

Civil Law Responses to Domestic Violence

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Background: To better understand the civil remedies available in the context of domestic violence, it is helpful to understand what is generally considered “domestic violence” and the broad causes and consequences.

What is domestic violence?

- The Texas Family Code defines “Family violence” as:
 - an act or a threat 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.
 - various instances of assault or sexual abuse of a child defined in § 261.001 of the Family Code; and
 - “Dating violence” where a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. (See Tex. Fam. Code. § 71.0021 and § 7.1004)
- The harm done by “family violence” can be physical, sexual, or psychological, and occur among heterosexual or same-sex couples.
- National research has indicated that this kind of violence is linked to short-term and long-term health, social, and economic consequences.
- Types of domestic violence:
 - Physical violence – can include intentional use of physical force (e.g., shoving, choking, shaking, slapping, punching, burning, or use of a weapon, restraints, or one's size and strength against another person) with the potential for causing death, disability, injury, or physical harm.¹
 - Sexual violence can be divided into three categories:
 - (1) the use of physical force to compel a person to engage in a sexual act unwillingly, whether or not the act is completed;²
 - (2) an attempted or completed sexual act involving a person who, because of illness, disability, or the influence of alcohol or other drugs, or because of intimidation or pressure, is unable to understand the nature or condition of the

¹ <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/welcome.aspx>

² Id.

- act, decline participation, or communicate unwillingness to engage in the act;
and³
- (3) abusive sexual contact.⁴
- Threats of imminent physical or sexual violence which communicate the intent to cause death, disability, injury, or physical harm through the use of words, gestures, or weapons.⁵

Causes of Domestic Violence: There are various factors that contribute to domestic violence, and understanding these factors is key to preventing or stopping this kind of abuse.

- Nationally, one in five women killed or severely injured by an intimate partner had no warning: the fatal or life-threatening incident was the first physical violence they had experienced from their partner. A woman's attempt to leave an abuser was the precipitating factor in 45 percent of the murders of women by their intimate partners.⁶
- Early parenthood is a risk factor.
 - Women who had children by age 21 were twice as likely to be victims of intimate partner violence as women who were not mothers at that age.⁷
 - Men who had fathered children by age 21 were more than three times as likely to be abusers as men who were not fathers at that age.⁸
- Although alcohol is not the cause of violence against women, a significant relationship exists between male perpetrator problem drinking and violence against intimate female partners. Severe drinking problems increase the risk for lethal and violent victimization of women in intimate partner relationships. More than two-thirds of the offenders who commit or attempt homicide used alcohol, drugs, or both during the incident; less than one-fourth of the victims did.⁹
- Severe poverty, and the stress it can induce, increases the risk for domestic violence. The lower the household income, the higher the reported domestic violence rates.

³ Id.

⁴ Id.

⁵ Id.

⁶ <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/causes.aspx> citing Block, C.R. "How Can Practitioners Help an Abused Woman Lower Her Risk of Death?" *NIJ Journal* 250 (November 2003): 4–7, NCJ 196545.

⁷ <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/causes.aspx> citing Moffitt, T.E., and A. Caspi. Findings about Partner Violence from the Dunedin Multidisciplinary Health and Development Study. Research in Brief. Washington, DC: U.S. Department of Justice, National Institute of Justice, 1999, NCJ 170018.

⁸ Id.

⁹ <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/causes.aspx> citing Sharps, P., J.C. Campbell, D. Campbell, F. Gary, and D. Webster. "Risky Mix: Drinking, Drug Use, and Homicide." *NIJ Journal* 250 (2003): 8–13, NCJ 196546.

- Domestic violence is linked with unemployment. Studies have shown that being a victim of intimate partner violence impairs a woman's capacity to find employment.¹⁰
- Women who have experienced serious abuse face overwhelming mental and emotional distress. Almost half of the women reporting serious domestic violence also meet the criteria for major depression; 24 percent suffer from posttraumatic stress disorder, and 31 percent from anxiety.¹¹

Economic Distress and Domestic Violence: National studies have shown financial strain, unemployment, and living in economically disadvantaged neighborhoods can impact rates and severity of domestic violence.

- A number of studies that have shown relationships between:
 - Financial strain and intimate partner violence.
 - Employment and intimate partner violence.
 - Economically disadvantaged neighborhoods and intimate partner violence.¹²

Financial Strain and Domestic Violence:

- Intimate partner violence is more likely to occur when couples are under financial strain.¹³ Researchers in one study found a strong relationship between couples worried about financial strain (subjective feelings of financial strain) and the likelihood of intimate partner violence. The violence for couples experiencing low levels of subjective financial strain was 2.7 percent compared to 9.5 for couples experiencing high levels of subjective financial strain.¹⁴
- Repeat victimization of women is more frequent in couples feeling financial strain. Results of a study showed that women in relationships in which the couples experience low levels of financial strain report less than 2 percent of repeat victimizations or being injured by their male partners, while just over 5 percent of women in relationships in which the couples experience high levels of subjective strain report repeat victimizations or being injured by their male partners.¹⁵
- Financial strain may keep women in abusive relationships. A review of census and survey data revealed that women at greatest risk of intimate partner violence tend to be those in relationships where the couple has few economic resources, high subjective stress about finances, experience higher unemployment and live in proximity to

¹⁰ <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/causes.aspx> citing Goodwin, S.N., S. Chandler, and J. Meisel, "Violence Against Women: The Role of Welfare Reform." Final report to the National Institute of Justice, 2003, NCJ 205792.

¹¹ Id.

¹² <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/economic-distress.aspx>

¹³ Id.

¹⁴ Id citing <http://www.nij.gov/publications/pages/publication-detail.aspx?ncjnumber=193434>

¹⁵ Id.

economically disadvantaged neighborhoods. The choice to stay or leave violent relationships may be based on the decision that a partner's economic contribution to the relationship outweighs the risk of violence. It also may compel women to live with men's violent behavior rather than seek help or take other steps to leave the violent relationship.¹⁶

Employment and Domestic Violence

- Unstable employment increases the risk of intimate partner violence. A study showed that for couples where the male was always employed, the rate of domestic violence was 4.7 percent. When men experienced one period of unemployment the rate rose to 7.5 percent and when men experienced two or more periods of unemployment the rate of intimate partner violence rose to 12.3 percent.¹⁷
- Women who are victims of domestic violence may experience unstable employment. Women who were recently abused (but not those abused only in the past) experienced unstable employment for up to two years.¹⁸
- Domestic violence can lead to both mental and physical health problems, which decreases a woman's ability to retain employment.
- Researchers interviewed 1,311 women in Illinois once a year for three years and found that intimate partner violence contributes to stress-related physical and mental health problems for as long as a year after the abuse has occurred. Specifically, the researchers found:
 - Women who had reported abuse by their partner rated their health as poorer and their need for mental health services as greater a year later as compared to non-abused women.
 - Women with abusive partners also reported more stress related concerns and emotional problems.
 - Women with abusive partners reported more headaches, ulcers and back problems than did non-abused women.
 - These health problems decrease women's ability to retain employment even as long as two years after the abuse occurred.¹⁹

Economically Disadvantaged Neighborhoods Domestic Violence

- Violence against women in family or dating relationships occurred more often, was more severe, and was more likely to be repeated in economically disadvantaged

¹⁶ Id.

¹⁷ Id citing <http://www.nij.gov/publications/pages/publication-detail.aspx?ncjnumber=199709>

¹⁸ Id citing <http://www.nij.gov/publications/pages/publication-detail.aspx?ncjnumber=207143>

¹⁹ <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/economic-distress.aspx>

neighborhoods. A study showed that the rate of domestic violence in economically disadvantaged neighborhoods is 8.7 percent compared with 4.3 percent in more economically advantaged neighborhoods.²⁰

- Women in economically disadvantaged neighborhoods were more likely to be victimized repeatedly or injured severely by their partners than women who lived in more advantaged neighborhoods (6 percent versus 2 percent respectively).²¹

Scope and Prevalence

Nationally

- Approximately 1.3 million women and 835,000 men are physically assaulted by an intimate partner annually in the United States and family violence causes health related costs exceed \$5.8 billion and eight million days of paid work missed.²²
- Women are significantly more likely than men to be injured during a domestic violence assault (39 percent compared with 24.8 percent).²³
- Intimate partner homicides make up 40–50 percent of all murders of women in the United States. In 70–80 percent of intimate partner homicides, no matter which partner was killed, the man physically abused the woman before the murder.²⁴
- Among National Violence Against Women Survey participants, the lifetime prevalence of all intimate partner victimization for women age 18 and older was nearly 25 percent, and 7.6 percent for men.²⁵
- According to the FBI in 2011, there were 2,283 women murdered by men in single victim/single offender incidents.²⁶

²⁰ Id citing <http://www.nij.gov/publications/pages/publication-detail.aspx?ncjnumber=199709>

²¹ Id.

²² <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/extent.aspx> citing Tjaden, P., and N. Thoennes. Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey . Research Report. Washington, DC, and Atlanta, GA: U.S. Department of Justice, National Institute of Justice, and U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, November 2000, NCJ 183781.

²³ Id.

²⁴ <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/extent.aspx> citing Campbell, J.C., D. Webster, J. Koziol-McLain, C.R. Block, D. Campbell, M.A. Curry, F. Gary, J. McFarlane, C. Sachs, P. Sharps, Y. Ulrich, and S.A. Wilt. "Assessing Risk Factors for Intimate Partner Homicide." NIJ Journal 250 (November 2003): 14–19, NCJ 196547.

²⁵ <http://www.nij.gov/topics/crime/intimate-partner-violence/Pages/extent.aspx> citing Tjaden, P., and N. Thoennes. Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey . Research Report. Washington, DC, and Atlanta, GA: U.S. Department of Justice, National Institute of Justice, and U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, November 2000, NCJ 183781.

²⁶ http://victimsofcrime.org/docs/default-source/ncvrvw2015/2015ncvrvw_stats_ipv.pdf?sfvrsn=2 citing *Calculated from Office of Juvenile Justice and Delinquency Prevention, Year of Incident by Sex of Victim for United States, generated using Easy Access to the FBI's Supplementary Homicide Reports: 1980-2011*, (Washington, DC: Violence Policy Center, 2013)

- In 2011, 82.6 percent of female homicide victims (1,885 out of 2,283) were murdered by a male perpetrator they knew.²⁷
- According to the FBI in 2011, 61 percent of female homicide victims who knew their offenders were intimate acquaintances of their killers, including wives, common-law wives, ex-wives, and girlfriends.²⁸
- The most common form of intimate partner violence experienced by both men (25.5 percent) and women (29.7 percent) is having been slapped, pushed, or shoved by an intimate partner at least once in their lifetime. Men are more likely to be slapped (18.3 percent), and women are more likely to be pushed and shoved (27.3 percent).²⁹
- For severe physical violence by intimate partners, men are more likely to be hit with a fist or something hard (10.1 percent), and women are more likely to have been slammed against something (15.4 percent).³⁰

Texas

- Intimate partner homicide occurs in Texas at one of the highest rates in the country.³¹ ✓

2014

- Women Killed: 132
- Family Violence Incidents: 185,817
- Adults and Children Sheltered: 23,311
- Adults and Children receiving nonresidential services (i.e., counseling, legal advocacy, etc.): 61,119
- Adults denied shelter (due to lack of space): 39%
- Unmet Requests for Shelter: 14,801
- Hotline calls answered: 185,373

2013

- Women Killed: 119
- Family violence incidents: 185,453
- Adults and Children Sheltered: 25,392

²⁷ Id.

²⁸ http://victimsofcrime.org/docs/default-source/ncvrw2015/2015ncvrw_stats_ipv.pdf?sfvrsn=2 citing Violence Policy Center, *When Men Murder Women: An Analysis of 2011 Homicide Data*, (Washington, DC: Violence Policy Center, 2013)

²⁹ http://victimsofcrime.org/docs/default-source/ncvrw2015/2015ncvrw_stats_ipv.pdf?sfvrsn=2 citing Matthew J. Breidling et al., Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization—National Intimate Partner and Sexual Violence Survey, United States, 2011, (Atlanta, GA: Centers for Disease Control and Prevention, 2014), Table 6

³⁰ Id.

³¹ <http://www.cdc.gov/mmwr/preview/mmwrhtml/ss5003a1.htm>

- Adults and Children receiving nonresidential services (i.e., counseling, legal advocacy, etc.): 49,758
- Adults denied shelter (due to lack of space): 31%
- Hotline calls answered: 183,836

2012

- Women Killed: 114
- Family violence incidents: 188,992
- Adults sheltered: 11,994
- Children sheltered: 14,534
- Adults receiving nonresidential services (i.e., counseling, legal advocacy, etc.): 36,831
- Children receiving nonresidential services: 15,694
- Adults denied shelter (due to lack of space): 26.2%
- Hotline calls answered: 191,301

2011

- Women Killed: 102
- Family violence incidents: 177,983
- Adults sheltered: 11,833
- Children sheltered: 14,578
- Adults receiving nonresidential services (i.e., counseling, legal advocacy, etc.): 37,375
- Children receiving nonresidential services: 15,674
- Adults denied shelter (due to lack of space): 21%
- Hotline calls answered: 207,510

2010

- Women Killed: 142
- Family violence incidents: 193,505
- Adults sheltered: 11,992
- Children sheltered: 14,915
- Adults receiving nonresidential services (i.e., counseling, legal advocacy, etc.): 37,290
- Children receiving nonresidential services: 16,747
- Adults denied shelter (due to lack of space): 24.94%
- Hotline calls answered: 205,793³²

Nueces County

³² <http://www.tcfv.org/resources/facts-and-statistics/>

- Fourteen people in Nueces County lost their lives to family violence in 2014. Corpus Christi had more than 43,000 domestic violence 911 calls, which per capita surpasses the larger cities of San Antonio, Austin, Houston, and Dallas.³³
- 91 protective orders were obtained by the County Attorney's Office alone in 2014, and 61 through November of 2015.

Types of Remedies

Magistrate Emergency Order for Protection

- A Justice of the Peace or Magistrate may issue an order for emergency protection on the magistrate's own motion or at the request of the victim of an offense, the victim's guardian, a peace officer, or an attorney representing the state. (Criminal Procedure Article 17.292(a))
- Perpetrator must be arrested for offense involving family violence, sexual assault, stalking, or trafficking of persons.
- Victim need not be present (Criminal Procedure Article 17.292(d))
- After an arrest for an offense involving family violence, the magistrate *shall* issue an order for emergency protection if the arrest is for an offense that also involves serious bodily injury to the victim or the use or exhibition of a deadly weapon during the commission of an assault. (Criminal Procedure Article 17.292(b)).
- Conditions: The magistrate in the order for emergency protection may prohibit the arrested party from:
 - committing family violence or an assault on the person protected under the order; or an act in furtherance of an offense under Section 20A.02 or 42.072, Penal Code;
 - communicating directly or through another person with the victim or member of the household in a threatening or harassing manner.
 - If the magistrate finds good cause, may prohibit communication with the victim or a member of the victim's household in *any* manner, except through the party's attorney or a person appointed by the court (Criminal Procedure Article 17.292(c)(2)(C));
 - going to or near the residence, place of employment, or business of a member of the family or household or of the person protected under the order; or the residence, child care facility, or school where a child protected under the order resides or attends; or
 - possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

³³ <http://www.kristv.com/story/30405594/dia-de-los-muertos-altar-dedicated-to-14-domestic-violence-victims>

- In the order, the magistrate *shall* specifically describe the prohibited locations and the minimum distances that the party must maintain unless the magistrate determines a specific description should be omitted for the safety of the persons that are protected by the order. (Criminal Procedure Article 17.292(e))
- Conflicting Orders:
 - If a condition conflicts with an *existing* court order granting possession of or access to a child, the condition imposed under this article prevails for the duration of the order for emergency protection. (Criminal Procedure Article 17.292(f))
 - If a condition conflicts with a condition imposed by a protective order *subsequently* issued under Chapter 85 of the Family Code, or under Title 1 or Title 5, Family Code, the condition imposed by the order issued under the Family Code prevails.
 - If a condition conflicts with a condition imposed by an ex parte temporary protective order *subsequently* issued under Chapter 83 of the Family Code, the condition imposed by the emergency magistrate order prevails unless the court issuing the ex parte temporary protective order:
 - is informed of the existence of the order issued under this article; and
 - makes a finding in the order issued under Chapter 83, Family Code, that the court is superseding the order issued under this article.
- The order must contain the following statements printed in bold-face type or in capital letters: “A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE OR A STALKING OR TRAFFICKING OFFENSE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE, AS APPLICABLE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS. THE POSSESSION OF A FIREARM BY A PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR IMPRISONMENT.

“NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER.”

- By the next business day after the date of the order, the magistrate shall send a copy of the order to the chief of police in the municipality or the sheriff of the county where the protected persons live.
- If the victim of the offense is not present when the order is issued, the magistrate issuing the order shall order an appropriate peace officer to make a good faith effort to notify, within 24 hours, the victim that the order has been issued by calling the victim's residence and place of employment.
- An order for emergency protection issued under this article is effective on issuance, and the defendant shall be served a copy of the order by the magistrate or the magistrate's designee in person or electronically.
- Duration:
 - Up to 91 days, but not less than 61 days if a weapon was involved
 - Up to 61 days, but no less than 31 days after the date of issuance
 - After notice to each affected party and a hearing, the issuing court may modify all or part of an order issued under this article if the court finds that the order as originally issued is unworkable; the modification will not place the victim of the offense at greater risk than did the original order; and the modification will not in any way endanger a person protected under the order.
- To ensure that an officer responding to a call is aware of the existence and terms of an order for emergency protection, not later than the third business day after the date of receipt of the copy of the order by the applicable law enforcement agency with jurisdiction over the municipality or county in which the victim resides, the law enforcement agency shall enter the information required under Section 411.042(b)(6), Government Code, into the statewide law enforcement information system maintained by the Department of Public Safety.

Protective Orders, In general

- Rates of intimate partner homicides dropped about 30 percent during the past 25 years as public awareness of, and policy responses to, intimate partner violence grew stronger. Yet, a study of domestic violence policies in 48 large U.S. cities found that policies designed to reduce a woman's exposure to an abusive partner sometimes have contradictory results. For example, although warrantless arrest, firearm confiscation, prosecutions, and increases in Aid to Families with Dependent Children benefit levels were associated with lower rates of domestic violence, interventions were sometimes followed by retaliation from an abusive partner.³⁴
- Researchers also have found that a minority of suspects identified as “chronically aggressive intimate partners ” continue to abuse their partners regardless of the

³⁴ <http://www.nij.gov/topics/crime/intimate-partner-violence/interventions/Pages/welcome.aspx>

intervention received (whether arrested, counseled, or temporarily separated from their partners).³⁵

- When domestic violence cases first come to court, most domestic violence courts (88 percent) issue a temporary protection order or restraining order (unless one has already been issued). At the final hearing, almost as many domestic violence courts impose a final protection order prohibiting or limiting contact with the victim.³⁶
- National Institute of Justice funded a study of protection orders, consequences for violating them, and costs in rural and urban jurisdictions in Kentucky. This study found that:
 - Protection orders deter further violence and increase victim safety.
 - In 50 percent of the cases studied, victims experienced considerably less abuse and fear of abuse in the months after obtaining a protection order, even when the offender violated the terms of the order.
 - Protection orders save justice and social service systems money and improve victims' quality of life.³⁷

Protective Orders in Texas: Title 4 of the Texas Family Code

- Originally named “Protection of the Family”, Title 4 has provided for protective orders to combat the domestic violence.³⁸
- Since 1979, protective orders have provided the primary civil legal remedy for victims of family violence in Texas; recodified in 1997.³⁹
- Since 1979, protections provided Title 4 have continued to increase.
 - In 1989, the definition of “family violence” was amended to include threats of violence in addition to violent acts.⁴⁰
 - Two years later, mutual protective orders were prohibited.⁴¹
 - In 1995, the magistrate’s order of protection was added to Tex. Code of Criminal Procedure art. 17.292.⁴²

³⁵ <http://www.nij.gov/topics/crime/intimate-partner-violence/interventions/Pages/welcome.aspx> citing Maxwell, C.D., J.H. Garner, and J.A. Fagan. The Effects of Arrest on Intimate Partner Violence: New Evidence from Spouse Assault Replication Program. Research in Brief. Washington, DC: U.S. Department of Justice, National Institute of Justice, July 2001, NCJ 188199.

³⁶ <http://www.nij.gov/topics/crime/intimate-partner-violence/interventions/pages/protection-orders.aspx> citing Labriola, M., S. Bradley, C.S. O’Sullivan, M. Rempel, S. Moore, A National Portrait of Domestic Violence Courts (pdf, 161 pages), Final report to the National Institute of Justice, 2010, NCJ 229659.

³⁷ <http://www.nij.gov/topics/crime/intimate-partner-violence/interventions/pages/protection-orders.aspx>

³⁸ Sampson, Harry L. Tindall, et al., Sampson & Tindall’s Texas Family Code Annotated 2015, Title 4 Introductory Comment at 434.

³⁹ Id.

⁴⁰ Id.

⁴¹ Id.

⁴² Id.

- A centralized protective order registry was established as part of the Texas Crime Information Center which is linked the National Crime Information Center.⁴³
- Originally providing for 1 year orders, the legislature later doubled the duration to 2 years in 1999.⁴⁴
- In 2003, orders expanded to victims of sexual assault.⁴⁵
- In 2011, orders may exceed 2 years if continuing violence or violations of previous protective orders where the applicant reappplies or where a first time applicant suffered serious bodily injury at the hands of the respondent.⁴⁶
- In 2011, “dating violence” definition was expanded to include acts against a victim who is targeted for being in a relationship with the actor’s former romantic partner; stalking and human trafficking were added as a grounds for a protective order.
- In 2015, § 81.0015 was added to the Family Code providing a presumption that family violence has occurred or is likely to occur in the future if the respondent has been convicted or placed on deferred adjudication for crimes involving children, the respondent’s parental rights have been terminated, and the respondent is seeking or attempting to seek contact with the child.
- Effective because of their quasi criminal nature; penalties for violations escalate with repeat violations and peace officers are required to arrest a person whom the officer has probable cause to believe has violated a protective order.⁴⁷

Obtaining a Protective Order for Family Violence

In general: Texas Family Code Title 4, Subtitle B

- A court shall render a protective order if the court finds that family violence has occurred and is likely to occur in the future. (Family Code § 81.001)
 - “a court” = no right to a jury trial⁴⁸
 - Can be filed for a child in a court other than the court of continuing jurisdiction
 - “likely to occur” does not require pattern of conduct, can be one impending act
- Costs:
 - Applicant: There is no fee or expense to file/transfer/modify/dismiss to the applicant
 - Respondent: Unless good cause or a showing of indigence, the respondent who committed family violence shall pay the \$16 protective order fee, the standard fees charged by the clerk of the court in a general civil proceeding for the cost of

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id.

⁴⁶ Id.

⁴⁷ Id at 435.

⁴⁸ Teel v. Shifflett (App. 14 Dist. 2010) 309 S.W.3d 597

serving the order, the costs of court, and all other fees, charges, or expenses incurred in connection with the protective order.

- No payment by date specified in the order? Can be held in contempt of court.
- No date specified by the court? Payment of costs is required before the 60th day after the date the order was rendered. (§ 81.004)
- Attorney's Fees: The court may assess reasonable attorney's fees against the party found to have committed family violence or a party against whom an agreed protective order is rendered (§ 81.005); enforceable with contempt.

The Application: Chapter 82

- Standing: member of the household, dating relationship, or any adult if child abuse.
- Venue: the county of the Applicant, Respondent, or any county where family violence is alleged to have occurred (§ 82.003)
- Contents: § 82.004
 - the name and county of each applicant
 - the name and county of residence of respondent(s)
 - the relationships between the applicants and the respondent(s)
 - a request for one or more protective orders
 - whether an applicant is receiving services from the Title IV-D agency in connection with a child support case and, if known, the agency case number for each open case.
 - If an applicant is the former spouse of the respondent, the application must include a copy of the divorce decree or statement why it is unavailable. (§ 82.006)
 - If there was a prior protective order that is now expired, a copy of that protective order must be attached to the application. (§ 82.008)
- If there is current protective order due to expire not later than the 30th day after the date the application was filed, a copy of the previously rendered protective order must be attached to the application and a description of the threatened harm. (§82.0085)
- Application can request a temporary ex parte order.
 - Need description of threat and need for immediate protective order
 - Signed under oath (minors can sign)
- The respondent “may” answer
- If the respondent is seeking a protective order, need their own application.

Notice of Application:

- Contents:
 - styled “The State of Texas” and signed by the clerk under the court's seal
 - date the application was filed, and the date notice of the application for a protective order was issued;
 - names of all applicants and respondents with directions to each person alleged to have committed family violence;

- must state: “An application for a protective order has been filed in the court stated in this notice alleging that you have committed family violence. You may employ an attorney to defend you against this allegation. You or your attorney may, but are not required to, file a written answer to the application. Any answer must be filed before the hearing on the application. If you receive this notice within 48 hours before the time set for the hearing, you may request the court to reschedule the hearing not later than 14 days after the date set for the hearing. If you do not attend the hearing, a default judgment may be taken and a protective order may be issued against you.”
- The Clerk of the court issues service. Notice of the application must be served in the same manner as citation under the Texas Rules of Civil Procedure, except that service by publication is not authorized. (§ 82.043)

Temporary Ex Parte Orders: Chapter 83

- If the court finds that there is a clear and present danger of family violence, the court may enter a temporary ex parte order for the protection of the applicant or any other member of the family or household of the applicant.
- The court may direct a respondent to do or refrain from doing specified acts
- The ex parte temporary order can NOT exceed 20 days, but can be extended 20 days (by applicant or court’s own motion)
- Respondent can file a motion to vacate; the court shall set a date for hearing as soon as possible.
- This order prevails over any order in a family law matter. (§ 83.005)
- The Respondent may be excluded from the residence. In order to request exclusion, you need the following:
 - Need sworn affidavit of applicant with description of the facts and circumstances requiring the exclusion of the person from the residence
 - Applicant appears in person to testify at a temporary ex parte hearing to justify the issuance of the order without notice.
 - Court must find:
 - Applicant must have resided there in the last 30 days
 - The respondent must have committed violence in the last 30 days
 - There is a clear and present danger that the person to be excluded is likely to commit family violence

Hearing: Chapter 84

- The court shall set a date and time for the hearing unless a later date is requested by the applicant; the date must be within 14 days of the filing of the application.
- If the hearing isn’t held for lack of service on respondent, applicant may request the court to reschedule the hearing (no longer than 14 days from request)
- “Insufficient notice” – if the respondent is served within 2 days of the hearing, on request of respondent, court shall reschedule no later than 14 days after the original hearing date.

Issuance of Order: Chapter 85

- If the court finds that family violence has occurred AND is likely to occur in the future, the court shall render a protective order applying to a person found to have committed family violence; or applying to both parties; order is appealable.
- If the court renders a protective order for a period of more than two years, the court must include in the order a finding described by Section 85.025(a-1).
 - caused serious bodily injury to the applicant or a member of the applicant's family; OR
 - was the subject of two or more previous protective orders
- Violation of a current order, that later expires, is still considered a violation.

Requirements of Order:

- The court may prohibit a party from removing a child from the applicant, transferring or disposing of property that is mutually leased by the parties, removing a pet from the possession of the applicant
- The court may grant exclusive possession of a residence to a party and, if appropriate, direct parties to vacate the residence if the residence:
 - is jointly owned or leased by the party receiving exclusive possession and a party being denied possession;
 - is owned or leased by the party retaining possession; or
 - is owned or leased by the party being denied possession and that party has an obligation to support the party or a child of the party granted possession of the residence;

Requirements of Order if Family Violence found:

- The court can order what the court determines are necessary or appropriate to prevent or reduce the likelihood of family violence and may order that person to:
- Complete a battering intervention and prevention program
- Counsel with a social worker, family service agency, physician, psychologist, licensed therapist, or licensed professional counselor who has completed family violence intervention training.
- Prohibit the person found to have committed family violence from:
 - committing family violence;
 - communicating:
 - (A) directly with a person protected by an order or a member of the family or household of a person protected by an order, in a threatening or harassing manner;
 - (B) a threat through any person to a person protected by an order or a member of the family or household of a person protected by an order; and
 - (C) if the court finds good cause, in any manner with a person protected by an order or a member of the family or household of a person protected

by an order, except through the party's attorney or a person appointed by the court;

- going to or near the residence or place of employment of applicant
- going to or near the residence, child-care facility, or school a child protected
- engaging in conduct directed specifically toward a person who is a person protected
 - including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person;
- possessing a firearm; can suspend concealed carry license
- harming, threatening, or interfering with the care, custody, or control of a pet
- Delivery: A protective order rendered under this subtitle shall be delivered under Rule 21a TRCP, the same manner as a writ of injunction, or served in open court at the close of the hearing.

Enforcement of a Foreign Protective Order

- A foreign protective order is valid if the order:
 - (1) names the protected individual and the respondent;
 - (2) is currently in effect;
 - (3) was rendered by a tribunal that had jurisdiction over the parties and the subject matter under the law of the issuing state; and
 - (4) was rendered after the respondent was given reasonable notice and an opportunity to be heard consistent with the right to due process, either:
 - (A) before the tribunal issued the order; or
 - (B) in the case of an ex parte order, within a reasonable time after the order was rendered.

Protective Orders outside of Family Violence: In addition to family violence, the legislature has expanded the scope of protective orders to combat other situations where abuse has or may occur. Under the Code of Criminal Procedure, protective orders are available if there has been sexual abuse, sexual assault, stalking, or human trafficking where there is has been no marriage or intimate relationship.

Stalking

- Stalking is a complex crime that is often misunderstood and largely underreported. It is a crime under the laws of all 50 states and the federal government. Stalking generally refers to harassing or threatening behavior that an individual engages in repeatedly, such as sending the victim unwanted presents, following or laying in wait for the victim, damaging or threatening to damage the victim's property, appearing at a victim's home or

place of business, defaming the victim's character or spreading rumors, or harassing the victim via the Internet by posting personal information.⁴⁹

- Although it is a crime everywhere in this country, legal statutes vary widely in their definitions of stalking, scope, crime classification, and penalty.
- Unlike other crimes that are defined as an incident, stalking is a pattern of behavior, often of individual acts that could—in isolation—seem benign or be noncriminal.
- Advances in technology have made it easier for perpetrators to stalk their victims; stalkers frequently use various technologies to harass, monitor, and track victims. These technologies are common to many people including cellphones, cameras, computers, social networking sites, and Global Positioning Systems (GPS).
- Since the first stalking law was passed, knowledge about the crime has developed significantly. Research shows that partner stalking is a relatively common form of violence against women, and to a lesser degree men and that individuals age 18 to 24 face the highest rates of stalking victimization.⁵⁰
- Approximately 1 in 6 women (16.2%) in the United States have experienced stalking at some point in her lifetime, according to the CDC's 2010 National Intimate Partner and Sexual Violence Survey.⁵¹
- Approximately 1 in 19 men (5.2%) in the United States has experienced stalking victimization at some point during his lifetime in which he felt very fearful or believed that he or someone close to him would be harmed or killed as a result.⁵²
- Partner stalking overlaps with a history of partner physical and sexual violence and coercive control. Several studies have identified a significant association between partner stalking and sexual assault.⁵³
- Most stalking victims are stalked by someone they know. Among female victims, 60.8 percent were stalked by an intimate partner, and only 16.2 percent were stalked by a stranger.⁵⁴
- Stalking victims took a variety of protective actions, including changing their day-to-day activities (22 percent), staying with family (18 percent), installing call blocking or caller

⁴⁹ http://victimsofcrime.org/docs/default-source/ncvrv2015/2015ncvrv_stats_stalking.pdf?sfvrsn=2

⁵⁰ Id.

⁵¹ <http://www.nij.gov/topics/crime/intimate-partner-violence/stalking/Pages/welcome.aspx> citing Black, M.C., K.C. Basile, M.J. Breiding, S.G. Smith, M.L. Walters, M.T. Merrick, J. Chen, and M.R. Stevens, "The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report (pdf, 124 pages)," Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 2011.

⁵² Id.

⁵³ <http://www.nij.gov/topics/crime/intimate-partner-violence/stalking/Pages/welcome.aspx>

⁵⁴ http://victimsofcrime.org/docs/default-source/ncvrv2015/2015ncvrv_stats_stalking.pdf?sfvrsn=2 citing Mathew J. Breiding et al, *Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization—National Intimate Partner and Sexual Violence Survey, United States, 2011*, (Atlanta, GA: Centers for Disease Control and Prevention, 2014)

ID (18 percent), changing their phone number (17 percent), and changing their e-mail address (7 percent).⁵⁵

- When asked to name their worst fear related to the stalking, 46.1 percent of stalking victims reported not knowing what would happen next; 31.1 percent reported harm to child, partner, or other family member; and 30.4 percent report harm to self. One in 8 employed stalking victims lost time from work as a result of the victimization, and of those victims, more than one-half lost five days of work or more.⁵⁶
- The use of technology to stalk is increasingly common. A 2013 Pew Research Center telephone survey of 792 Internet-using adults found that those age 18 to 29 are most likely to report being stalked or harassed online, followed by those age 30 to 49 (15 percent), age 65 or older (3 percent), and age 50 to 64 (2 percent).⁵⁷

Human Trafficking

- Human trafficking is a long-standing problem, but there has been a growing awareness and focus from policy makers of the need to devote resources to identifying, investigating, and prosecuting this crime. In 2013, all fifty states, the District of Columbia, and all but one U.S. territory had enacted anti-trafficking laws.⁵⁸ Human trafficking takes many forms, with the two broadest categories being sex trafficking and labor trafficking. Limited reliable data are available regarding the nature and extent of human trafficking. Gathering victimization statistics on human trafficking is particularly difficult because of the hidden nature of trafficking activities.
- According to the U.S. Department of State, in 2013, 44,758 victims of human trafficking were identified internationally by foreign governments.⁵⁹
- The U.S. Department of State, the U.S. Immigration and Customs Enforcement, Homeland Security Investigations (ICE HSI) reported 1,025 investigations involving human trafficking in 2014. This number represents an increase from the 894 in 2012.⁶⁰
- According to the U.S. Department of State, in 2013, there were 5,766 convictions out of the 9,460 known prosecutions of human trafficking internationally.⁶¹

⁵⁵ http://victimsofcrime.org/docs/default-source/ncvrv2015/2015ncvrv_stats_stalking.pdf?sfvrsn=2 citing Katrina Baum et al., *Stalking Victimization in the United States*, (Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice, 2009), 6, Table 8

⁵⁶ *Id.*

⁵⁷ http://victimsofcrime.org/docs/default-source/ncvrv2015/2015ncvrv_stats_stalking.pdf?sfvrsn=2 citing Lee Rainie et al., "Anonymity, Privacy, and Security Online," (Washington, DC: Pew Research Center's Internet and American Life Project, 2013).

⁵⁸ http://victimsofcrime.org/docs/default-source/ncvrv2015/2015ncvrv_stats_humantrafficking.pdf?sfvrsn=2 citing Office to Monitor and Combat Trafficking in Persons, *Trafficking in Persons Report 2013*, (Washington, DC: U.S. Department of State, 2013)

⁵⁹ http://victimsofcrime.org/docs/default-source/ncvrv2015/2015ncvrv_stats_humantrafficking.pdf?sfvrsn=2 citing Office to Monitor and Combat Trafficking in Persons. *Trafficking in Persons Report 2014*, (Washington, DC: U.S. Department of State, 2014).

⁶⁰ *Id.*

Obtaining a Protective Order: Code of Criminal Procedure Article 7A

Art. 7A.01. Application for Protective Order

- May be filed by:
 - Victim of sexual abuse, sexual assault, or stalking
 - Victim of trafficking or prostitution
 - Parent of a victim under 17 of sexual abuse, assault, or stalking
 - Parent of a victim under 18 of trafficking or prostitution
 - A prosecuting attorney acting on behalf of a person that is the victim of sexual abuse, assault, stalking, trafficking, or prostitution
- May be filed in:
 - District court, juvenile court having same jurisdiction, statutory county court, or constitutional county court in:
 - County where the applicant lives
 - County where offender resides
 - Any county where an element of the offense occurred.
 - Any court with jurisdiction over Protective Orders under Title 4 of the Family Code involving the same parties named in the application.

Art. 7A.02. Temporary ex Parte Order

- If the court finds from the information contained in an application for a protective order that there is a clear and present danger of sexual assault or abuse, stalking, trafficking, or other harm to the applicant, the court, without further notice to the alleged offender and without a hearing, *may* enter a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household.

Art. 7A.03. Required Findings; Issuance of Protective Order

- At the close of a hearing, the court shall find whether there are reasonable grounds to believe that the applicant is the victim of sexual assault or abuse, stalking, or trafficking.
- If the court makes that finding, the court *shall* issue a protective order that includes a statement of the required findings.

*statement of child victim under 14 is admissible regardless of hearsay

Art. 7A.05. Conditions Specified by Order

- the court may:
 - order the offender take action as appropriate to prevent or reduce the likelihood of future harm to the applicant or a member of the applicant's family or household;
 - prohibit the alleged offender from:
 - communicating;

⁶¹ Id.

- directly or indirectly with the applicant or any member of the applicant's family or household in a threatening or harassing manner;
- in any manner with the applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court, if the court finds good cause for the prohibition;
- going near the residence, place of employment or business, or child-care facility or school of the applicant or any member of the applicant's family or household;
- engaging in conduct directed specifically toward the applicant or any member of the applicant's family or household, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person; and
- possessing a firearm, unless the alleged offender is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.
 - The court shall specifically describe each prohibited location and the minimum distance from the location, if any, that the alleged offender must maintain. This subsection does not apply to an order with respect to which the court has received a request to maintain confidentiality of information revealing the locations.
- In a protective order, the court may suspend a license to carry a concealed handgun issued under Section 411.177, Government Code, that is held by the alleged offender.

Art. 7A.06. Warning on Protective Order

- Each order must contain the following in boldfaced type, capital letters, or underlined:
 - “A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH.”
 - “NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER.”
 - “IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A

STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION.”

- Each protective order issued under this chapter, except for a temporary ex parte order, must contain the following prominently displayed statement in boldfaced type, capital letters, or underlined:
 - “A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE OFFENSE IN ADDITION TO A VIOLATION OF THIS ORDER.”

Art. 7A.07. Duration of Protective Order

- A protective order issued under Article 7A.03 may be effective for the duration of the lives of the offender and victim or for any shorter period stated in the order.
 - If a period is not stated in the order, the order is effective until the second anniversary of the date the order was issued.
- The following persons may file at any time an application with the court to rescind the protective order:
 - a victim of an offense listed in Article 7A.01(a)(1) who is 17 years of age or older or a parent or guardian acting on behalf of a victim who is younger than 17 years of age; or
 - a victim of an offense listed in Article 7A.01(a)(2) or a parent or guardian acting on behalf of a victim who is younger than 18 years of age.
- If a person who is the subject of a protective order issued under Article 7A.03 is confined or imprisoned on the date the protective order is due to expire under Subsection (a), the period for which the order is effective is extended, and the order expires on the first anniversary of the date the person is released from confinement or imprisonment.
- To the extent of any conflict with Section 85.025, Family Code, this article prevails

Restraining Order

- Usually filed in a divorce or suit affecting parent-child relationship by a private attorney
- Anyone can apply
- Duration: permanent or until further court order
- Unlike protective orders that can carry criminal punishment, violation of a restraining order is punishable by civil contempt.
- After the filing of a suit for dissolution of a marriage, on the motion of a party or on the court's own motion, the court may grant a temporary restraining order *without* notice to the adverse party for the preservation of the property and for the protection of the parties as necessary. (Texas Family Code § 6.501)

- Examples of common items included in a restraining order include:
 - intentionally communicating with the other party by use of vulgar, profane, obscene, or indecent language with intent to annoy or alarm the other party;
 - threatening the other party
 - placing a telephone call, anonymously, at an unreasonable hour in an offensive and repetitious manner
 - intentionally, knowingly, or recklessly causing bodily injury to the other party or to a child of either party;
 - threatening the other party or a child of either party with imminent bodily injury;
 - harming or reducing the value of the property of the parties or either party with intent to obstruct the authority of the court to order a division of the estate
 - except as specifically authorized by the court selling, transferring, assigning, mortgaging, encumbering, or in any other manner alienating any of the property of the parties or either party or incurring any debt, other than legal expenses in connection with the suit for dissolution of marriage;
 - *For a complete list please see Texas Family Code § 6.501(a)(1)-(26)*
- A temporary restraining may not include a provision that conflicts with the requirements of being a guardian or receiver.
- A temporary restraining order also can't prohibit a party from spending funds reasonable and necessary for living expenses or from engaging in acts necessary to conduct a party's business or occupation.

Peace Bond: Code of Criminal Procedure Article 7.04

- A peace bond is a court order designed to keep the peace by protecting someone who has been threatened, but not harmed. When a judge issues the Peace Bond he is ordering the person who made the threats to deposit money with the court. If the person who made the threats commits the threatened criminal action then the deposited money will be given to the state.
- A peace bond warns someone not to break the law. If the person breaks the law, then he or she will face criminal charges and lose the money (the bond) deposited with the court.
- The amount of the bond is governed by the financial circumstances of the accused and the nature of the offense threatened. (Article 7.06)
- You can apply for a peace bond if someone has threatened to harm you or your property.
- You apply for a Peace Bond by filing a Peace Bond Complaint and Statement of Offense by Complaining Party with the Justice of the Peace in your precinct.

- If the crime has already happened, a criminal complaint should be filed with the police or sheriff, instead of a Peace Bond.
- Some JPs may require filing of a police report as well as charges with law enforcement agency.
- Both parties are summoned for a scheduled hearing.
- The JP may tax costs against the accused or the complainant after the hearing.
- The bond may last for up to 1 year or until there is a violation.
- Violation results in a forfeiture of the bond and contempt of court fine up to \$100 or up to 3 days in jail.

TYPE OF ORDER	WHERE DO I APPLY FOR THIS TYPE OF ORDER?	WHO CAN APPLY FOR THIS TYPE OF ORDER?	APPEARANCE	HOW LONG DOES THE ORDER LAST?
<p>PROTECTIVE ORDER (Title 4 of the Texas Family Code)</p> <p>A Protective Order may PROHIBIT the offender from:</p> <ul style="list-style-type: none"> • Committing further acts of family violence. • Going to or near the residences or places of employment or business. • Communicating a threat directly or indirectly through another person in a harassing manner. • Going to or near a school or day-care center that a child protected under the order attends. • Possessing a firearm or ammunition. • Harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal. 	<p>COUNTY ATTORNEY'S OFFICE</p> <p>Family Protective Order Unit Nueces County Courthouse 901 Leopard, Room 207, 2nd Floor Corpus Christi, Texas 78401 (361) 888-0391</p>	<ul style="list-style-type: none"> • Spouse • Ex-Spouse • Guardian • Have Child Together • Relative by Consanguinity • Relative by Affinity • Member of household • Former member of household • Next Friend of a Minor • Persons Who Have or Have Had a Dating Relationship (adult or minor) • Person in marriage or dating relationship with individual with whom actor is or was in a dating relationship or marriage • Prosecuting Attorney • ANY victim of a sexual assault, stalking, or trafficking as per Code of Crim. Proc. Art. 7A 	<p>Generally 14 days after judge signs Ex-Parte order.</p> <p>ALL parties PRESENT (Applicant, Attorney for Applicant, Respondent, Attorney for Respondent, and Judge)</p> <p>Respondent MUST be served in order for office to go forward with protective order.</p> <p>If Respondent is served, an order may be entered without his/her presence.</p>	<ul style="list-style-type: none"> • Order lasts up to TWO years; maybe extended if expires while Respondent in jail. • Violation of order may be punished for contempt of court by a fine up to \$500 or jail up to six months, or both. • Violation by commission of an act prohibited by the order punishable by a fine up to \$4000 or jail up to one year, or both. • An act that results in family violence may be prosecuted as a separate misdemeanor or felony offense. • If act is prosecuted as a separate felony offense, it is punishable by confinement in prison for at least two years. • If two or more violations within 12-month period can be prosecuted as 3rd degree felony.
<p>MAGISTRATE EMERGENCY ORDER FOR PROTECTION (Article 17.292 Texas Code of Criminal Procedure)</p>	<p>Justice of the Peace/Magistrate. Perpetrator must be arrested for offense involving family violence, sexual assault, stalking, or trafficking of persons.</p>	<p>Same person as in PROTECTIVE ORDER; and Magistrate on their own motion can issue Emergency Order for Protection.</p>	<p>At the Respondent's appearance before the Magistrate.</p> <p>Victim need not be present.</p>	<p>Up to 91 days if <i>weapon</i> involved. Up to 61 days, but not less than 31 days after the date of issuance.</p> <p>VIOLATION: File as misdemeanor offense with law enforcement agency.</p>
<p>RESTRAINING ORDER (Chap. 6 of the Texas Family Code & Section 65.011 Civil Practice & Remedies Code)</p> <p>PEACE BOND (Chap. 7 of the Texas Code of Criminal Procedure) Offenses against "the person" or "properties" are about to be committed or threatened (THREATS ONLY)</p>	<p>A private attorney. [Usually filed in a divorce petition and / or Suit Affecting Parent-Child Relationship (SAPCR)]</p> <p>Justice of the Peace.</p>	<p>ANYONE</p> <p>Person who was threatened.</p> <p>Some JPs may require filing of police report AND charges with law enforcement agency.</p>	<p>ALL PARTIES PRESENT</p> <p>ALL PARTIES PRESENT.</p> <p>Per JP procedures: Both parties are summoned and hearing is scheduled. Judge may tax costs of proceeding to accused or complainant after hearing case.</p>	<p>Permanent / until further court order.</p> <p>VIOLATION: File Civil Contempt Action.</p> <p>Up to 1 year or until there is a violation, whichever is sooner.</p> <p>VIOLATION: Forfeiture of bond; contempt of court by fine up to \$100 or jail up to three days; or bond forfeiture and fine and jail.</p>