code Crim. Proc. Art. 7B.007](#). **Are there considerations for granting for a certain time?**

A TXPO is valid for up to 20 days but may be extended for additional 20-day periods. [Tex. Fam. Code §83.002](#).

What are the Benefits of a Protective Order?

Protective orders cannot protect your client from all incidents of violence, but they work as a deterrent in most situations. For instance, a protective order can require the respondent to stay away from the victim’s home, workplace and children’s schools as well as order the respondent to stop communicating with or threatening your client. These measures create clear boundaries that can help victims feel safer and establish enforceable limits on the respondent’s actions.

Most importantly, protective orders are legally enforceable and come with serious penalties for violating them. Offenders may face arrest, fines, or both, depending on the nature of the violation. Local law enforcement agencies are notified of protective orders issued within their jurisdictions, allowing for immediate action if violations occur. In addition to arrest and fines, repeated violations can lead to more severe penalties, including potential felony charges. These penalties help deter offenders from violating the protective order and provide a sense of safety to victims.

Section 2: Step-by-Step Guide

Texas Advocacy Project (TAP) compiled this guide to provide all the essential information needed to assist your client in obtaining a protective order. However, due to the unique and complex nature of protective order cases, it is possible that legal or factual issues may arise that are not addressed in this guide. Please rely on your professional expertise and judgment to tailor your approach as needed to best serve your client's needs.

STEP 1: INITIAL CLIENT CONSULTATION

Before meeting with your client for the first time, take time to review the case file thoroughly. Victims of abuse have often told their stories multiple times to strangers, so your familiarity with the basic facts can help make this initial meeting less stressful for your client.

Begin by introducing yourself and explaining your role so that the client understands who you are and how you will assist them. Provide an overview of the process and, as best you can, outline what your client can expect. The legal process can be intimidating, particularly for clients who have experienced trauma. By helping your client understand what lies ahead, you can reduce feelings of anxiety, laying a good foundation for a transparent and trusting attorney-client relationship.

Confidentiality

Make sure your client understands that everything shared with you is confidential and will not be disclosed without their consent, except in limited circumstances required by law. Explain that attorney-client privilege is a special protection that keeps your conversations private, but it requires care from both of you to maintain. If your client discloses confidential communications to others or allows a third-party to be present during confidential discussions, they may inadvertently waive this privilege.

Listening to Their Story

Encourage your client to share their story openly and at their own pace. As you learned in your training, trauma can impact memory, communication, and decision-making, so it is important to approach this conversation with patience and empathy. Providing a safe and supportive environment during this initial interview is essential for building trust. Be sure to allow plenty of time for this discussion.

To help guide the process, Texas Advocacy Project created a **Protective Order Intake Questionnaire**. This tool helps you gather the necessary information to complete the application, including details about the client, the opposing party, household members (such as children and pets), finances, criminal history, and the history of the parties' relationship. You can either send the questionnaire to your client in advance to complete or go through it together during your meeting. A copy of the Protective Order Intake Questionnaire is attached as Exhibit ____.

Determine Type of Protective Order

After discussing the facts of your client's case, the next step is identifying the appropriate type of protective order and whether a TXPO is needed. This decision is critical to ensure your client's safety in obtaining the most comprehensive protection available under the law.

As set out above, there are two primary types of protective orders in Texas:

- (1) Family Violence Protective Order [Tex. Fam. Code §85.001](#); or
- (2) 7B Protective Order (for sexual assault, stalking or trafficking) [Tex. Code Crim. Proc. Art. 7B.001](#).

A TXPO is available for both forms of protective order.

Many victims of intimate partner violence also experience sexual assault and stalking, which means you may be able to cite multiple grounds for the protective order. Including all relevant grounds not only strengthens your case but also increases the likelihood of securing a protective order that extends beyond two years.

Does Your Client Need a Temporary Ex Parte Protective Order (TXPO)?

Filing an application for a protective order can significantly increase the risk of danger to your client. To protect your client, you may request a Temporary Ex Parte Protective Order (TXPO), which does not require advanced notice to the respondent. A TXPO can prohibit the respondent from contacting your client in any way and can bar the respondent from certain physical locations. To obtain a TXPO, the court must find **clear and present danger of family violence**. [Tex. Fam. Code §83.001\(a\)](#).

A TXPO may not always be necessary. Consider the immediate safety needs of your client and weigh the benefits of the TXPO against any potential risks. For example, if your client has a safe place to stay until the protective order hearing, if the respondent is incarcerated, or if the respondent does not pose an immediate threat to your client, a TXPO may not be necessary.

There are drawbacks to filing a TXPO. Filing a TXPO requires additional time to prepare and notarize the affidavit. These additional procedures may slow down the process unnecessarily if immediate safety is not a concern. Also, the facts contained in the affidavit may be used during the protective order hearing to challenge your client's memory or credibility. This can be incredibly distressing for survivors of domestic violence.

Pro Tip: Some courts are accustomed to receiving requests for TXPOs with every protective order application. As a result, our protective order applications are occasionally rejected by the clerk because there is no affidavit attached (a requirement in filing a TXPO). If this happens, simply call the clerk to clarify that you are not seeking a TXPO, and therefore, an affidavit is not legally required.

Explain the Process

Outlining the steps of the legal process to your client and explaining that you are partners in this matter will help them feel a sense of agency and ownership over their case. There are a few things that are especially important for your client to know upfront:

1. You will serve all the documents on the opposing party. Make sure your client understands that the respondent has access to everything contained in the application and the affidavit (if filing a TXPO).
2. Your client must attend the final protective order hearing in person and the respondent will be ordered to be there as well. The court will make every effort to keep your client safe and separated from the respondent, but they will be in the courtroom together during the hearing.
3. The protective order is a civil lawsuit and so the information is typically available to the public upon a court records search. However, your client's name and personal information can be kept confidential if requested in the protective order application.

You may also want to explain what to expect during the hearing, including scenarios where the respondent fails to appear or agrees to the terms of a protective order prior to the hearing. You will find more information about these scenarios below.

Gather and Preserve Evidence

It is important at this stage to identify and preserve any evidence of family violence that the client has. This may include photographs of injuries, threatening text messages, emails, voicemails or videos, torn clothing, medical records, police reports, and witness information. This evidence must be preserved in a way that ensures it was not altered or tampered with. Screenshots, texts, emails, and photographs should include visible date and time stamps to facilitate proper authentication during the hearing.

It is also a good idea to advise your client to store all digital evidence on a USB drive or other secure device so that photos, recordings, emails or texts are not accidentally lost or deleted.

STEP 2: PREPARING THE APPLICATION

As of June 2024, Texas state law requires applicants to use the standardized forms created by the Office of Court Administration ("OCA") when applying for a protective order. A copy of the OCA Protective Order Kit, which contains instructions, is attached as Exhibit __ [LINK] but can also be found on the [Texas Judicial Branch website](#). This website also has links to discretionary forms that you may choose to use throughout the protective order proceedings.

There are two versions of the mandatory protective order application: a fillable PDF and a Word version. A copy of the Word version of the application is attached as Exhibit __ [LINK] but can also be found on the [Texas Judicial Branch website](#). You may delete parts that do not apply to your client's case. For instance, the Affidavit and Declaration forms are included in the Protective Order Application. These are only required for a TXPO and they cannot be physically removed from the Word version. Therefore, if you are **not** requesting a TXPO, you will need to complete the application, print it, discard

the affidavit and declaration forms, and then scan the application (along with any attachments) as a single document for eFiling. Additionally, you cannot change the order of the content, the material components of the application, or any element required by statute.

A. Completing the Application

Styling: Attorneys are permitted to alter the style of the cause to fit your needs. Your client is the Applicant, and the person who committed the family violence is the Respondent. The case should be filed in the District Court of either (1) the county in which the applicant resides; (2) the county in which the respondent resides; or (3) the county in which the family violence occurred. [Tex. Fam. Code §82.003](#)

Note: If there is a pending divorce or custody case between the parties, the application **must** be filed in the same court where those proceedings are pending. [Tex. Fam. Code §85.062](#).

Parties: The application requires the applicant's name and county of residence. As the attorney for your client, you will check the box that asks whether you are completing and filing the application on behalf of the applicant. Then, in the Name of Person Filing the Application textbox enter your name. In the Title of Person Filing the Application textbox enter "Attorney for Applicant." The application also has textboxes to include the respondent's name and address. It is ideal if you know the respondent's address for service, but if your client does not know where he is living, you can type "unknown."

Reasons for Protective Order: This is where you choose whether you are applying for a family violence protective order or a 7B protective order. You may select more than one option.

- Family violence, dating violence or child abuse (box 1): This is the box you check if your client is seeking a Family Violence Protective Order ([see above](#)). [Tex. Fam. Code § 85.001](#). It is the most common form of protective order.
- Other forms of abuse (box 2): This is the box you check if you are asking for a 7B Protective Order ([see above](#)). [Tex. Code Crim. Proc. art. 7B.001](#).
- Respondent violated a protective order that was active at the time of the violation but that has since expired or will expire within 30 days of the application (box 3). **Note:** This typically only applies to another final PO, not an Emergency Protective Order issued after an arrest. You will ultimately need to file a copy of that Order.

Relationship to the Respondent: Mark all that apply.

Children under 18 years old that Need Protection: If there are no children that need protection, either skip or delete it from the application.

- If you need to list additional children, you may attach a sheet with their names and indicate whether the respondent is the parent or guardian of those children. You should title the attached sheet, "Application for Protective Order, No. 3 – Children (continued)." Be sure to check the box that indicates there are other children listed on the attached sheet.

- For a Family Violence Protective Order, the children must be current or former members of the applicant’s family or household. Check the second box to verify that they are.
- If there is a pending divorce, protective order, or custody case involving any of the listed children, mark the third box.

Other adults: If there are adult members of the applicant’s family or household that need protection, you should list them here. You may also include individuals in a marital or dating relationship with the applicant.

Other Court Cases: If there is another case pending between the parties, such as a divorce or custody case, the court may need to notify the other court or transfer the application to the appropriate court or county. It is important to provide all the requested information, including copies of the final orders, if any. You do not need to provide a lot of details – simply listing the active cases like “divorce (active),” is sufficient.

Family Violence or Other Criminal Cases: You have the opportunity to describe the respondent’s past criminal history with respect to certain crimes. The OCA includes a list of crimes identified in Titles 5 and 6 of the Texas Penal Code. That list is attached here as Exhibit ___. There may be an argument that the listed crimes need not to have been committed in Texas (see as an example [Tex. Penal Code §22.01\(f\)\(2\)](#)), and if the respondent has been convicted of a similar crime in a different state, you should include it here.

Keep in mind that your client may not be aware of the respondent’s past criminal history, so you should conduct some research regarding convictions your client may not know about. This can significantly strengthen your case, especially if you are asking for a lifetime protective order. Remember to search by other names the respondent may have used. Consider exploring some, or all, of the following:

- For all counties the respondent has resided in, search for cases involving the respondent through the District or County Clerk’s websites. Many counties in Texas use the Odyssey portal, which allows attorneys to search court records in that county.
- Check the open registries for Immigration & Customs Enforcement (ICE), Bureau of Prisons (BOP), Texas Department of Criminal Justice (TDCJ), and Protective Orders.
 - ICE: <https://locator.ice.gov/odls/#/search>
 - BOP: https://www.bop.gov/mobile/find_inmate/byname.jsp
 - TDCJ: <https://inmate.tdcj.texas.gov/InmateSearch/start.action>
 - Protective Orders: In Texas, there is a protective order registry that is available to the public, but only if the protected person has given consent for the respondent’s information to be made public. This registry does not include information regarding TXPOs or Emergency Protective Orders. You can search by name, year of birth, OR county of issuance. You do not need all three pieces of information. <https://topics.txcourts.gov/ProtectiveOrdersPublic>
 - There is also a protective order registry for law enforcement and prosecution personnel. [PROTECT Registry](#)

- Finally, it is always a good idea to run a public data (e.g., Google) and social media search (e.g., Facebook, X, and TikTok) to see if the respondent has additional addresses, names or other information that might be helpful in searching for criminal history.

Terms and Conditions: Select all of the terms and conditions that will help protect your client and reduce the risk of future harm or threats from the respondent. Boxes left unchecked may be excluded from the final protective order, though the judge has discretion to include them even if not specifically requested by the applicant. These conditions will also apply to the TXPO, if requesting one.

- You should select 8(e) if your client does not want the respondent to communicate in any way with the individuals named in the application. For the “please explain why” section, provide a brief explanation such as, “Respondent has committed family violence [or sexual assault, threats, etc.] and I fear for my safety.” You may include more specific details if it strengthens your client’s case, but it is not required. If you need extra space, attach a separate sheet titled, “Application for Protective Order, No. 8(e) – Terms and Conditions”.
- Sections (f) – (h) ask for the distance your client wants the respondent to maintain from the individuals and locations listed in the application. While courts typically approve a distance of 200 yards, you should request a distance that ensures your client feels safe.
- Section (n) allows you to request additional protections that can help prevent further family violence or harm to your client. Courts have found that the protections listed in Section 85.022 of the Family Code are not exhaustive and they have discretion to grant any remedy that will effectively prevent family violence. *Rodriguez v. Doe*, 614 S.W.3d 380, 386 (Tex. App. Houston 2020). Consider requesting some of the following:
 - An order prohibiting the respondent from removing a child from your client or from the court’s jurisdiction. [Tex. Fam. Code §85.021\(1\)\(A\)](#).
 - An order granting exclusive use of a vehicle. Although this does not affect ownership, it ensures the respondent cannot access or harass your client using the vehicle (for example, using their key to get into the car or move it). [Tex. Fam. Code §85.021\(5\)](#).
 - An order prohibiting the respondent from disposing of property mutually owned by the parties. [Tex. Fam. Code §85.021\(1\)\(B\)](#).
 - An order granting spousal or child support. This support may provide the security a victim needs to continue living separately and reduce the risk of your client returning to an abusive relationship for financial security. [Tex. Fam. Code §85.021\(4\)](#).
 - Be mindful that many of these “other” conditions cannot be enforced by law enforcement and will require your client to return to court to enforce them. This may expose your client to further interactions with their abuser, which should be carefully considered.

Property Orders: If your client currently lives with the respondent, you can ask the court to remove the respondent from the property if client’s name is on the lease, deed, or rental agreement or if the respondent is legally obligated to support your client or the children in your client’s care. [Tex. Fam. Code §85.021\(2\)](#). Your client can request exclusive use of the residence

either in the final protective order or in connection with the TXPO. If your client does not currently live with the respondent, you can skip this section.

- **Exclusive Use of the Residence:** The court can grant the applicant exclusive use of the residence and order the respondent to vacate if, among other things, the court finds that there is a clear and present danger that the respondent is likely to commit family violence against applicant or a member of the household. [Tex. Fam. Code §83.006](#). This is commonly referred to as a “kick-out order”.
- **If Seeking a TXPO:** If you request a kick-out order in an application for a TXPO, your client must file a sworn affidavit describing the facts supporting the request **and appear in person to testify** at the ex parte hearing. [Tex. Fam. Code §83.006](#).
 - Additionally, family violence must have occurred within 30 days of filing the application, and the applicant must currently reside in the residence or have lived there within the past 30 days. [Tex. Fam. Code §83.006\(b\)](#).
 - See “Temporary Ex Parte Protective Order” section, below, for more information.

Pro Tip: Courts don't always enforce the requirement that the applicant's name be on the lease, deed or rental agreement. Therefore, even if your client is not listed, it may still be worth requesting a kick-out order.

Spousal Support: The application allows victims to request spousal support to help them avoid staying in an abusive situation solely due to financial constraints. The court will consider various factors including the history of family violence, the length of the marriage, and the applicant's ability to meet their basic needs. See [Tex. Fam. Code §8.052](#). Simply alleging family violence and applying for a protective order are not, by themselves, sufficient grounds for granting spousal support.

Rights to Mobile Phone Numbers, Devices and Accounts: Your client may request that the court order the separation of their and their children's cell phone numbers from the respondent's account. [Tex. Fam. Code §85.0225](#). A child's number can be separated if the child is in the applicant's care and custody and is the primary user of that number. The respondent will be responsible for paying for the costs of the transfer and any remaining balance on the account. However, your client will be responsible for paying for the charges on the new account.

- The OCA provides a form Order Separating Wireless Telephone Service Account, which can be found on the [Texas Judicial Branch website](#) under Other Forms (Discretionary). It is a good idea to file this along with your Protective Order Application.

Pro Tip: This provision is rarely used. Most practitioners advise their clients to get a new account with their old number, if possible, instead of going through this effort. There may be times where it makes sense to separate the accounts (for example, if the carrier will not let your client cancel their plan), but typically, it is easier to simply get a new account.

Orders Relating to the Removal, Possession, and Support of Children: The applicant must be the biological, foster, or adoptive parent, legal guardian or otherwise legally responsible for the child to obtain orders relating to the children. Stepchildren cannot be included in this request unless the applicant is legally responsible for them.

Temporary Ex Parte Order (TXPO): If you request a TXPO, you **must** attach an Affidavit or Declaration demonstrating that there is clear and present danger of family violence. There is additional information on how to complete the Affidavit/Declaration below.

- The court has significant discretion when issuing a TXPO. Unlike the mandatory “shall” language found in the protective order and 7B statutes, the TXPO statute states that the court “may” grant the order if it determines there is clear and present danger of family violence or 7B crimes. [Tex. Fam. Code §83.001](#).
- Once granted, you must serve the TXPO on the respondent in order for it to be enforceable.
- **Exclusion from the Residence:** If you ask the court to exclude the respondent from the shared residence in the TXPO, you need to check box 13(a). To obtain this order, your client must **appear in court to testify** in addition to submitting the Affidavit. [Tex. Fam. Code §83.006\(a\)](#). Additionally, family violence must have occurred within 30 days of filing the application, and the applicant must currently reside in the residence or have lived there within the past 30 days. [Tex. Fam. Code §83.006\(b\)](#).
 - The court cannot exclude the respondent from the residence if their name is the only name on the lease, deed or rental agreement. However, if the respondent is legally obligated to support your client’s children, this rule does not apply. [Tex. Fam. Code Ann. §85.021](#).
 - *Pro Tip: As explained above, it is very rare for the court to investigate who is on the lease or deed, so it is worth seeking the kick-out order even if your client’s name is not listed on these documents.*
 - If the court grants the applicant exclusive use of the residence, it will direct the law enforcement to accompany the applicant to the residence to inform the respondent of the order to vacate. [Tex. Fam. Code §86.003](#).

Pro Tip: It is a good idea to file the TXPO first thing in the morning and have your client ready at the courthouse so you will be prepared for a hearing when the judge is available. Once the court accepts the filing and you know which court you are in, notify the court coordinator that you and your client are present and ready to appear.

Keep Information Confidential: An applicant may request that the Court keep confidential the mailing address, county of residence and telephone number of all persons protected under the protective order. The court must also keep confidential the address and telephone number of protected places of employment, schools or childcare facilities. [Tex. Fam. Code Ann. §85.007](#). If your client requests confidentiality, you must designate someone to receive all notices and documents on behalf of your client.

- Be sure not to include protected mailing addresses and phone numbers on the application. Respondent will be served a copy of the application and will have access to this information if not excluded.

Citations and Notices: This provision states that the clerk will issue all citations and notices required for the issuance of the protective order. However, this rarely happens automatically. You will have to request issuance from the clerk. See below for more details.

Signature: You will sign the application on behalf of your client.

Additional Orders: The OCA adopted a form with additional orders that you can include in the protective order application. You may cut and paste applicable sections into the mandatory form. You can find this form on the [Texas Judicial Branch website](#) under Other Forms (Discretionary), and is attached here as Exhibit ____.

- **Orders regarding possession and access of children:** you can ask the court to issue specific conditions for the respondent's visitation with the children. However, if the court finds that family violence occurred, it has the authority to deny all visitation.
- **Orders regarding child support:** The court can order the respondent to pay child support, or if the respondent is already paying child support per temporary or final orders, the court can incorporate those orders into the protective order.
- **Orders regarding division of property:** The court can issue orders related to the temporary or exclusive use of certain property.

B. Attachments to Application

The application may require several attachments, including additional sheets for information that did not fit on the form, a copy of the violated protective order (Question 2), copies of any orders from cases involving the parties (Question 6), and your client's Affidavit or Declaration, if you are requesting a TXPO. Be sure to label each attachment clearly and scan the application along with the attachments into a single document for eFiling purposes.

C. Completing the Affidavit/Declaration

Your client will need to submit either an affidavit or declaration (but not both) **only if they are requesting a Temporary Ex Parte Protective Order**. The respondent will receive a copy of this along with the application. If your client wants to keep birthdates and addresses confidential, they should submit a notarized affidavit. A declaration does not require notarization, but your client's date of birth and address may be disclosed to the public.

While the OCA packet includes standardized affidavit and declaration forms, they are not considered "mandatory", so you are free to use a format of your choice. However, the OCA form is a helpful guide, as it contains the information the court is most interested in.

The OCA Affidavit and Declaration are attached to the OCA's protective order application. We have attached a PDF version of the OCA form as well as a sample affidavit used at TAP as Exhibit _____. A PDF version of the OCA declaration form is attached as Exhibit _____. You can also find both on the [Texas Judicial Branch website](#).

Affidavit Format (for Family Violence Protective Order):

- Intro paragraph: “My name is [Client’s Name] and I am over the age of 18, of sound mind, and capable of making this Affidavit. I am personally acquainted with the following facts, which are true and correct:”
- Brief paragraph about the history of the relationship.
 - When the parties met, began dating, moved in together, got married, had children, separated, etc.
 - Be very brief and go in chronological order.
- Briefly describe the first incident of family violence (date, witnesses, injuries, weapons, police, etc.)
- Describe the most recent incident of family violence
 - Include where the family violence took place to establish venue.
 - Dates, witnesses, injuries, weapons, whether police called, any arrests, medical care, Emergency Protective Orders issued, etc.
- Describe the worst incident of family violence (unless it is one of the two incidents, above).
- If asking for a 7B Protective Order, include facts demonstrating that there are reasonable grounds to believe that your client is a victim of one of the qualifying crimes. See Exhibit ___ (qualifying crimes under Titles 5 & 6 of the Texas Penal Code).
- Although the law clearly states that family and household members can also be protected, the court often wants justification for including them. Include any essential facts about why each individual needs protection.
- Concluding paragraph about why your client wants a protective order.
 - While the likelihood of future violence is no longer a legal requirement, judges do like you to provide a reason that the protective order is necessary.
 - For example, “I testified against him in a criminal trial and now I am afraid of retaliation”, or “He is going to be released from prison in a few months and I want to be protected.”
 - If the violence was a long time ago, you will have to justify why a protective order is necessary now. What has changed?
- If you ask for a kick-out order, you should include a statement that your client is requesting exclusive use of the residence, that family violence has occurred in the past 30 days, and that your client resided at the residence within the past 30 days. Also give a brief explanation of why a kick-out order is necessary.

Important Information to Include: This is your client’s chance to explain the extent of the family violence that occurred. Remember that the standard for receiving a TXPO is that the court must find **clear and present danger of family violence**, so it is important to frame the affidavit to demonstrate that danger.

Tips for Writing a Persuasive Affidavit

1. The content of the affidavit should contain factual, first-hand accounts of events. Avoid including opinions, beliefs or speculation.

2. Include the first time, the worst time, and the most recent time (in chronological order) that your client was hurt by the respondent. If you are using the OCA Affidavit form, these questions are separated into the most recent incident and past incidents.
3. Include references to emotional and verbal abuse but focus on the physical abuse. Try to avoid other marital issues such as cheating or pornography – focus on safety.
4. Mention any time the police were called, medical attention was sought, or the abuse happened in front of witnesses.
5. Mention any injuries or damage to property that occurred during the incident.
6. Identify whether weapons were used during the incident. Be sure to detail which weapons were used and how they were used.
7. Include information about the respondent’s access to firearms, even if firearms were not used during the incident. Judges will need this information to order the respondent relinquish firearms in the protective order.
8. Be careful not to open your client to criminal or civil liability.
9. If your client wants children protected, include times when they were hurt or when they witnessed the abuse. If the client was injured while pregnant, include those facts.
10. Conclude with language that reminds the court of the standard: family violence has occurred.

D. Complete the Proposed TXPO or Protective Order

Courts have different procedures for filing the proposed TXPO or final protective order. Always check with the court clerk before filing your application to confirm your court’s specific requirements. In general, you should eFile the proposed TXPO along with the application (if you are requesting one), whereas the final proposed protective order is typically filed shortly before the hearing.

As with the application, you may alter the style of the cause to suit your needs on the proposed orders. Be sure to complete all of the information requested to the best of your ability and select all terms and conditions you are requesting on behalf of your client. The judge may modify the proposed order during the hearing or direct you to revise it to align with the court’s findings before it is signed.

You can find the OCA mandatory forms on the [Texas Judicial Branch website](#), and the Word versions are attached here as Exhibits __ & __.

Section II (Findings and Orders): You can select the findings you are asking the court to determine in this case. If the judge disagrees with your selection, the judge will either cross it out or ask you to submit a revised order.

Section IV (Conditions and Terms of Order): Review each provision of the proposed order with your client to ensure that they understand its contents and the legal ramifications.

- If you included information about the respondent’s access to a firearm, it is important to check (L) preventing the respondent from possessing or buying one.

- Discuss what other terms or conditions you might want included, such as spousal support, child custody, exclusive use of a vehicle, etc. ([see above](#) for more information).

Section XII (Confidentiality): If your client asked to keep information confidential, you will need to identify who your client wants to designate as the person to receive notices and other documents from the court on your client's behalf. Since you are acting as the pro bono attorney for purposes of this protective order, you should not be the person designated.

Section XV (Duration of Protective Order): Be sure to discuss the duration of the protective order and the minimum amount of time your client needs in order to feel safe. Ask for the most time possible.

- The duration of a family violence protective order is "not to exceed two years" but there are some conditions on which the court can issue a longer protective order. [Tex. Fam. Code §85.025\(a-1\)](#).
- The duration of a 7B protective order is "for the duration of the lives of the offender and victim" or for a shorter period of time. [Tex. Code Crim. Proc. Art. 7B.007](#).

E. TCIC Form

You will prepare the data entry form for the Texas Crime Information Center ("TCIC form"), which the clerk uses to provide law enforcement agencies with information regarding protective orders. Law enforcement must enter the information in the statewide and national databases, which they use when serving and enforcing the protective order.

The TCIC form does not become part of the public record, nor is it shared with the respondent. You can find this form on the [Texas Judicial Branch website](#) under Other Forms (Discretionary), and it is attached here as Exhibit ____.

The link to the form on the website contains highlighted fields that you should complete to the best of your ability. It is okay if your client does not know all the information; you can leave some of the questions blank. At a minimum, you should provide the respondent's name, date of birth, and identifying characteristics, as well as all required information for every protected person.

It is not always clear how or when to file the TCIC form. Some courts require it to be eFiled with the application, while others request it be emailed to their court coordinators. Be sure to complete it along with the application (there is a lot of detailed information requested) and have it ready for when the court asks for it. It is important to mark the document as "sensitive data" when eFiling it.

In some cases, the court coordinator or clerk may contact you after you file the protective order application and instruct you on how to file the TCIC form. If you filed a TXPO, call the court immediately to confirm how to submit the TCIC form.

STEP 3: FILE THE APPLICATION

A. Determine Venue

Protective order applications can be filed in one of three places:

- The county where the applicant lives;
- The county where the respondent lives; or
- The county where the violence occurred. [Tex. Fam. Code §82.003](#).

If there is a pending divorce or custody case involving your client and the respondent, the application **must** be filed in the same court where those proceedings are pending. [Tex. Fam. Code §85.062](#).

B. File Required Documents

Each county has different filing requirements. Prior to eFiling the protective order application, call the clerk to determine which documents you need to file along with the application.

When requesting a Temporary Ex Parte Protective Order (TXPO), you will typically eFile the following:

1. Application for Protective Order (include attachments when required);
2. Affidavit or Declaration; and
3. Proposed Temporary Ex Parte Protective Order (TXPO).

When applying for a Family Violence or 7B Protective Order, you will typically eFile the following:

1. Application for Protective Order (include attachments when required);
2. TCIC form (sometimes this is filed or emailed later) -- mark "sensitive information"
3. Other documents sometimes requested:
 - a. Request for Issuance of Service (see below)
 - b. Attorney vacation form (for court setting purposes)
 - c. County-specific forms (e.g. Harris County requires a confidential address form and consent to list on registry).

As an attorney, you are required by state law to eFile the documents. If you or your firm do not have an eFile account, you can set one up at: <https://eFiletx.tylertech.cloud/OfsEfsp/ui/landing>.

- Prior to filing the application, set up a waiver as an additional form of payment. By statute, applicants for protective orders cannot be assessed a fee on any documents filed in connection with a protective order. [Tex. Fam. Code §81.002](#). On eFile Texas, follow these steps:
 - From the icon menu on the left, select the \$ icon.
 - Name the form of payment, "Waiver".

- Select Waiver from the Payment Type dropdown menu.
- Account Type should autofill “Waiver”.

File the required documents with the District Court for the county you have selected. The clerk will assign the case to the proper court within the county.

C. Set the Hearing

Once the filing has been accepted and you have a case number, you should call the court coordinator for the court that has been assigned your case. You can usually find the number on the court’s website.

Set the hearing for 14 days from the date of filing. The law requires a protective order hearing happen within 14 days for filing, and this will give you enough time to serve the respondent. [Tex. Fam. Code §84.001](#).

- Be sure you have available dates/times from your client prior to calling the court so that you can select the date while on the phone.
- Note: Some courts will just assign a hearing date when the application is filed, but that is very rare (Harris County does this).
- Counties with a population of more than 2.5 million (currently only Harris and Dallas Counties) allow up to 20 days in which to set the hearing. [Tex. Fam. Code §84.002](#).

Once you have a hearing date, you will need the court to issue a citation to serve on the respondent along with the application and proposed order. You may also need to eFile the Notice of Hearing. Check with the clerk to see what they require. A copy of the OCA’s generic Notice of Hearing form is attached as Exhibit ___.

If you filed a TXPO, alert the court coordinator to that fact and ask about next steps for getting the application in front of the judge. Some courts will take it on submission, and some will require you to “walk it through” (e.g., Tarrant County). Some counties, such as Travis, have a duty judge that is available for all emergency orders.

D. Fees

Applying for a protective order is free, as is the serving and modifying of a protective order. [Tex. Fam. Code §81.002](#). In fact, the applicant cannot be charged any fees in connection with obtaining a protective order including certified copies, court reporter fees, or transferring the protective order. If the court issues a protective order, it will generally require the respondent to pay all court fees, costs and other expenses incurred in connection with the order. [Tex. Fam. Code §81.003](#).

E. Service

If asking for a TXPO, do not serve the respondent until the TXPO has been granted by the court.

Notice of a protective order application must be served in the same manner as citation under the Texas Rules of Civil Procedure. [Tex. Fam. Code §82.043\(c\)](#). Rule 106 of the Texas Rules of Civil Procedure requires the citation and application be served by delivering to the respondent, in person, a copy of the citation and what was filed in the case. [Tex. R. Civ. P. 106\(a\)\(1\)](#). Alternatively, you may serve the respondent via certified or registered mail with return receipt requested, but this method is only used in rare circumstances because the respondent does not often cooperate. [Tex. R. Civ. P. 106\(a\)\(2\)](#).

Once your application has been accepted by the clerk, your next step is to ask the court to issue citation so that you can arrange for the documents to be personally served on the respondent. [Tex. Fam. Code §82.042](#). Some courts have a specific form they like to use, but if not, a generic Request for Issuance of Service is attached as Exhibit ___.

In Texas, only the following people may serve court papers ([Tex. R. Civ. Proc. 103](#)):

- (1) Any sheriff or constable or other person authorized by law,
- (2) Any person authorized by law or by written order of the court who is not less than eighteen years of age, or
- (3) Any person certified under order of the Supreme Court (i.e. certified servers).

It is important to serve the respondent as quickly as possible so there is no argument for a continuance of the protective order hearing. If the respondent receives notice within 48 hours of the hearing, the Court will continue the hearing upon the respondent's request. [Tex. Fam. Code §84.004](#). However, if the respondent fails to attend the hearing or does not ask for a continuance, the court may move forward even though service was completed less than 48 hours before the hearing. [Dupuy v. Williams](#), No. 14-19-00463-CV, 2021 WL 5707430 (Tex. App. -- Houston 2021).

The method of serving the respondent depends on whether they live inside the county where the application was filed, or outside the county or state. (See discussion, below.) You are free to use your firm's private process server, if that is easiest for you. However, they will charge a fee, which should not be passed on to the client.

Respondent Lives in the County

If the respondent lives in the county in which you filed the application, you can ask for issuance of the citation and request for service at the same time. When eFiling, be sure to select the "additional services" tab at the top of the page to select "citation" and "constable – personal service".

Some counties have specific forms they want you to eFile and some counties, want you to simply send a letter asking for service. If there is no specific form, you can eFile the generic Request for

Issuance form, which is attached as Exhibit ___. Some counties, such as Bastrop, start the service process automatically without the need to file a request.

The larger counties have several precincts, so you will need to determine which precinct the respondent is in prior to submitting the request for service form. (In Travis County, the constable in precinct 5 serves process for all protective order cases.) You can do this by either locating the respondent's address on the county's precinct map, or by calling the constable's office in the county. Before filing the request, always contact the precinct to confirm the address falls within their jurisdiction.

Respondent Lives Outside of the County

If the respondent lives outside of the county in which you filed the protective order, you will need to ask the civil process server (typically the constable or sheriff) in the county where the respondent is located to personally serve the respondent. In this situation, only eFile a request for issuance of citation, do not include service.

Once you have the citation, call the civil process server for the county and ask how they will accept the documents for service. Most of the time, they will accept the file-stamped copies via email. Also, confirm the respondent's address is within their jurisdiction.

Respondent Lives Outside of Texas

If the respondent is out-of-state, they may be served by "any disinterested person who is not less than eighteen years of age, in the same manner as provided in Rule 106." [Tex. R. Civ. P. 108](#). Feel free to ask the sheriff or constable in the county where the respondent is located to serve the papers for you; some may be willing to do so. Whoever served the respondent will need to complete a return of service that complies with [Tex. R. Civ. P. 107\(b\)](#) (see below for more information). You will then eFile that return in the case.

Respondent is Incarcerated

If the respondent is incarcerated, determine where they are incarcerated and get the physical address for the facility. If it is a county jail, you may have to call for the physical address. If the respondent is in prison, you can typically find the physical address online:

- If the respondent is in a Texas prison: [Texas Department of Criminal Justice Inmate Search](#)
- If the respondent is in a federal prison: [Federal Bureau of Prisons Inmate Locator](#)
- If the respondent is being held by a U.S. Customs and Immigration Enforcement (ICE): [ICE Detainee Locator](#)

Once you have located the respondent and have the physical address of the facility where they are incarcerated, you should call the sheriff or constable in that county to make arrangements to send the initial court papers for service. Usually, they will require the number associated with the

inmate or detainee. That number is called different things depending on the facility respondent is housed at.

Pro Tip: Every county does things differently when it comes to ensuring the respondent is present for the hearing either personally or via Zoom. Whenever you are dealing with an incarcerated respondent, call the court coordinator to arrange for the respondent's presence at the hearing. Always assume you need to initiate this process.

Waiver of Service

If the respondent is represented by counsel, or if they would prefer not to be served by a constable, you can ask if they are willing to sign a Waiver of Service. [Tex. Fam. Code §82.043\(c\)](#); [Tex. R. Civ. P. 119](#). A sample Wavier of Service is attached as Exhibit ___.

- The waiver **must** be signed in front of a notary and eFiled in the case.
- A waiver obtained prior to the filing of a protective order application is not valid. Be sure to send the file-stamped protective order application to the respondent with the waiver.
- Be careful that the respondent is not just agreeing to the waiver in an attempt to delay and really has no intention of signing it.

Alternative/Substitute Service

If you have taken reasonable measures to contact and serve the respondent personally, but have been unsuccessful, you may ask the Court to authorize alternative service. [Tex. R. Civ. P. 106\(b\)](#). However, while the Family Code states that a protective order application should be served in the same manner as a citation under the Texas Rules of Civil Procedure, notice by publication is not authorized for protective order applications. [Tex. Fam. Code §82.043\(c\)](#). All other methods of alternative service are permitted.

You must get permission from the court to serve the respondent by alternative service. Along with the motion for alternative service, you must file a sworn affidavit: (1) showing that you have made efforts to verify that the respondent actually lives or works at the address you are attempting to serve the respondent at, and (2) describing each attempt at service, including dates and times, as well as any contact you made with someone at the address. [Tex. R. Civ. P. 106\(b\)](#). Also, be sure to attach a proposed order granting substitute service. A copy of a motion for substitute service and proposed order are attached as Exhibit ___.

There are various methods of alternative service, including leaving a copy of the citation and application with a person older than 16 at the respondent's home or work, or by sending the documents to be served through email or social media, if you can show that this method will be reasonably effective at giving the respondent notice. [Tex. R. Civ. P. 106\(b\)](#).

Pro Tip: To verify the respondent actually lives or works at the address try identifying their cars in the driveway or parking lot and secure statements from neighbors or co-workers. Be as specific as possible. You are trying to give the court some assurance that you have made reasonable attempts at the correct address.

Return/Proof of Service

After the respondent is served, regardless of the method, you need to obtain a Return of service and eFile it in the case. (Some counties will automatically eFile the return into the case, but because the protective order timeline is short, you should follow up as soon as you hear the respondent has been served.)

The person authorized to execute service must complete the return of service with the following information [Tex. R. Civ. P. 107\(b\)](#):

- the cause number and case name;
- the court in which the case is filed;
- a description of what was served;
- the date and time the process was received for service;
- the person or entity served;
- the address served;
- the date of service or attempted service;
- the manner of delivery of service or attempted service;
- the name of the person who served or attempted to serve the process;
- if the person serving is a Texas process server, their identification number and their certification expiration date.

The Return of Service must be signed **by the person who served the respondent**. [Tex. R. Civ. P. 107\(e\)](#). Sheriffs and Constables typically have a form they use, but if you need to create a Return of Service form, a sample is attached as Exhibit ____.

Motion for Continuance

If you are unable to serve the respondent within 3 days of the hearing, it is probably best to file a Motion for Continuance. [Tex. Fam. Code §84.003](#). If the respondent receives notice less than 48 hours prior to the hearing, the court **shall** continue the hearing upon the respondent's request. [Tex. Fam. Code §84.004](#). There is a sample Motion for Continuance of Protective Order Hearing attached as Exhibit ____.

If you requested a TXPO and need to continue the protective order hearing, you should also ask the court to extend the TXPO so that the protections don't lapse. You may ask to extend the TXPO for additional 20-day periods. [Tex. Fam. Code §83.002\(b\)](#). There is a sample Order Extending Temporary Ex Parte Order attached as Exhibit ____.

STEP 4: PREPARE FOR THE HEARING

A. Check Local and Court Rules

If you haven't done so already, check the local court rules to determine if there are any specific procedural or evidentiary requirements for the court handling your case. These rules are typically available on the court's website. Understanding and adhering to these local rules is essential to avoiding delays or procedural issues that could jeopardize your client's case.

For example, in Travis County, all exhibits must be labelled and uploaded to a Box link provided by the court coordinator prior to the hearing. In Harris County, specific forms must be eFiled with the clerk along with the protective order application. To help you navigate these procedural requirements, we developed guides tailored to some of the larger counties in Texas.

B. Agreed Protective Order

It is possible to negotiate the terms of a protective order with the opposing party. In some cases, the respondent may acknowledge that a protective order is inevitable and agree to the terms rather than proceed to a court hearing. Any agreement must be in writing and approved by the court to be enforceable. [Tex. Fam. Code §85.005](#). The court cannot approve an agreement that requires your client (the applicant) to do or refrain from certain acts. [Tex. Fam. Code §85.005](#).

When drafting an agreed protective order, be sure to include the finding of family violence. You can also include a statement from the respondent that they agree to the protective order without admitting to any allegations or findings. This should not affect the enforceability of the protective order.

Reasons the respondents may agree to a protective order:

- Avoiding a court hearing and the costs associated with that.
- Agreeing to a protective order does not require admitting guilt or wrongdoing. A protective order can be granted by mutual agreement without any such admission, whereas a protective order issued by the court contains a finding that family violence occurred.
- If the respondent is involved in other cases such as child custody, divorce or criminal matters, agreeing to the protective order may minimize any negative impact a finding of family violence might have on those cases.
- Respondent may have more input or control over the terms and restrictions, potentially resulting in a more favorable arrangement than one imposed by the court.

C. Evidence

The standard for obtaining a Family Violence Protective Order requires the court to issue a protective order if it finds that “family violence has occurred.” [Tex. Fam. Code § 85.001\(b\)\(1\)](#). Therefore, your evidence must show:

- a. There was an act by a member of a family or household against another member of the family or household;
- b. Your client, or the person your client is seeking a protective order on behalf of, is a member of the family or household; and
- c. That act was intended to result in physical harm, bodily injury, assault, or sexual assault or that was a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault. [Tex. Fam. Code § 71.004\(1\)](#).

The standard for obtaining a 7B Protective order requires the court to issue a protective order if it finds there are “reasonable grounds to believe that the applicant is the victim of” one of the qualifying crimes. [Tex. Code Crim. Proc. art. 7B.003](#). Therefore, your evidence must show:

- a. Reasonable grounds to believe the respondent committed one of the qualifying offenses listed in [Tex. Code Crim. Proc. art. 7B.001\(a\)\(1\)](#).
- b. No prior relationships between the parties is required.

Victim’s Testimony

The victim’s first-hand account is usually the most compelling evidence at a protective order hearing, and is often sufficient, on its own, to grant the protective order. This testimony should include:

- A detailed account of the specific incidents of family violence, including dates, times, locations, and what happened.
- The impact this abuse has had on your client’s physical, emotional and mental health (fear, anxiety, sustained physical injuries, changes in behavior).
- Details about any past incidents of family violence and your client’s attempt to seek help or secure safety.

It is important to spend time preparing your client for direct examination and potential cross examination at the hearing. You can prepare a list of questions for your direct examination and practice them several times with your client so they know what to expect the day of the hearing. A sample list of direct questions is attached as Exhibit ___.

- Essentially your direct examination should consist of the following topics:
 - Background – this includes establishing the parties, history and nature of their relationship, do they live together, do they have children together, when did the relationships end, etc.
 - History of violence – walk through the incidents of violence to set the stage for the worst or most recent case of violence.
 - Worst or most recent case of violence – walk your client through the incident, ask your client to authenticate the evidence that you are introducing,

- Keep your questions open-ended so you do not get objections and disrupt your client's testimony. For example, ask, "did you have any other injuries?" rather than, "did he ever break your wrist?"

Witness Testimony

Any testimony from family, friends, neighbors, or medical professionals who may have witnessed the family violence or observed your client's physical injuries or emotional distress can provide corroborative testimony.

Before the hearing, it's helpful to speak with each witness to confirm their testimony, assess credibility, and ensure they're available and willing to testify on the day of the hearing. Some witnesses may prefer to receive a subpoena.

Typically, courts do not accept testimony from children. However, a statement of a child under 12 that describes family violence against the child is admissible as evidence, without regard to whether the statement is otherwise inadmissible as hearsay. See [Tex. Fam. Code §84.006](#) and [Tex. Fam Code §104.006](#).

Witness Subpoena

As an attorney, you are authorized to issue subpoenas to witnesses requiring them to attend and give testimony at a hearing. [Tex. R. Civ. Proc. Rule 176](#). However, the subpoena cannot require a witness to travel further than 150 miles from the county where the person resides. [Tex. R. Civ. Proc. Rule 176.3](#).

A subpoena can be served by anyone 18 or older who is not a party to the case. This is different from serving the citation and application, which can only be served by certain groups of people. If the respondent is represented by an attorney in the protective order proceeding, you may serve the subpoena on the attorney instead. [Tex. R. Civ. Proc. Rule 176.5\(a\)](#).

You will need to file a proof of service of the subpoena. It is a good idea to ask the witness to sign an acknowledgment of service of the subpoena. However, the person who served the subpoena can also make a written statement showing that it was properly served. [Tex. R. Civ. Proc. Rule 176.5\(b\)](#).

A sample subpoena is attached as Exhibit _____. However, many counties have specific subpoena forms they require, so be sure to check the District Court's website for the county where you filed the application.

Electronic Communications

Communication between your client and the respondent that shows abusive language, threats, stalking behavior (such as repeated phone calls or texts), harassment, or admissions of the abuse

can be powerful evidence. Also, social media posts or messages that are threatening or harassing to your client or to your client's friends and family can help.

- Remember to present these in a format that will show the context and the timing of the messages. For example, include the entire conversation thread, not just the threatening or harassing pieces.

Public Records Showing Current or Past Abuse

The most common documents showing current or past incidents are:

- Police reports or incident reports (these can also be considered "public records" under [Tex. R. Evid. 803\(8\)](#)). Be sure to include any police report documenting a violation of past protective orders.
- Criminal records of past arrests, charges, or convictions
- Bond records: these may reference underlying criminal charges, and bond conditions aimed at protecting your client (can indicate prior incidents of domestic violence).
- Emergency protective orders (MEOP)
- Past protective orders
- Other court orders such as custody orders or records relating to violations of a protective order
- Protective order violations reported to the police
- 911 call recordings or transcripts
- Prior court transcripts

All public records admitted into evidence are self-authenticating if they are relevant to the proceeding and are certified copies of the official record. [Texas Rules of Evidence Rule 902\(4\)](#).

"Business Records" Showing Current or Past Abuse

Records of a regularly conducted activity are admissible if (1) it was made at or near the time of the incident by someone with knowledge, (2) it was kept in the course of regularly conducted business activity, and (3) making the record was a regular practice of that activity. [Tex. R. Evid. 803\(6\)](#).

These records must be authenticated by the testimony of the custodian or other qualified witness or by an affidavit or unsworn declaration. [Tex. R. Evid. 803\(6\)\(D\)](#). A sample Business Records Affidavit is attached as Exhibit _____. It is not uncommon for companies to have their own form of Business Records Affidavit.

Common "business records" include:

- Medical records from doctors, hospitals or clinics showing treatment for injuries. The medical facility will require a release of records signed by your client. Often, they have a specific release form they use, but if not, there is a sample release attached as Exhibit _____. Facilities may take up to two weeks to get the records to you, so it is best to get the process started as soon as possible.

- Phone records (showing evidence of harassment, stalking behavior, or violation of a prior protective order).
- 911 call recordings and transcripts (these may also be considered public records).
- Employment records
- School records for children
- Social services or child protective services records (these may also be considered public records).

Physical Evidence of the Injuries

The most common forms of physical evidence of the family violence are:

- Photographs of the injuries or damage caused by the violence
- Audio or video recordings of the abuse or damage
- Torn or bloody clothing
- Objects or weapons used during the incident

Physical evidence is most commonly authenticated by the client's testimony about the event that caused the injuries or damage. However, having a time and date stamp on photographs, screenshots, audio and video recordings is helpful for the authentication process. To maintain its integrity, try to preserve this physical evidence so that it appears exactly as it did at the time of the incident. Do not edit video or audio recordings.

Take all originals with you to court.

D. Prepare with your Client

Preparing your client for the protective order hearing is a crucial step in ensuring her confidence and readiness to present the case effectively. Start by reviewing your direct examination script together. Practicing multiple times will help your client understand the questions you will ask, the key points she needs to emphasize, and how to clearly explain the incidents of violence. Explain that direct examination serves not only to establish disputed and undisputed facts but also to lay a foundation for introducing evidence.

If the opposing party is self-represented, prepare your client for the possibility that her abuser may conduct the cross-examination. Discuss strategies for remaining calm and focused and reassure your client that you will intervene if any questions are inappropriate or beyond the court's rules. Anticipate some of the questions your client will be asked on cross and practice those answers with your client to help her feel more prepared.

Logistical preparations are equally important. Confirm that your client has reliable transportation to the courthouse and ask her to arrive at least 30 minutes before the scheduled hearing. Explain that she will likely need to go through security, such as a metal detector or handheld wand screening. If you know the assigned courtroom, provide directions in advance. Let her know that protective order hearings often involve long waits, as cases are called throughout the day. Remind

your client to bring original copies of any evidence, including photos, text messages, medical records, or relevant legal documents like a SAPCR (Suit Affecting the Parent-Child Relationship) order or final divorce decree.

Additionally, advise your client not to bring children to court, as they are typically not allowed in the courtroom. If childcare is unavailable, suggest your client bring someone who can stay with the children outside the courtroom during the hearing.

Finally, remind your client that you are there for support throughout the process. Encourage her to ask questions about anything she doesn't understand and be open to practicing direct- and cross-examination as many times as needed. Thoughtful preparation can make a significant difference in helping your client navigate the hearing with confidence.

E. Other

- Be sure to check the specific court rules for things like electronic filing and document submission, courtroom procedures and preferences, evidence submission, and dress code.
- Check with the court coordinator or clerk to see if there is a safe waiting room where your client can avoid interaction with the respondent prior to and immediately following the hearing.
- If the respondent is incarcerated, check with court to see if they will appear via Zoom or be transported for the hearing. Do not assume the court will make arrangements without prompting.
- Confirm that witness(es) are still willing to testify. Determine whether witnesses want subpoenas and/or if they will come to court for docket call and wait all day, or if they want to be placed on call and how much notice they need to be able to get down to court.
- Determine whether your client has had any contact with the respondent since service. If there is a TXPO in place, this will help document any violations.

STEP 5: ATTEND THE HEARING

The hearing will look different depending on whether it is contested, uncontested (agreed protective order), or a default hearing.

What does a typical hearing look like?

- Opening Statements
- Applicant's Case
 - Direct Examination
 - Witness Examination
 - Cross Examination
- Respondent's Case
 - Direct Examination
 - Witness Examination

- Cross Examination
- Closing Statements
- Judge's Decision

Safety for the Client in Court

Have a plan for where to meet the client ahead of the hearing. Encourage the client to bring a family member or friend for support during the hearing. Attempt to determine ahead of time whether there is a room available for the client to safely wait in order to avoid contact with the respondent. Also, alert the bailiff to the safety concerns.

Some courts have victim advocates that are available to your client during the hearing. This advocate can stay with your client during docket call or while you attempt to negotiate the terms of the protective order with the respondent or the respondent's attorney.

During the hearing, try to minimize the time your client is in the same room with the respondent and stand between them as much as possible.

It is also important to have a plan for exiting the courthouse after the hearing. You can ask the bailiff to keep the respondent in the courtroom until you have had time to exit the building. You will have time at a later date to answer client's questions and provide her with file-stamped copies of the order.

What to Bring

Bring the following to the hearing:

- Three copies of the proposed final order
- Two copies of the file-stamped application for protective order with the affidavit
- Two copies of the file-stamped proof of service of the application and TXPO
- Copy of current SAPCR order, if applicable
- TCIC Protective Order
- Three copies of all evidence (and the originals). You will provide one copy to the judge, one copy for the opposing party, and a copy for you to refer to.

If the respondent does not appear, the court can issue a protective order as long as the respondent received service of the application and notice, and proof of service was filed with the court prior to the hearing. [Tex. Fam. Code §85.006](#).

Immediately after the hearing

Request several file-stamped copies of the final protective order. There should be no charge for these.

STEP 6: AFTER THE HEARING

“Deliver” the Final Protective Order to the Respondent

One of the primary issues with enforcement is that the Protective Order was never “delivered” or served on the respondent. It is important that you do not miss this step!

If the respondent was not served with the final order in court, either because the judge did not sign it in court or because the respondent did not appear, you must arrange to deliver the protective order to the respondent. [Tex. Fam. Code §85.041\(a\)\(1\)](#).

Section 85.041 requires the final protective order be “delivered to the respondent as provided by [Tex. R. Civ. P. 21\(a\)](#),” which is different from the service requirements for the application under Rule 106. The clerk may email a copy of the protective order to the respondent after the final order has been eFiled, but you should not rely on this happening. Under Rule 21a(a)(2), you may serve the respondent a copy of the protective order “may be served in person, by mail, by commercial delivery service, by fax, by email, or by such other manner as the court in its discretion may direct.” [Tex. R. Civ. P. 21a\(a\)\(2\)](#). You must certify that the protective order was served on the respondent in accordance with this rule.” [Tex. R. Civ. P. 21a\(e\)](#).

Attorney’s Fees:

You may ask for attorney’s fees for your work on a protective order case. The court may assess attorney’s fees against the respondent even if the parties agree to the terms of the protective order. [Tex. Fam. Code §81.005](#).

There is case law in Texas stating that if the statute permitting the award of attorney’s fees does not explicitly require the fees to be “incurred”, then the court will simply evaluate whether the amount requested is “reasonable and necessary” for the legal representation. [Rohrmoos Venture v. UTSW DVA Healthcare, LLP](#), 578 S.W.3rd 469, 489090 (Tex. 2019). Therefore, even though your services were free to the client, your time is still valuable, and the court can order the respondent to reimburse you for it.

To recover attorney’s fees, you must “put on evidence of reasonable hours worked multiplied by a reasonable hourly rate, yielding a base figure that can be adjusted by considerations not already accounted for in either the hours worked or the rate.” [Id.](#) At 475.

It is important to note that you may not claim pro bono hours for work that you are compensated for. However, if the fees are donated to a 501(c)(3) nonprofit that provides direct legal services to underserved populations – such as Texas Advocacy Project – the hours may be counted as pro bono activity under the [State Bar of Texas Pro Bono Policy \(see FAQs\)](#).

Final Meeting with Client

After the court grants the protective order, it is crucial to schedule a final meeting with your client to ensure she fully understands the order, its terms, and how to enforce it. This meeting is an opportunity to review next steps and address any questions.

Start by explaining the key provisions of the protective order in plain language. Highlight the specific protections it provides, such as prohibiting contact or requiring the respondent to stay away from protected locations. Discuss the steps your client should take if the order is violated, emphasizing the importance of immediately reporting any violations to law enforcement, **no matter how minor they seem**. Consistent enforcement is vital to your client's safety and the safety of others protected by the order.

Provide your client with several official copies of the protective order, each bearing the court seal. Advise your client to keep a copy handy at all times, as law enforcement may request to see it when responding to a violation. Ask your client to give copies of the order to protected locations, such as your client's workplace, your client's children's school or daycare, and others living in your client's home. Encourage your client to give copies to trusted neighbors as well, especially if your client's residence is listed as a protected location. Neighbors who are aware of the protective order can assist by notifying the police if the respondent is seen at or near the property, even if your client is not home at the time.

It's also important to remind your client to update her address with the court and law enforcement immediately if she moves. Protective orders are valid throughout the entire state, not just in the county where they were granted. [Tex. Fam. Code §85.01](#). Keeping the court informed of your client's current address ensures that any future legal actions, such as enforcement of the protective order or other proceedings, are not delayed or complicated.

Your client may also benefit from the [Address Confidentiality Program](#), which allows her to put a PO Box address on her state government documents (such as driver's license and voter registration card) rather than listing her physical address on the government documents. Mail that comes to the PO box is automatically forwarded to your client's physical address. There are some eligibility requirements as well as the need to renew every three years, but this program can be part of an overall safety strategy.

Finally, make sure your client understands the rights and responsibilities under the order. Emphasize the importance of reporting every violation and keeping a detailed log of incidents for future reference. If there are any additional safety planning measures your client should take, such as changing locks or updating contact information with the court, discuss those as well. By taking these steps, you help ensure your client is equipped to use the protective order effectively as part of your client's overall safety plan.