

# PRO SE PROTECTIVE ORDER PACKET

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## DISCLAIMERS

Although care has been taken to ensure the accuracy of the information and forms contained in this packet, neither the Women's Advocacy Project nor the authors assume any liability in connection with any use of the information or forms contained herein. If you have any questions about this packet, please call the Women's Advocacy Project for an explanation.

A Protective Order has limitations. Some respondents may refuse to abide by the terms of a Protective Order. Please contact your local women's shelter for assistance with planning for safety surrounding a Protective Order proceeding. If you need the number to your local shelter, call the Women's Advocacy Project.

Throughout this Pro Se Protective Order Packet, female pronouns are used to refer to victims of family violence, and male pronouns for batterers. This method was chosen because it reflects the vast majority of family violence crimes in Texas, as published in the annual reports of the Texas Department of Public Safety. It is not meant to exclude the use of the packet by male victims of family violence, nor is it intended to suggest that all victims are female, or that there are no male victims in Texas. The packet is made available free of charge to all victims of family violence throughout our state, and encouraged in its use regardless of the user's gender.

## What You Should Find In This Packet

### 1. ***“All About Protective Orders”***

An explanation of Protective Orders and the process for getting them in a question and answer format. Please read this section before beginning to fill out any forms.

### 2. ***“Forms and Instructions for Protective Orders”***

Form 1: Application for Protective Order

Every person requesting a protective order must fill out this form.

Form 2: Affidavit in Support of Request For Exclusion From Residence in Temporary Ex Parte Protective Order

This form should be used if you are requesting that the batterer be removed from (or “kicked out” of) your residence.

Form 3: Temporary Ex Parte Protective Order and Show Cause Order

This form needs to be signed by the judge when you file your application. It provides limited protection for you while you wait for the hearing on your final Protective Order.

Form 4: Order Extending Temporary Ex Parte Protective Order

You will use this form only if the batterer was not notified or “served” with papers before the hearing on your final Protective Order. If this happens, the hearing will be postponed. This form extends the Temporary Ex Parte Protective Order (Form 3) while attempts are made to serve the papers on the batterer.

Form 5: Protective Order

This is the order you are trying to get the court to enter. You must fill out this form and take it with you to court on the day of your hearing.

### 3. ***“Where to Go, What to Do”***

A step-by-step explanation of what to do with the forms once you’ve filed them out, and help preparing for the Protective Order hearing.

**NOTE:** As you work your way through this packet, call the Women’s Advocacy Project with your questions. Attorneys answering the Family Violence Legal Line can help you fill out the forms and walk you through your interactions with the court system.

## All About Protective Orders

### What is a Protective Order?

A Protective Order is a civil court order that has both civil and criminal consequences. This means that although the Protective Order is issued by a civil court, a violation of the order may be prosecuted in either civil *or* criminal court. A respondent who has a Protective Order entered against him may be arrested and prosecuted for a crime if he does something that the Protective Order says he may not do, or if he fails to do something that the Protective Order requires. He may also be held in contempt of court and required to pay a fine for violating the order.

The purpose of a Protective Order is to protect victims of family violence. A Protective Order lists the types of behavior that a person who has been abusive may not engage in for the period that the order is in place. A Protective Order is typically valid for up to two years from the date that it is signed by the judge. However, if the respondent is in jail on the date the order expires, the Protective Order is valid until one year after he is released.

### What can a Protective Order do?

A Protective Order can require a respondent (the person you want to be protected from) to do or not do any of the eleven items listed below. The first six items have special significance—they are the provisions that may be enforced criminally through immediate arrest and prosecution in criminal court. The remaining five items may only be enforced through a civil proceeding known as “contempt.” You should decide which of the items on the following list would help to keep you safe and ask for the court to include them in your Protective Order:

1. Order the respondent not to commit family violence.
2. Order the respondent not to come within a certain distance of where you live and where you work.
3. Order the respondent not to come within a certain distance of where your children live, go to school, go to daycare, or are baby-sat.
4. Restrict the respondent’s communication with you in any the following three ways:
  - Order the respondent not to communicate with you directly in a way that is harassing or threatening. “Directly” includes talking to you in person or over the phone, or writing letters to you.
  - Order the respondent not to communicate with you indirectly in a way that is

harassing or threatening. This means that the respondent cannot have someone else talk to you in person or over the phone, or write letters, to make threats or harass you.

- Order the respondent not to communicate with you in any manner except through someone chosen by the court.

5. Order the respondent not to engage in conduct, including following you, that is likely to harass, annoy, alarm, abuse, torment, or embarrass you. This type of conduct is typically referred to as “stalking.”
6. Prohibit the respondent from possessing a firearm while subject to the order.

**NOTE: Items 1-6 above are the criminally enforceable parts of the Protective Order. This means that the respondent can be arrested right away if he violates any of them. If the police are not present when the respondent violates one of these terms, then you can go to the police station and make a complaint that the respondent violated the Protective Order. The police may then issue a warrant for the respondent’s arrest, pick him up, and prosecute him for violation of the Protective Order.**

Item numbers 7-11 listed below are the parts of the Protective Order that may be enforced through civil contempt proceedings:

7. Order the respondent not to take the child/ren from you (or another person designated in the order) or to remove them from the county where the court is located. The court may also order a schedule for visitation with the child/ren. These provisions may take care of some concerns about the child/ren, but they are not the same as having custody of the children. Child custody can only be determined in a separate court proceeding.
8. Require the payment of child support or spousal support.
9. Order the respondent to attend an alcohol counseling, drug counseling, and/or family violence treatment program.
10. Decide who will keep and use property that you and the respondent own together, for example, your house or car, during the time that the Protective Order is in place. This will not change the legal ownership of any property. Changing ownership can only occur in a separate proceeding such as a divorce.
11. Remove the respondent from the home. This is commonly known as a “kick-out order” and can occur only if you meet the criteria set out on pages 10-11.

Items 7-11 above are the civilly enforceable parts of the Protective Order. This means that the respondent cannot be immediately arrested for violating them. However, you can go before the judge who granted the Protective Order and let the judge know about the violations. The judge may hold the respondent in contempt of court and order him to pay a fine and, in the most severe cases, serve jail time. To bring a civil contempt action, you will need to prepare a written motion for contempt, file it with the court, and go to a hearing. You can find the forms and information about contempt proceedings at your local law library, or you can call your local Legal Aid, victim’s assistance services, or the county district attorney near you. If you need help locating any of these resources, call the Women’s Advocacy Project.

## What is the Process for getting a Protective Order?

There are three essential steps in the process of getting a Protective Order entered by a court:

1. File an Application – You must file an Application for a Protective Order (Form 1) with the county or district clerk’s office. If you are seeking a kick-out order, you will need to file an affidavit (Form 2) with your application. When you file the application, you will also get the judge’s signature on a Temporary Ex Parte Protective Order (Form 3) that provides some protection for you up until the hearing on the final Protective Order. The court will schedule the date and time for the hearing when the application is filed.
2. Serve the respondent – A court official must deliver a copy of the application and the Temporary Ex Parte Protective Order to the respondent, and notify him of the date and time of the hearing on the final Protective Order.
3. Get the Judge to Sign the Order in Court – The judge must find that the requirements for a final Protective Order have been met, either after hearing evidence presented at a hearing or on the basis of the respondent’s agreement to the Protective Order. A document entitled “Protective Order” (Form 5) must be signed by the judge.

## Why get a Protective Order?

First, once family violence starts it usually continues. The violence also tends to get worse over time. A Protective Order may help to end the violence because the process brings the respondent before a court of law, and a judge signs orders directing him to stop hurting and threatening you, under penalty of arrest and prosecution. Most Protective Orders also require the respondent to stay away from you for up to two years, giving you time to sort things out and decide what you want to do next, while having the protection of the court order. A Protective Order lets the respondent know how serious you and the court are about having him change his behavior.

A Protective Order can also set up rules that the respondent will have to obey while the order is in effect. These rules may require the respondent to complete a family violence counseling program, give up possession of a home or a vehicle, pay child support or spousal support, and obey the court’s orders about visitation.

Again, please keep in mind that a Protective Order has limitations. Your abuser may not abide by the terms of a court-ordered Protective Order. Please contact your local women’s shelter for assistance with planning for your safety—before, during, and after your Protective Order proceeding. If you need the number to your local shelter, call the Women’s Advocacy Project.

## Can I get a Protective Order?

In order to get a Protective Order you must prove that:

1. Family Violence has occurred; and
2. Family Violence is likely to occur again in the future.

You can prove to the court that Family Violence has occurred (the first element) by describing it in testimony that you give under oath in court, through the testimony of anybody who saw or heard the violence, and by showing in court any torn clothing, medical records, police reports, or pictures of injuries or damaged property.

The second element may be proven by similar kinds of evidence, emphasizing any patterns or escalation in the violence, and making sure that the court is aware of any threats of future violence that the respondent has already made. Filing for a Protective Order as soon as you can after a violent incident has occurred will help on this second element, too.

## What is Family Violence?

**Family violence** is:

1. An act by a family member (by blood or marriage) or someone who is or has been living with you, or someone with whom you have had a child,
2. against you, or someone in your household.
3. The act must have been meant either to cause physical harm, bodily injury, assault or sexual assault (this does not include defensive measures to protect yourself); or
4. the act must have been a threat that made you (or someone in your family or household) reasonably afraid of immediate physical harm, bodily injury, assault or sexual assault, or of physical or sexual abuse of a child who is living in your house.

**Family violence** also includes **dating violence**, which is defined as:

1. An act by an individual with whom you have had a dating relationship, which is defined under law as “a continuing social relationship of a romantic or intimate nature,”
2. against you.
3. The act must have been meant either to cause physical harm, bodily injury, or assault or sexual assault (this does not include defensive measures to protect yourself); or
4. the act must have been a threat that made you reasonably afraid of immediate physical harm, bodily injury, assault or sexual assault.

In order to determine whether a relationship is a dating relationship the judge should look at the length of the relationship, the nature of the relationship, and the frequency and type of interaction between the people involved in the relationship.

## Who can be the respondent in a Protective Order?

You can seek a protective order against anyone fitting in a category below who has committed family violence against you:

1. A person related to you by blood or marriage (spouse, parent, brother or sister, or in-law);
2. A former spouse;
3. Your child's other parent, regardless of whether you were ever married;
4. A person you live with, or lived with in the past (including a foster child or parent); or
5. A person you are dating. See the section immediately above this one for the definition of Dating Violence.

## Where do I file for a Protective Order?

Depending on your circumstances, you may have up to three counties to choose from in filing for a Protective Order. Your application may be filed in:

1. The county where you live;
2. The county where the respondent lives; or
3. The county where a divorce or custody suit (more technically known as a "suit affecting the parent child relationship") is on file.

If a divorce or custody suit is pending (that is, has been filed with the court but is not finished yet) at the time that you are planning to file for a Protective Order, your choices are down to two counties: You must file your Protective Order case in either the county where you live or the county where the suit is pending. In this situation, you should not file in the respondent's county of residence, if he lives in a county different from these other two.

## How much does it cost to apply for a Protective Order?

No fees may be charged to a person applying for a Protective Order. If anyone attempts to charge you any fee, refer them to Section 81.002 of the Texas Family Code.

## How long will I have to wait for a final Protective Order to be issued?

After you file the application, the respondent must be served with notice of your application and then a judge will conduct a hearing on the application. If the judge grants the Protective Order, the Protective Order should be issued that same day.

The court is required to conduct the hearing within 14 days after the application is filed, unless you file in one of the larger counties in the state, in which case the time frame is 20 days. Sometimes, the hearing has to be postponed if the respondent has not been served with notice in sufficient time before the hearing. If the hearing is postponed, it may only be delayed 14 days.

## What legal protections are available to me before the hearing?

You may be able to get a Temporary Ex Parte Protective Order at the time an application for a protective order is filed. This involves going to the judge when you file your application, without the respondent being present or knowing that you have filed an application for a Protective Order. The form for a Temporary Ex Parte Protective Order is included in this packet (Form 3) with further instructions on how to use it.

Unlike final Protective Orders, Temporary Ex Parte Protective Orders are not criminally enforceable. The police will not be able to arrest the respondent for violating this order, not unless the conduct that violates the order also constitutes some other crime, such as assault, that has an independent basis for arrest. The only way to enforce a provision such as the stay-away provision of the Temporary Ex Parte Protective Order is through a civil contempt proceeding.

Another type of protective order called a Magistrate's Order for Emergency Protection (MOEP) may also be available. A MOEP is criminally enforceable, but it is limited in duration to 61 days and is not universally available. A MOEP may be entered only in the immediate aftermath of a family violence arrest. Any victim of family violence can request a MOEP from the arraignment judge (or magistrate) before the batterer has been released from jail after the arrest. The judge must issue the MOEP at the arraignment hearing, which usually takes place within a few hours after the arrest. Call the Women's Advocacy Project for more information about MOEPs.

## How are the civilly enforceable parts of Protective Orders enforced?

If the respondent violates a Temporary Ex Parte Protective Order or a section of the permanent Protective Order that is not criminally enforceable, the police will not be able to immediately arrest him for violating that order unless he has committed some other crime. To enforce the order, you will have to file a contempt proceeding in civil court. .

To bring a civil contempt action, you will need to prepare a written motion for contempt, file it with the court, and go to a hearing. You can find information and forms for contempt proceedings at your local law library, or you can call Legal Aid, victim's assistance services, or the county or district attorney near you. If you need help locating any of these resources, call the Women's Advocacy Project.

## Will I have to see the respondent in court?

Due process requires that the respondent be notified of the Protective Order proceeding and given an opportunity to present any argument he may have against the entry of Protective Order to the judge. An officer (such as the county constable) will take copies of the papers that you file at the courthouse and hand-deliver them to the respondent. These papers will officially notify him when and where the hearing for the final Protective Order is scheduled.

Having received notice of the hearing, the respondent may show up for the hearing, with an attorney or without one, or he may not show up for the hearing. A Protective Order can be entered regardless of whether the respondent shows up for the hearing. An order entered in the respondent's absence, after he has been notified of the hearing, is called a "default" order; the respondent is said to have "defaulted" in the suit. The judge may still require you to state your case for the protective order, even though the respondent is not there to argue against it.

If he does show up, either with or without an attorney, you will need to be prepared to present your evidence and arguments to the judge showing that you should get a Protective Order. You may need to bring witnesses and/or evidence (such as medical records or pictures). You should also feel free to ask someone to come to the hearing with you for moral support. Some women's shelters can provide someone (usually called a "legal advocate") to go with you to the hearing. Call the Women's Advocacy Project if you need the number for the shelter nearest you.

## Can the respondent be ordered out of our home?

The respondent can be ordered out of the home you share with him in a Temporary Ex Parte Protective Order if he committed Family Violence against you in the 30 days before you file for a Protective Order (see page 7 for the legal definition of Family Violence), AND you satisfy both of the two elements below:

1. You can show that one of the following three statements is true:
  - A. You own or lease the residence jointly with the respondent. This means that both of you have legal rights in the title to the home or both of your names are on the lease. Your landlord should have a copy of the lease if you do not have one; copies of real estate documents are available through the county clerk's office in the county where the property is located.
  - B. You own or rent the residence and the respondent's name is not on the title or lease. This would typically mean that yours is the only name on the lease or title.
  - C. The respondent owns or leases the residence AND he has a legal obligation to financially support you or any child you have together. This means that you are either married to the respondent or share a child with him.

2. You must also show that at the time that you file for the protective order:
  - A. You are currently living at the home you want the respondent kicked out of; OR
  - B. you have lived at the home within the last 30 days but have left temporarily (for example, you are living in a shelter while seeking to remove him from the home through a Protective Order proceeding).

If you do not meet all these requirements, the court cannot force the respondent to move out of the home in the Temporary Ex Parte Protective Order. You can still, however, ask the court to order him out of the house at the hearing on the final Protective Order, and the judge can order it then. If the “kick out” order is granted, you can ask the court to order that a sheriff or police officer go with you to the home and stay while the respondent takes his things and leaves, so that you are protected during his removal from the home.

If you are already separated from the respondent or choose to leave the home you have shared with him and move somewhere else, the court can also order the respondent to stay away from any new residence you establish.

## What do I do with the Protective Order once the judge has signed it?

You should keep a copy of your Protective Order with you at all times. If the respondent violates the order, you will have it available to show to the police so that it may be enforced. Keep a copy at work, at home, in your car, and in your purse. State and county officials are required to register the Protective Order in a statewide database for police access to the information, but this registry is not always up-to-date and completely accurate.

You should deliver copies to all of the places identified in the Protective Order, such as your workplace or the children’s daycare or school. The clerk’s office is required to send some of these copies out, but there may be some delay in getting the order mailed out, so you may want to do this yourself as well.

Call the police and report any violations of the Protective Order. You should call 911 and ask for emergency help any time the respondent’s conduct places you in danger. If the violation does not cause the need for immediate police intervention, you may need to go to the police station in person to make a complaint of the violation. Other people, such as co-workers or daycare providers, can contact the police if they know that the respondent is violating the Protective Order. Any time a police officer is uncooperative, make note of the officer’s name and badge number and write down any other information about the situation, so that you can explain what happened to the officer’s supervisor. Continue to seek help from other officers and supervisors in the police agency.

If the respondent violates the order more than once, keep a list of the dates, times, and circumstances surrounding each violation. Consider filing a contempt action to enforce the civilly enforceable parts of your Protective Order. Make sure that complaints or police reports are made on all violations. Follow up with the prosecutor about any criminal proceedings that are undertaken to enforce the Protective Order. And, above all, take steps to keep yourself safe. Talk to an advocate at your local women's shelter about ideas for safety that address your circumstances.

## What should I do if I move?

A Protective Order is enforceable anywhere in the United States regardless of where it was issued. If you move from the county or state where your Protective Order was issued, you should let the law enforcement officials in your new area know that you have a Protective Order. Get at least five certified copies of the Protective Order before you leave, and give them to the local police or sheriff's office, as well as to any new daycare facility, school, or employer, so they will know how to respond if the respondent shows up unexpectedly, or otherwise violates the Protective Order.

## Am I eligible for Crime Victim's Compensation?

If you are a victim of family violence, it is likely that you will qualify for Crime Victim's Compensation. This is a financial assistance program that helps eligible victims with certain expenses related to a crime committed against them, which may include the costs associated with relocating to get away from a batterer. Any law enforcement agency and prosecutor's office in Texas should be able to provide information and applications for Crime Victims' Compensation. For more information or to find out if you are qualified, you can call the Office of the Attorney General at 1-800-983-9933, or the Women's Advocacy Project at 1-888-325-SAFE (in Austin, 476-5386).

## Other Information about Protective Orders

You can also look up information about Protective Orders in your local law library. Information on Protective Orders can be found in Title 4, Chapters 71-92 of the Texas Family Code. Another helpful resource is the Texas Family Law Practice Manual, chapter 14 of which is entitled "Protective Orders." Most counties have a law library open to the public, found in or near the courthouse. If you live in Austin, Dallas, Ft. Worth, Houston, Lubbock, San Antonio, or Waco, there is an additional law library at the local law school.

## Forms and Instructions for Protective Orders

This forms section of the Pro Se Protective Order packet has forms and instructions for getting the documents ready to take to the courthouse. Before you begin working on Form 1 (Application for a Protective Order), read through the follow short set of instructions, which will make filling out all of the forms go a lot more smoothly:

- \* Fill out your answers on scratch paper first to prevent mistakes.
- \* Write your name the way it appears in your signature.
- \* Write your name and the respondent's name the same way on each of these forms.
- \* Type the forms or print in black ink.
- \* Have the telephone number of the county clerk available. You will need to call the clerk for information. If you cannot find the clerk's number in the telephone directory, you can call the Women's Advocacy Project or your local women's shelter for assistance.
- \* The forms must be filled out as completely and accurately as possible, so use these instructions to fill out the blanks one at a time. Read the instructions for each numbered item, make note of the answer(s) for each item, and then transfer all of the answers onto the forms.
- \* Unless instructed to do so in these directions, do not leave any blanks empty. If something does not apply, write "N/A" for not applicable.
- \* In filling out these documents, you are always the APPLICANT. The person you are seeking protection from is the RESPONDENT.
- \* If you have any questions or problems completing these forms, call the Women's Advocacy Project for help. Attorneys answering the hotlines will be able to assist you.

### Instructions for Form 1: Application for Protective Order

**Fill out the Application (Form 1) before filling out anything else.** The blanks are numbered 1 to 62. These instructions correspond to the numbered blanks on the form.

1. This line refers to the number that the county clerk will assign to your case. The county clerk will fill out this blank, so SKIP THIS BLANK.
2. Put your first and last name here.

3. This line refers to the court in which your Protective Order will be heard. Depending upon your county's policies, your Protective Order may be handled in county court, district court, or even juvenile court. You need to call your county clerk and ask which is the proper court for your Protective Order. If your county clerk cannot give you this information, call the Women's Advocacy Project for assistance.

4. Write the Respondent's first and last name here. The Respondent is the person you are asking to be protected from.

5. Write in the name of the county where you want to apply for your Protective Order. Depending on your circumstances, there may be as many as three counties to choose from when you are filing your Application for Protective Order: The county where you live, the county where the respondent lives, or the county where your divorce or custody suit is pending. See page 8 for more information about where to file your Protective Order.

### **PROTECTED PERSONS**

6(a). Put your name here.

6(b). Check this blank if you are seeking the Protective Order for yourself.

6(c). Check this blank if you are seeking the Protective Order for someone else. For example, if the Respondent has committed acts of family violence against your child or children, and you want the Protective Order to extend to them, check this blank. You may check either 6(b) or 6(c), or both.

6(d). If you checked 6(c), write out the name(s) of the person or persons (other than yourself) that you want the Protective Order to protect.

7. If you checked 6(c), fill in your relationship to the person(s) listed in 6(d). For example, if that person is your child, write "child."

8. Write the name of the county in which you live.

## **RESTRICTED PERSONS**

9-14. This is information you need to give about the respondent. Be sure to give complete answers for the home and work addresses (including county) and telephone numbers (including area codes). Answer as completely as you can. If you do not know some of the information, write “unknown.”

15. Check blank 15 if you know the respondent is usually at home at a certain time. In the blank to the right, fill in the hours when the respondent is usually there.

16. Check blank 16 if you know the respondent is at work at a certain time. Fill in the work hours in the blank to the right.

17. Check this blank if you know the times when the respondent will be at another location. (For example, if the respondent stays with a relative every weekend.) Give the name and address of this other place, and the hours that the respondent is usually there. Note: You may check any one, two, or all three of lines 15-17, but you must check at least one.

\* The information in lines 15-17 is what the authorities will use to locate the respondent to serve notice. The respondent must be served notice of the Protective Order. The constable or sheriff in your county must be able to locate the respondent in order to serve him. Therefore, it is important that you give the most reliable information you can regarding the respondent’s whereabouts.

## **RELATIONSHIPS**

18-23. Check all blanks that apply, but you must check at least one.

20. If you and the Respondent are divorced, check this blank. Look at your final divorce decree and use that information to fill in the day, month, year, county, and state on the lines provided. If you do not have a copy of the divorce decree, call the district clerk in the county where your divorce was granted. You also must attach a copy of the divorce decree, or file a copy of the decree with the Court before the Protective Order hearing.

21-22. If you checked 19, check one of these choices, but not both.

23. If you have had any children with the Respondent, check this blank and write in the name(s) of the child or children.

## **CHILDREN**

24-25. Check yes if there are any children who have been physically or sexually abused or who have been threatened with physical or sexual abuse, and fill in those children’s names.

26. Check yes on line 26 if there is ANY court order that affects your children. (Examples include custody orders, divorce decrees, adoption, child support, etc.). If you check “no,” write “N/A” in lines 27, 28, and 29. You must either attach a copy of any order affecting the children with this application or file a copy of the order with the Court before the hearing.

27. If you answered yes to 26, check 27 and fill in 27(a) through (c).

27(a). You will need to look at the first page of the last court order that affects the children and write in the number of the court. This should be written in at the top right-hand side of the first page of the order.

27(b). Write the name of the county where the order affecting your children was entered.

27(c). Write the name of the state in which the court proceeding took place.

28-29. If you answered yes to 26, check one of these choices, BUT NOT BOTH. Check 28 if you have a copy of the order affecting the children, and attach the order to the completed Application before it is filed. Check 29 if you do not have a copy of the order affecting the children, but take steps immediately to get a copy from the county where the order was entered. You must file a copy of the order with the court where you filed your Protective Order before the hearing, if you do not have it to attach to the application when it is filed. Directions about how to file this order are different in each judicial district. Call the court clerk for specific directions in your district.

## **GROUND FOR APPLICATION**

\* This section is what the judge will read to decide whether to grant your Protective Order. Think carefully before you fill this part out. This is your chance to tell the judge what happened.

\* Write down the information for this section on scratch paper first, because you want your account of the violence to be as clear and accurate as possible.

\* Lines 30-33 (with their subparts) provide the space for you to describe up to four separate times when the Respondent threatened to physically hurt you and/or your children, or actually caused you and/or your children physical pain. Start with the most recent incident first, and describe it on line 30. Then go backwards in time, line 31 being used for the next most recent incident, and so on. Do not worry if there were less than four acts of violence; any act of violence should be enough to get a Protective Order under the law. If there were more than four of acts of violence, choose four of the worst incidents—the most dangerous or frightening ones for you—and write about those.

30(a). If you remember the exact date the incident occurred, put that date in line 30(a). If you do not know the exact date, you can give a more general time frame, rather than a specific date, for example, summer 1999, or mid-July 2001, or Thanksgiving 1998. Be only as specific as you can be—do not make up or guess a specific date unless you know it is right. The reason for this is to protect yourself—if the respondent can prove being elsewhere on the specific date you guessed incorrectly on the application, he might claim that as proof that the incident never occurred at all.

30(b). Give the most specific address you can, but do not guess. If you were not at a specific address, for example, if you were traveling in a car, list the city or neighborhood.

30(c). Write this on scratch paper first. You only have a few lines for your description of the entire incident, so you need to think about what needs to be included in this section. BE SPECIFIC. Instead of writing, "He hit me," describe how he hit you. For example: "John grabbed my hair and hit me in the face with his fist." If the respondent threatened you, write the exact words as you remember them.

You do not have the space to write down everything that led up to the violence. If the act happened on Monday, do not try to write about an argument that started the prior weekend. You need to give the judge details only about the circumstances surrounding the violence that occurred.

Some hints on how to organize your description of the violence:

- \* Think about how the incident started and begin there.
- \* As mentioned above, be very specific about the violence, both physical and verbal.
- \* If you had to leave to get away from the Respondent, mention that, and indicate where you went (a shelter, a friend's house, etc.).
- \* Describe any injuries, such as bruises, cuts, or burns.

30(g). If you answer Yes to line 30(g), list where you received this medical treatment (name of hospital, doctor, EMS, etc.) and the cost of the treatment.

31-33. Fill out the remaining three acts of violence in the same manner, using the directions for 30(a)-(g) as a guide.

### **REQUEST FOR PROTECTION**

\* Lines 34-38 are the CRIMINALLY ENFORCEABLE parts of the Protective Order. This means that if your Protective Order is granted, and the respondent violates any of 34-36, you can call 911, and the police may arrest the respondent.

34. Check line 34 if you want to stop the respondent from directly or indirectly communicating to you in a threatening or harassing manner. This means the Respondent cannot call you or write to make threats or to harass you. Also, he or she cannot have someone else make threats to you without violating this order. Write your name on the line provided, along with other names you wrote on line 6(d). Remember, you may not be able to keep a legal parent from visiting or speaking with his/her children, but you can ask the court to prohibit him from threatening the children's physical safety. Checking this line enables you and the respondent to communicate so long as the respondent is not threatening or harassing you. This allows the respondent to communicate with you directly about the children, so long as those communications are not threatening or harassing. If you want NO contact whatsoever, also check line 35.

35. Check this line if you do not want the respondent to communicate with you IN ANY MANNER. Write your name along with other names you wrote on line 6(d) on the line provided. There is space to put the name of someone who is a neutral party who can relay messages between you and the respondent. For example, if you have a neighbor, friend, or relative whom you trust to be fair to both you and the respondent, list that person. If you do not know a neutral person, write “N/A” in the blank.

36. Check line 36 if you want the respondent to stay away from you at all times. List your name and the names of any other family members you want respondent ordered to stay away from, such as the children. This may include anyone listed in line 6(d). This provision requires the respondent to stay at least 200 yards away from the persons listed regardless of where they are—at home or work, or at the grocery store, the post office, or a restaurant. If the respondent should accidentally run into you in one of these places, he is required to immediately leave and stay at least 200 yards away from where you are. To visualize 200 yards, think of two football fields end to end. If you check line 36, then you should also check line 37 and fill in the necessary information.

\* Generally, this “stay-away” provision is considered the most important provision of the Protective Order. While you do not have to check this blank in order to get a Protective Order, it is relatively unusual for an applicant not to seek a stay-away provision, and you should prepare to explain to the judge why you do not want or need this protection.

37(a). If you checked line 36, then check line 37. Even if you did not check line 36, you may check line 37 if you would like the respondent ordered to stay away from where you live or work or where any children living in the household go to school or day-care. While legally you do not have to check this blank in order to get a Protective Order, if you do not want the Respondent to stay away from you, you should prepare to explain to the judge why you do not think this protection is necessary.

37(b). If you have a child or children in day-care, and you do not want the Respondent to go to or near that day-care (including informal day-care, such as a relative’s or neighbor’s house), then write the child’s name(s) on this line. Write in the name of the county where the day-care is located. If you believe that the respondent does not know the name of the day-care or the address, and that the children are safer without this information being divulged, then do not write in this specific information. Even though you do not have to the addresses on this form, bring them with you to the hearing; the judge might want to see them. The clerk of the court will also need them in order to send a copy of your Protective Order to the child’s school or day-care.

37(c). If you have a child or children in school, and you do not want the Respondent to go to or near that school, then write the child’s name(s) on this line. Write in the name of the county where the school is located. Even though you do not have to list specific addresses on this form, bring them with you to the hearing; the judge might want to see them. The clerk of the court will also need them in order to send a copy of your Protective Order to the school.

37(d). If you are employed, write your name on this line. If you are not employed, but someone else that you listed on line 6(d) is employed, write that name here if you want respondent to stay away from that place of employment. Write in the name of the county where the place of employment is located.

37(e). Write your name here. Write the name of the county in which you live on the line provided.

38. Check this line if you do not want the respondent following, harassing or stalking you or someone listed on line 6(d).

\* Lines 39-44 request the court to enter orders that are CIVILLY ENFORCEABLE. This means that respondent cannot be arrested immediately for violating them. If your Protective Order is granted, and the respondent violates any of the items requested in 39-42, you can then ask the court to hold the respondent in contempt of court for violating these terms. See page 9 for more information about civil enforcement through contempt. If in violating one of these civilly enforceable orders, the respondent also commits a crime, such as parental kidnapping, he may be subject to arrest and prosecution for any crime he commits.

39. Check this line if you have children and do not want the Respondent to take them from you. Put the child(ren)'s name(s) in the blank provided. Also put your name in the blank before "possession." (If the children are staying with someone else, for example your mother, you may also write in that person's name.)

40. Check this blank if you have children and do not want the respondent removing them from the county. Write in the name of the county.

41. If you own or lease real or personal property with the respondent, check this blank if you do not want the respondent to harm the property. Real property may include land or a house. Personal property includes bank accounts, home furnishing, cars, etc.

42. Check this blank if you wish to live at your residence and you want the respondent to move out and stay out. Put your name before "residence" and write in your address.

43. Check here if you qualify for a "kick-out" order (see pages 10-11 of this packet) and you want the respondent to vacate a residence you share with him. Write in the address and county of the residence. **A Protective Order can kick the abuser out of the home only if the criteria listed on pages 10-11 of this packet are satisfied. IT IS VERY IMPORTANT THAT YOU CHECK THESE CRITERIA BEFORE YOU REQUEST A "KICK OUT" ORDER FROM THE COURT.**

44. If you want the respondent to attend counseling, check this line. The respondent will be required to pay fees for counseling if ordered to attend if the court finds that he is financially able to make those payments.

45. Check this line if you want the judge to establish a possession schedule for the children.

46. Check this line if you want the respondent to pay child support or spousal support. You will probably only be able to get child support if the children are living primarily with you (or you are awarded primary possession of the children in the Protective Order). If the respondent has the children and you want them back, ask for possession by checking line 45 and ask for child support by checking line 46. The judge has the discretion of where to place the children based on what she or he considers to be in the their best interest. The judge may also set the amount of the child

support. In order to show the judge what the right amount of child support should be, bring in any information you have about his income, such as pay stubs, bank statements, or tax returns.

## **REQUEST FOR CONFIDENTIALITY OF CERTAIN INFORMATION**

This portion of the Protective Order asks the court to keep some information confidential so the respondent cannot see it. The law states that the judge does not have to let the respondent know the addresses of your residence or workplace, or the children's schools or day-cares, or other protected places. Even if the respondent currently knows the information, it is still a good idea to request confidentiality, because if you move or your child changes schools or day-care, you can keep these new addresses confidential. If the protected places listed in the Protective Order are not identified by address, then the protection should extend to any new residence, workplace, school, or daycare you establish in the future.

47 (a). Check this line if you want any or all of the following information left out of the Protective Order.

47(b). Check this line if you do not want your address included in the Protective Order. If you check this blank, fill in your name on the line provided.

47(c). Check this line if you want your telephone number kept confidential in the Protective Order. If you check this blank, fill in your name on the line provided.

47(d). Check this line if you do not want the name or address of your place of employment or business included in the Protective Order. If you check this blank, fill in your name on the line provided.

47(e). Check this line if you do not want the name or address of your child's or children's schools included in the Protective Order. If you check this blank, fill in your child's or children's name(s) on the line provided.

48. Check this blank if you check any of line 47. This is requested as the mechanism for keeping the confidential information out of public records.

## **IMMEDIATE ORDER SOUGHT**

49-57. These blanks ask the court to enter the same orders in the Temporary Ex Parte Protective Order that you requested in lines 34-42 for the final Protective Order. These lines ask for the same information that you put in lines 34-42.

## **REQUEST FOR EX PARTE ORDER EXCLUDING RESPONDENT FROM RESIDENCE** **(KICK-OUT REQUEST)**

58. Check box 58 if you qualify for a "kick-out" order (see pages 10-11 of this packet) and you want the respondent to immediately vacate the residence you share with him.

This section is different from line 43, which also requests a “kick-out” order, in that this section asks the court to kick the respondent out BEFORE THE HEARING. If the court grants this request, the kick-out order will be in the Temporary Ex Parte Protective Order, which should be signed on the day you file the Application.

**A Temporary Ex Parte Protective Order can kick the abuser out of the home only if the criteria listed on pages 10-11 of this packet are satisfied. IT IS VERY IMPORTANT THAT YOU CHECK THESE CRITERIA BEFORE YOU REQUEST A “KICK OUT” ORDER FROM THE COURT.**

59. Write in the address and county of the residence you want the respondent to vacate.

60. Check this box only if you checked box 58 and are seeking a “kick-out” order. This box, if checked, asks the court to order a law enforcement officer to go with you to your residence to make sure you are safe while the respondent is ordered to pack up and leave the residence.

### **PRAYER**

The “prayer” is the section that says you hope the court grants all of your requests.

61. Sign your name on line 61.

### **VERIFICATION**

**\* DO NOT SIGN LINE 62. UNTIL YOU ARE IN FRONT OF A NOTARY PUBLIC.**

\* You can find a notary public in several places. Any bank should have a notary on staff. Most mail centers have notaries, as well as title companies and credit unions. It does not matter where you go as long as you have this portion notarized. There are several forms in this packet that need to be notarized, so fill them all out and get them notarized at the same time.

\* The notary will fill in everything except line 62., which is the space for your signature. You should sign on line 62. in the notary’s presence.

Congratulations! You have just finished the most difficult part of this packet; almost everything else is a repeat of information that you have given in this application.

1. NO. \_\_\_\_\_

2. \_\_\_\_\_  
Applicant

§  
§  
§  
§  
§  
§  
§

IN THE 3. \_\_\_\_\_ COURT

v.

OF

4. \_\_\_\_\_  
Respondent

5. \_\_\_\_\_ COUNTY, TEXAS

**APPLICATION FOR PROTECTIVE ORDER**

TO THE HONORABLE JUDGE OF SAID COURT:

**PROTECTED PERSONS**

This Application for a Protective Order is brought by 6(a). \_\_\_\_\_,  
acting (check one or both):

6(b). \_\_\_ individually;

6(c). \_\_\_ on behalf of the following persons:

6(d). \_\_\_\_\_,

whose relationship(s) to Applicant is as follows: 7. \_\_\_\_\_.

Applicant resides in 8. \_\_\_\_\_ County, Texas.

**RESTRICTED PERSONS**

Respondent's name is 9. \_\_\_\_\_.

Respondent's residence address is 10. \_\_\_\_\_,  
\_\_\_\_\_ County, Texas, and the work address is 11. \_\_\_\_\_,  
\_\_\_\_\_ County, Texas.

Respondent's telephone number is 12. \_\_\_\_\_ (work) and 13. \_\_\_\_\_ (home).

14. Respondent's attorney's name is \_\_\_\_\_, and address is \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_ County, Texas.

Respondent should be served with notice at (check one or more):

- 15.  home between the hours of \_\_\_\_\_.
- 16.  work between the hours of \_\_\_\_\_.
- 17.  other \_\_\_\_\_ between the hours of \_\_\_\_\_.

**RELATIONSHIPS**

- 18.  Applicant and Respondent are or have been members the same family or household; or
- 19.  This application is brought on behalf of person(s) other than the Applicant who are or have been members of the same family or household as Respondent.
- 20.  Applicant and Respondent were divorced on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in \_\_\_\_\_ County, in the State of \_\_\_\_\_. A copy of the divorce decree is:
  - 21.  Attached; or
  - 22.  Currently unavailable but will be filed with the court before the hearing in this case.
- 23.  Applicant and Respondent are the biological parents of the same child(ren), whose name(s) are: \_\_\_\_\_.

**CHILDREN**

- 24. Are there any children who are victims of family violence?  Yes  No
- Names: 25. \_\_\_\_\_.
- 26. Are the children affected by any prior court order or divorce decree concerning conservatorship, possession or child support?  yes  no. If yes, then check all that apply below.)
  - 27.  The court of continuing jurisdiction for the child(ren) is 27(a). \_\_\_\_\_ judicial district court in 27(b). \_\_\_\_\_ County, 27(c). \_\_\_\_\_ (state).
  - 28.  A copy of the order affecting the child(ren) is attached; or
  - 29.  A copy of the order is currently unavailable but will be filed with the Court before the hearing.









Applicant requests the Court, after notice and hearing, to issue its protective order prohibiting

Respondent from:

Committing acts of family violence against Applicant and others sought to be protected.

34.  Communicating directly or indirectly in a threatening or harassing manner with \_\_\_\_\_.

35.  Communicating in any manner with \_\_\_\_\_  
except through \_\_\_\_\_.

36.  Going within 200 yards of the following persons: \_\_\_\_\_  
\_\_\_\_\_.

37(a)  Going within 200 yards of the following person's locations:

37(b). \_\_\_\_\_'s Day Care:  
\_\_\_\_\_, County, Texas.

37(c). \_\_\_\_\_'s School:  
\_\_\_\_\_, County, Texas.

37(d). \_\_\_\_\_'s Place of Employment or Business:  
\_\_\_\_\_, County, Texas.

37(e). \_\_\_\_\_'s Residence:  
\_\_\_\_\_, County, Texas.

38.  Engaging in conduct, including following the person(s) protected by this order, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass that person or person(s).

39.  Removing \_\_\_\_\_  
from \_\_\_\_\_'s possession.

40.  Removing the child(ren) named herein from \_\_\_\_\_ County, Texas;

41.  Transferring, encumbering or otherwise disposing, destroying, or harming of any real or personal property mutually owned or leased by the parties except in the ordinary course of business;

42. \_\_\_\_\_ Interfering with the exclusive use of the residence located at \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_ County, Texas.

Applicant further requests that the Court, after notice and hearing, enter orders as follows:

43. \_\_\_\_\_ Ordering the Respondent to vacate the residence located at \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_ County, Texas, on  
or before \_\_\_\_\_ o'clock a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

44. \_\_\_\_\_ Ordering the Respondent to complete a batterer's treatment program or, if a program is not  
available, to counsel with social worker, family service agency, physician, psychologist, licensed  
therapist, or licensed professional counselor, and

Pay all costs for counseling or treatment program ordered.

Pay all costs of court.

45. \_\_\_\_\_ Awarding possession of the children to Applicant and setting forth the terms for any  
possession of or access to any child(ren) named herein by Respondent.

46. \_\_\_\_\_ Ordering Respondent to pay child support and/or spousal support to Applicant in a  
manner and amount set by the Court.

**REQUEST FOR CONFIDENTIALITY OF CERTAIN INFORMATION**

47(a). \_\_\_\_\_ Applicant requests the court to order that the following information be excluded from  
the Protective Order: (check all that apply)

47(b). \_\_\_\_\_'s address (except county of residence).

47(c). \_\_\_\_\_'s telephone number(s).

47(d). \_\_\_\_\_ the location of \_\_\_\_\_'s place of employment or business.

47(e). \_\_\_\_\_'s child care or school.

48. \_\_\_\_\_ Applicant requests that the court order the clerk to strike the confidential information from  
the public records of the court and if necessary make a confidential record of such information for  
the use only of the court.

**IMMEDIATE ORDER SOUGHT**

Applicant requests the Court to issue, without notice or hearing, a temporary ex parte protective order prohibiting Respondent from:

Committing acts of family violence against \_\_\_\_\_

49. \_\_\_\_\_ Communicating directly or indirectly in a threatening or harassing manner with \_\_\_\_\_

50. \_\_\_\_\_ Communicating in any manner with \_\_\_\_\_  
except through \_\_\_\_\_

51. \_\_\_\_\_ Going within 200 yards of the following person(s): \_\_\_\_\_

52. \_\_\_\_\_ Going within 200 yards of the following person's locations:

\_\_\_\_\_ 's Day Care:

\_\_\_\_\_ County, Texas.

\_\_\_\_\_ 's Schools:

\_\_\_\_\_ County, Texas.

\_\_\_\_\_ 's Place of Employment or Business:

\_\_\_\_\_ County, Texas.

\_\_\_\_\_ 's Residence:

\_\_\_\_\_ County, Texas.

53. \_\_\_\_\_ Engaging in conduct, including following the person(s) protected by this order, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass that person or person(s).

54. \_\_\_\_\_ Removing \_\_\_\_\_ from \_\_\_\_\_ 's possession.

55. \_\_\_\_\_ Removing the child(ren) named herein from \_\_\_\_\_ County, Texas;

56. \_\_\_\_\_ Transferring, encumbering or otherwise disposing, destroying, or harming of any real or personal property except in the ordinary course of business;

57. \_\_\_\_\_ Interfering with the Applicant's exclusive use of the residence located at \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_ County, Texas.

**REQUEST FOR EX PARTE ORDER EXCLUDING RESPONDENT FROM RESIDENCE**

58. \_\_\_\_\_ Applicant seeks the following emergency relief: In accordance with the sworn affidavit attached hereto and the testimony given by Applicant at the ex parte hearing, Respondent shall be ordered to immediately vacate the residence located at 59. \_\_\_\_\_,  
\_\_\_\_\_ County, Texas and Applicant shall be granted the exclusive use and possession of the residence pending further order of the court.

60 \_\_\_\_\_ Applicant further seeks an order of the court directing the sheriff or chief of police to accompany Applicant to the residence to provide protection while Applicant regains possession of the residence.

**PRAYER**

Applicant prays that citation and notice issue as required by law and that the Court enter the protective order(s) requested above. Applicant further prays that the Court immediately issue any Temporary Ex Parte Protective Order(s) requested above, in conformity with the allegations herein, prohibiting Respondent from the acts set forth above until a hearing can be held.

Applicant prays that a hearing be held no later than the time prescribed by law, and that upon notice and hearing the Court grant the relief requested; that the Court dispense with the necessity of a bond, and grant such other relief to which Applicant may be justly entitled.

Applicant prays for attorneys' fees.

Applicant also prays for general relief.

Respectfully Submitted,

61. \_\_\_\_\_  
Applicant

VERIFICATION  
(Required if Temporary Ex Parte Order is requested.)

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority, on this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, personally appeared \_\_\_\_\_, the Applicant in the above Application for Protective Order. After being duly sworn, she stated upon her oath that she is over 18 and otherwise qualified to make this oath, that she has read the foregoing Application for Protective Order, that she has personal knowledge of the facts stated in the Application, and the facts and circumstances stated in in the Application are true to the best of her knowledge and belief.

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

62. \_\_\_\_\_  
Applicant

Subscribed and sworn to before me on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

My Commission Expires: \_\_\_\_\_

## Instructions for Form 2: Affidavit in Support of Request for Exclusion from Residence

This form is required only when you ask that the respondent be ordered to move out of the home that you share with him *before* the hearing on the final Protective Order. You must file Form 2 with the court if you checked line 58 on your Application for Protective Order.

Form 2 provides the court with the information necessary to grant a “kick-out” order on the day you file your Application. If this kick-out order is granted, the Temporary Ex Parte Protective Order should include a requirement that the respondent immediately vacate the residence that you share with him, so that you and any children you have can live there free from violence. You can also ask the court to get a law enforcement officer to go with you to the house and stay with you while the respondent packs and leaves.

**NOTE: Do not fill out or file this Form 2, and do not request an immediate kick-out order, unless you satisfy the criteria described on pages 10-11 of this packet.**

The instructions below correspond to the numbered blanks on Form 2:

1-5. Fill out lines 1-5 exactly as you did in the Application for Protective Order (Form 1).

### **INTRODUCTION**

6. Put the name of your county here.

7. (a-c) Do not fill out these blanks until you are in front of a notary public. See page 21 of the Packet for information about how to find a notary public.

\* You can fill out lines 8-15 on your own, before you go to the notary public.

8. Fill in your name.

9. Write in the address of the residence that you are asking for the respondent to vacate, the residence you share with the respondent.

### **RESIDENCE**

\* Remember that either 10(a) or 10(b) must be true in order to qualify for this order. See pages 10-11 of the packet for more information about the criteria for a kick-out order.

10.(a) Check here if you are now living at the home indicated in line 9.

10.(b) Check here if you have temporarily left the home (for example, if you are filling out these forms while you are living in a shelter) but you were living at home within the last 30 days.

## **OWNERSHIP OF RESIDENCE**

\* Remember that one of 11(a)-(e) must also be true in order to qualify for a kick-out order. See pages 10-11 of the packet for more information about the criteria for a kick-out order.

11. (a) Check here if you and the respondent own the home together. This may be true regardless of whether you are married.
- (b) Check here if you and the respondent are renting the house or apartment together, even if you are not married. You should check this line if both of your names are on the lease. You can ask your landlord for a copy of the lease if you do not have one.
- (c) Check here if you own the house and the respondent does not. Typically, this means your name is the only one on the title.
- (d) Check here if you are the one who is leasing the house or apartment. Your name is on the lease, and the Respondent's is not.
- (e) Check here if you do not own or lease the home, the respondent does, and he is legally obligated to support you (because you are married) or a child that you share.

## **FAMILY VIOLENCE**

12. Describe in line 12 an incident where the respondent committed Family Violence in the 30-day period prior to the filing of your Application for Protective Order. This will usually be an incident listed in the Application of Protective Order (Form 1) in lines 30-33(a-c). If so, the overall description of this incident should match up with the description of the incident in the Application, although the words you use to describe it do not have to be identical in both places.

13. This is a space for your signature. **DO NOT SIGN ON LINE 16 UNTIL YOU ARE IN FRONT OF A NOTARY PUBLIC.** The notary will fill out all of the remaining blanks on this form. See the directions to Form 1 for further information regarding a notary.

**NOTE: YOU SHOULD FILE THIS AFFIDAVIT (FORM 2) WITH YOUR APPLICATION IF, AND ONLY IF, YOU REQUESTED A KICK-OUT ORDER IN YOUR TEMPORARY EX PARTE PROTECTIVE ORDER. THIS IS INDICATED IN LINE 58 OF THE APPLICATION. DO NOT FILE THIS FORM 2 IF LINE 58 IS NOT CHECKED ON YOUR APPLICATION (FORM 1).**

1. NO. \_\_\_\_\_

2. \_\_\_\_\_ Applicant IN THE 3. \_\_\_\_\_ COURT

v. §

§

§ OF

§

§

4. \_\_\_\_\_ Respondent §

5. \_\_\_\_\_ COUNTY, TEXAS

**AFFIDAVIT IN SUPPORT OF REQUEST FOR EXCLUSION FROM RESIDENCE**

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

BEFORE ME, the undersigned authority, on this 7(a). \_\_\_\_ day of

7(b). \_\_\_\_\_, 20 \_\_\_\_, personally appeared

7(c). \_\_\_\_\_,

who stated upon oath as follows:

My name is 8. \_\_\_\_\_. I am over 18 and otherwise competent to make this Affidavit. I am the Applicant in this Protective Order proceeding. The address of the residence I am asking the Respondent be excluded from is 9. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

**RESIDENCE** (Choose the most applicable)

10(a). \_\_\_\_ I currently live at this residence; OR

10(b). \_\_\_\_ I have lived at this residence within the 30-day period before filing the Application for Protective Order in this proceeding.

**OWNERSHIP OF RESIDENCE** (Choose the most applicable)

11(a). \_\_\_\_\_ The residence is jointly owned by me and the Respondent.

11(b). \_\_\_\_\_ The residence is jointly leased by me and the Respondent.

11(c.) \_\_\_\_\_ I own the residence in question.

11(d.) \_\_\_\_\_ I lease the residence in question.

11(e.) \_\_\_\_\_ Respondent owns or leases the residence in question, and Respondent has an obligation to support me and/or the child/ren that we have in common.

**FAMILY VIOLENCE**

Respondent committed family violence within the 30-day period before the filing of the Application (detailed account of incident):

12. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CLEAR AND PRESENT DANGER

I believe that there is a clear and present danger that the Respondent will commit family violence against a member of the household.

13. \_\_\_\_\_

Applicant

Subscribed and sworn to before me on the \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the

My commission expires:

\_\_\_\_\_

## Instructions for Form 3: Temporary Ex Parte Protective Order and Show-Cause Order

Much of the information on this form will be repeated from Form 1. Keep your completed Application for the Protective Order in front of you as you fill out this form to refer to previous answers.

Lines 1-5. Fill these out exactly as you did for lines 1-5 on the Application for the Protective Order (Form 1).

### **PROTECTED PERSONS**

6. Write your name here.

### **RESTRICTED PERSONS**

7. Write the Respondent's name here.

8. Write your name on the blank after household. If you have children that have been the Respondent's victims of violence, write in their names also.

9-17. These lines require the same information that you filled out in Form 1 on lines 49-57. Look at Form 1, and fill in lines 9-17 exactly as you did on the corresponding lines 49-57.

### **EXCLUSION FROM RESIDENCE**

18. Fill in the address including county of the residence that respondent is to be excluded from.

19. Fill in the address including county of the residence that respondent is to be excluded from.

20. Check this box if your residence is located outside the city limits or if you do not know whether your residence is inside or outside the city limits.

21. If you checked line 20, write the name of the county in which you live. If you did not check line 20, leave this blank.

22. If you live within the city limits, check this line.

23. If you checked line 22, write the name of the city in which you live. If you did not check line 22, leave this blank.

24. Write in the name of the county and the address of the courthouse in the blanks provided. Call the county clerk and find out the correct address. You want everything as accurate as possible on these forms.

25. This set of blanks state when the hearing will take place on the final Protective Order. The blanks are for the day, month, year, and time. **DO NOT FILL THIS IN.** The judge or the judge's assistant will set the hearing and fill it in. **MAKE SURE THIS SECTION IS FILLED IN BEFORE YOU LEAVE THE COURTHOUSE. WRITE A REMINDER TO YOURSELF TO ASK THE JUDGE.**

**\*\*\*\*Remember that this is a temporary order and expires on the 20th day after this order is signed by a judge. You must go to the hearing set by the court to get a final Protective Order. The final Protective Order may last up to two years, but this one expires within a short time after it is signed by the judge.**

### **WARNING**

This warning is for both you and for the respondent. It states that once the order is granted, no one, including you, may change the order. In other words, you do not have the authority to cancel the restrictions placed on the respondent by this order. You cannot "allow" the respondent to violate the order. Remember, though, that you as the applicant cannot violate the order since it does not restrict your conduct. If you go within 200 yards of respondent, you have not violated the order, but the respondent has if he refuses to leave once he becomes aware of his unlawful presence.

The blank lines near the space for the judge's signature are for the judge to fill out. **LEAVE THEM BLANK**, but make sure they are filled in before you leave the courthouse.



RESTRICTED PERSONS

IT IS ORDERED that the Clerk of this Court issue a TEMPORARY EX PARTE PROTECTIVE ORDER immediately prohibiting Respondent, 7. \_\_\_\_\_

from:

X Committing acts of family violence against 8. \_\_\_\_\_  
\_\_\_\_\_;

9. \_\_\_\_\_ Communicating directly or indirectly in a threatening or harassing manner with \_\_\_\_\_  
\_\_\_\_\_;

10. \_\_\_\_\_ Communicating in any manner with \_\_\_\_\_  
except through \_\_\_\_\_;

11. \_\_\_\_\_ Going within 200 yards of the following person(s): \_\_\_\_\_  
\_\_\_\_\_;

12. \_\_\_\_\_ Going within 200 yards of the following person's locations:

\_\_\_\_\_ 's Day Care:

\_\_\_\_\_ County, Texas;

\_\_\_\_\_ 's School(s):

\_\_\_\_\_ County, Texas;

\_\_\_\_\_ 's Place of Employment or Business:

\_\_\_\_\_ County, Texas;

\_\_\_\_\_ 's Place of Residence:

\_\_\_\_\_ County, Texas;

13. \_\_\_\_\_ Engaging in conduct, including following the person(s) protected by this Order, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass that person or persons.

14. \_\_\_\_ Removing \_\_\_\_\_

from \_\_\_\_\_'s possession;

15. \_\_\_\_ Removing the child(ren) named herein from \_\_\_\_\_ County, Texas;

16. \_\_\_\_ Transferring, encumbering or otherwise disposing of, destroying, or harming any real or personal property mutually owned or leased by the parties except in the ordinary course of business;

17. \_\_\_\_ Interfering with the Applicant's exclusive use of the residence located at \_\_\_\_\_, \_\_\_\_\_ County, Texas.

**EXCLUSION OF RESPONDENT FROM RESIDENCE**

Based on the written sworn proof and testimony offered by Applicant, the Court finds that the Respondent has committed family violence against a member of the household within the thirty (30) day period preceding the filing of said Application; and that there is a clear and present danger that the Respondent is likely to commit family violence against a member of the household. Applicant resides on the premises of the residence located at 18. \_\_\_\_\_, \_\_\_\_\_ County, Texas or has resided on said premises within thirty (30) days before the filing of the Application for a Protective Order;

It is therefore ordered that the Respondent shall vacate the residence located at 19. \_\_\_\_\_, \_\_\_\_\_ County, Texas on or before \_\_\_\_\_ o'clock a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and shall be excluded from said residence until further order of the court. Applicant is granted the exclusive right of use and possession of said residence until further order of the court.

20. \_\_\_\_\_ The Sheriff of 21. \_\_\_\_\_ County, Texas; or

22. \_\_\_\_\_ The Chief of Police of 23. \_\_\_\_\_, Texas

is hereby ordered to provide a law enforcement officer from its department to:

- (1) accompany the Applicant to said residence;
- (2) inform Respondent that the Court has ordered that the Respondent be excluded from the residence;
- (3) protect Applicant while Applicant takes possession of the residence; and,
- (4) if Respondent refuses to leave, to protect the Applicant while Applicant takes possession of Applicant's necessary personal property.

### **EXPIRATION DATE**

These TEMPORARY EX PARTE PROTECTIVE ORDERS shall be effective immediately and are binding on the Respondent and shall continue in full force and effect until the 20th day after the date that the order is signed by the Judge or further order of the Court.

### **HEARING**

IT IS FURTHER ORDERED that the Clerk shall issue notice ordering Respondent to appear, and Respondent is hereby ordered to appear, before this Court in the 24. \_\_\_\_\_ County Courthouse at \_\_\_\_\_, Texas on the 25. \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_ o'clock a.m./p.m., to show cause why during the pendency of this case:

The temporary ex parte protective order granted herein should not be made into a final Protective Order;

The additional relief requested by Applicant should not be granted; and

Any further orders deemed necessary and equitable should not be entered by the Court.

**WARNING**

**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.**

**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.**

**IT IS UNLAWFUL FOR ANY PERSON WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION.**

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock a.m./p.m.

\_\_\_\_\_  
JUDGE PRESIDING

## Instructions for Form 4: Order Extending Temporary Ex Parte Protective Order and Show Cause Order

This form is only needed if you already have a Temporary Ex Parte Protective Order in effect, signed by the judge. This form should be used to extend the Temporary Ex Parte Protective Order if the hearing on the final Protective Order must be rescheduled, which occasionally happens because the Respondent has not been served with notice of the hearing. The original Temporary Ex Parte Protective Order expires at the time of the hearing and will need to be extended by the court in order for its protection to continue until the rescheduled hearing.

Most of this form repeats information from Forms 1 and 3. Since you have already filled out these forms, have them in front of you to refer to while filling out this form.

1-5. Fill these out exactly as you did for lines 1-5 on the Application for the Protective Order (Form 1).

6. Fill out the day, month, and year in the blanks when you arrive for the hearing.

7. Write the Respondent's name here.

8. Write your name on line 8. If you have children that have been the Respondent's victims of violence, write in their names also.

9-17. These lines require the same information that you filled out in Form 1 on lines 49-57 and on lines 9-17 in the Temporary Ex Parte Protective Order (Form 3). Look at these lines in Forms 1 and 3, and fill in lines 9-17 exactly as you did on the corresponding lines in the other forms.

18-24. These lines should be filled in as they were on the Temporary Ex Parte Protective Order, except that the date for respondent to vacate the residence may need to be changed if he has not vacated the residence as of the time of the first scheduled hearing. If this is the case, ask the judge for a new deadline for respondent to vacate the residence.

25. The date and time of the rescheduled hearing should be put in these blanks once the date is set by the judge or judge's assistant. **MAKE SURE THIS SECTION IS FILLED IN BEFORE YOU LEAVE THE COURTHOUSE. WRITE A REMINDER TO YOURSELF TO ASK THE JUDGE.**

**\*\*\*\*Remember that this is a temporary order and expires on the 20th day after this order is signed by a judge. You must go to the new hearing set by the court to get a final Protective Order. The final Protective Order may last up to two years, but this one expires within a short time after it is signed by the judge.**

**WARNING**

This warning is for both you and for the respondent. It states that once the order is granted, no one, including you, may change the order. In other words, you do not have the authority to cancel the restrictions placed on the respondent by this order. You cannot “allow” the respondent to violate the order. Remember, though, that you as the applicant cannot violate the order since it does not restrict your conduct. If you go within 200 yards of respondent, you have not violated the order, but the respondent has if he refuses to leave once he becomes aware of his unlawful presence.

The blank lines near the space for the judge’s signature are for the judge to fill out. LEAVE THEM BLANK, but make sure they are filled in before you leave the courthouse.

1. NO. \_\_\_\_\_

2. \_\_\_\_\_ § IN THE 3. \_\_\_\_\_  
 COURT  
     Applicant §  
                   §  
 v. § OF  
                   §  
 4. \_\_\_\_\_ §  
     Respondent § 5. \_\_\_\_\_ COUNTY, TEXAS

**ORDER EXTENDING TEMPORARY EX PARTE PROTECTIVE ORDER**

On this 6. \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, came to be heard Applicant's Request for Extension of the Temporary Ex Parte Protective Order prohibiting Respondent, 7. \_\_\_\_\_, from the acts set forth in the Temporary Ex Parte Protective Order and Show Cause Order previously entered in this case, and the Court finds that said Temporary Ex Parte Protective Order should be extended.

**FINDINGS OF THE COURT**

The granting of this Order is based upon the following findings of the Court:

That there is a danger that acts of family violence will be committed by Respondent before a full hearing can be held upon Applicant's request for a Protective Order; and

That Applicant and/or the other members of the family or household who are affected by this suit will suffer immediate and irreparable injury, loss, or damage for which there is no adequate remedy at law unless Respondent is immediately prohibited from the acts set forth above.

The requirement of a bond is hereby waived pursuant to Section 71.15(d), Title IV, Texas Family Code.

**RESTRICTED PERSONS**

IT IS ORDERED that the Clerk of this Court issue a TEMPORARY EX PARTE PROTECTIVE ORDER immediately prohibiting Respondent from:

  X   Committing acts of family violence against  
8. \_\_\_\_\_

\_\_\_\_\_ ;

9. \_\_\_\_\_ Communicating directly or indirectly in a threatening or harassing manner \_\_\_\_\_ with

\_\_\_\_\_ ;

10. \_\_\_\_\_ Communicating in any manner with \_\_\_\_\_ ,

except through \_\_\_\_\_ ;

11. \_\_\_\_\_ Going within 200 yards of the following person(s): \_\_\_\_\_ ;

12. \_\_\_\_\_ Going within 200 yards of the following person's locations:

\_\_\_\_\_ 's Day Care:

\_\_\_\_\_ County, Texas;

\_\_\_\_\_ 's School(s):

\_\_\_\_\_ County, Texas;

\_\_\_\_\_ 's Place of Employment or Business:

\_\_\_\_\_ County, Texas;

\_\_\_\_\_ 's Place of Residence:

\_\_\_\_\_ County, Texas;

13. \_\_\_\_\_ Engaging in conduct, including following the person(s) protected by this Order, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass that person or persons.

14. \_\_\_\_\_ Removing

\_\_\_\_\_

\_\_\_\_\_

from \_\_\_\_\_'s possession;

15. \_\_\_\_\_ Removing the child(ren) named herein from \_\_\_\_\_ County, Texas;

16. \_\_\_\_\_ Transferring, encumbering or otherwise disposing of, destroying, or harming any real or personal property mutually owned or leased by the parties except in the ordinary course of business;

17. \_\_\_\_\_ Interfering with the Applicant's exclusive use of the residence located at \_\_\_\_\_, \_\_\_\_\_ County, Texas.

**EXCLUSION OF RESPONDENT FROM RESIDENCE**

Based on the written sworn proof and testimony offered by Applicant, the Court finds that the Respondent has committed family violence against a member of the household within the thirty (30) day period preceding the filing of said Application; and that there is a clear and present danger that the Respondent is likely to commit family violence against a member of the household. Applicant resides on the premises of the residence located at 18. \_\_\_\_\_, \_\_\_\_\_ County, Texas or has resided on said premises within thirty (30) days before the filing of the Application for a Protective Order;

It is therefore ordered that the Respondent shall vacate the residence located at 19. \_\_\_\_\_,

\_\_\_\_\_ County, Texas on or before \_\_\_\_\_ o'clock a.m./p.m. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and shall be excluded from said residence until further order of the court. Applicant is granted the exclusive right of use and possession of said residence until further order of the court.

20. \_\_\_\_\_ The Sheriff of 21. \_\_\_\_\_ County, Texas; or

22. \_\_\_\_\_ The Chief of Police of 23. \_\_\_\_\_, Texas

is hereby ordered to provide a law enforcement officer from its department to:

- (1) accompany the Applicant to said residence;
- (2) inform Respondent that the Court has ordered that the Respondent be excluded from the residence;
- (3) protect Applicant while Applicant takes possession of the residence; and,
- (4) if Respondent refuses to leave, to protect the Applicant while Applicant takes possession of Applicant's necessary personal property.

**EXPIRATION DATE**

These TEMPORARY EX PARTE PROTECTIVE ORDERS shall be effective immediately and are binding on the Respondent and shall continue in full force and effect until the 20th day after the date that the order is signed by the Judge or further order of the Court.

**HEARING**

IT IS FURTHER ORDERED that the Clerk shall issue notice ordering Respondent to appear, and Respondent is hereby ordered to appear, before this Court in the 24. \_\_\_\_\_ County Courthouse at \_\_\_\_\_, Texas on the 25. \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock a.m./p.m., to show cause why during the pendency of this case:

The temporary ex parte protective order granted herein should not be made into a final Protective Order;

The additional relief requested by Applicant should not be granted; and  
Any further orders deemed necessary and equitable should not be entered by the  
Court.

**WARNING**

**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.**

**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.**

**IT IS UNLAWFUL FOR ANY PERSON WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION.**

Signed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
at \_\_\_\_\_ o'clock a.m./p.m.

\_\_\_\_\_  
JUDGE PRESIDING

## Instructions for Form 5: Protective Order

Much of the information on this form is will be repeated from Form 1, Application for Protective Order. Keep your completed Application for Protective Order in front of you as you fill out this form to refer to previous answers.

Fill out as much of this form as you can prior to the hearing. Make a note to yourself about the blanks you cannot fill in until the hearing.

- 1-5. Fill these out exactly as you did for lines 1-5 on the Application (Form 1).
6. Write in the date of the hearing. It is best to wait for the hearing day to fill this in, just in case the hearing has to be reset to another date.
7. Write your name here.
8. Write your name here.
9. Write the respondent's name here.
- 10(a)-(c) describe the respondent's participation in the hearing. Do not fill this in until you are at the hearing. Check 10(a) if the respondent does not show up for the hearing. Check 10(b) if he comes to the hearing without a lawyer, and 10(c) if he comes with a lawyer.
11. A court reporter usually writes down everything that is said in court. If the respondent comes to court and you, he, and the judge agree that this record will not be made at the hearing, you should check 11(a). It is usually a good idea to have the record made, and if this is done, you should check 11(b).
12. If the respondent agrees to the Protective Order that you want, check this line. See the next section, *Where to Go, What to Do* for more information about agreed Protective Orders.
13. If you wrote in any other names on line 6(d) of Form 1 (the Application), write those names here.
- 14-22. These lines require the same information that you filled out on Form 1, lines 34-42. Look at Form 1 and fill lines 14-22 in exactly as you filled in lines 34-42 on that form.
23. This section sets the date on which the respondent is ordered to be out of the residence that you share with him. If you got a "kick-out" order through your Temporary Ex Parte Protective Order (Form 3), the and respondent has already left your residence, you may no longer need the judge to grant this, even if it was requested in your Application. If, at the time of the hearing, you still need a "kick-out" order from the judge, you should fill this section in. Fill it in the same as you filled in line 43 on your

Application, unless you need to make an adjustment to the date that you want the respondent out of the house. Make that adjustment if necessary.

24. You should check this line if you share with the respondent. Fill in the children's names. In the space provided, you should write out the schedule for visitation that the court gives to respondent. That schedule can be one that was previously in place, one that you and the respondent agree to at the hearing, or one that you think is best for your children under the present circumstances regardless of whether the respondent agrees to it. Ultimately, the judge gets to decide the schedule when she or he signs this Protective Order. You should think carefully about your options, and call the Women's Advocacy Project to talk through whether certain restrictions would be helpful, such as supervision of the respondent's visits with the children. It is best to make notes of what you want the schedule to be, and then fill this section in after the judge makes a ruling at the hearing.

25. Line 26 is for child support. If you share children with the respondent and do not have a child support order in place, you must fill in this section to receive child support. 25(a) is for the children's names. 25(b) is for the monthly amount of child support. 25(c) sets the first payment date. The first payment is usually ordered for the first of the month following the hearing, but this can be changed to some other date if a different date fits your circumstances. 25(d) sets the day of the month that each monthly child support should be made after the first payment. Call the Women's Advocacy Project for further information about how much you should ask for in child support.

**\* Remember that this order only lasts for up to two years. Any visitation or child support after the two-year period will need to be decided in a separate child custody suit.**

26. is the section for spousal support. If you are married to the respondent, you may ask the court to order the respondent to pay money to you for your support through the Protective Order. See the instructions for line 25 to fill out the specific information required in line 26.

27. should be checked and filled out if the respondent is ordered to family violence counseling of any kind. Your local women's shelter should know of a specific batterer's treatment program that is recommended in your area, so that information can be put in the order. Frequently, the judge will also know which programs are available for this type of counseling. If no treatment program is available in your area, the second option, counseling with a mental health service provider in private practice, is recommended.

28-29. This section should be filled out at the hearing. Check 28 if the respondent comes to the hearing, and 29 if he does not come.

30. Fill in the name of your city.

31. Fill in the name of your county.

32. Fill in the name of your county.

33. Check this line if you requested that respondent be ordered to stay away from your children's school or daycare facility. Make sure you give the clerk of the court the name of your child's school or daycare so that the court may notify the school/daycare of the judge's order.

The section called "Notice to Law Enforcement" applies if you asked for and got a "kickout" order in your final Protective Order. The court can have a law enforcement officer go with you to make sure you are safe while the respondent is told to leave. If the respondent refuses to leave, the officer can arrest the respondent for violating this final order.

34(a). Check this blank if your residence is located outside the city limit or if you do not know whether your residence is inside or outside the city limit.

34(b). If you checked 34(a), fill in the name of your county.

35(a). If you live within the city limits, check this blank.

35(b). If you checked line 35(a), fill in the name of your city.

The section entitled "WARNING" is for both you and for the respondent. It states that once the order is granted, no one, including you, may change the order. In other words, you do not have the authority to cancel the restrictions placed on the respondent by this order. You cannot "allow" the respondent to violate the order. Remember, though, that you as the applicant cannot violate the order since it does not restrict your conduct. If you go within 200 yards of respondent, you have not violated the order, but the respondent has if he refuses to leave once he becomes aware of his unlawful presence.

36. This line is for the expiration date of the Protective Order. The judge will fill this in. Usually, the Protective Order will last from one to two years from the date that the judge signs it.

37. LEAVE THIS BLANK. This blank is for the judge's signature.

38. The respondent signs his name here to acknowledge receiving a copy of the Protective Order.

39-41. The section entitled "Agreed Order" should be filled in only if the respondent agrees to all of the order. See the following section of this packet for more information about Agreed Orders. If an agreement is reached, then respondent's name should be filled in at line 39. Lines 40 and 41 are for your and the respondent's signatures.

1. NO. \_\_\_\_\_

2. \_\_\_\_\_  
COURT

Applicant

v.

4. \_\_\_\_\_  
Respondent

TEXAS

§

IN THE 3. \_\_\_\_\_

§

§

OF

§

§

§

5. \_\_\_\_\_ COUNTY,

**PROTECTIVE ORDER**

On the 6. \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Court heard the Application of 7. \_\_\_\_\_, for a Protective Order.

**PROTECTED PERSONS**

Applicant, 8. \_\_\_\_\_ appeared in person and announced ready.

**RESTRICTED PERSONS**

Respondent, 9. \_\_\_\_\_:

10(a). \_\_\_\_ Although duly cited, did not appear and wholly made default;

10(b). \_\_\_\_ Appeared in person and announced ready;

10(c). \_\_\_\_ Appeared in person and by attorney and announced ready;

The Court, having considered the pleadings and heard the evidence and arguments, finds that all necessary prerequisites of the law have been legally satisfied and that this Court has jurisdiction over the parties and subject matter of this cause.

The making of a record of testimony was:

11(a). \_\_\_\_ waived by the parties with the consent of the Court; OR

11(b). \_\_\_\_\_ duly taken by the court reporter for this Court.

12. \_\_\_\_\_ The Court finds that the parties have agreed to this Protective Order.

The Court finds that family violence has occurred and is likely to occur again and that the following orders are necessary for the safety, welfare, and protection of the Applicant and other members of the family or household who are affected by this suit.

IT IS ORDERED that Respondent is prohibited from:

Committing acts of family violence against Applicant and the following person(s):

13. \_\_\_\_\_  
\_\_\_\_\_.

14. \_\_\_\_\_ Communicating directly or indirectly in a threatening or harassing manner with Applicant and the following person(s): \_\_\_\_\_.

15. \_\_\_\_\_ Communicating in any manner with \_\_\_\_\_ except through \_\_\_\_\_.

16. \_\_\_\_\_ Going within 200 yards of the following persons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

17. \_\_\_\_\_ Going within 200 yards of the following person's locations:

\_\_\_\_\_ 's Day Care:  
\_\_\_\_\_, County, Texas.

\_\_\_\_\_ 's Schools:  
\_\_\_\_\_, County, Texas.

\_\_\_\_\_ 's Place of Employment or Business:  
\_\_\_\_\_, County, Texas.

\_\_\_\_\_ 's Residence:  
\_\_\_\_\_, County, Texas.

18. \_\_\_\_ Engaging in conduct, including following the person(s) protected by this order, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass that person(s).

19. \_\_\_\_ Removing  
\_\_\_\_\_ from  
\_\_\_\_\_ 's possession.

20. \_\_\_\_ Removing the child(ren) named herein from \_\_\_\_\_ County, Texas;

21. \_\_\_\_ Transferring, encumbering or otherwise disposing, destroying, or harming of any real or personal property mutually owned or leased by the parties except in the ordinary course of business;

22. \_\_\_\_ Interfering with Applicant's exclusive use of the residence located at  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_, County, Texas.

The Court further ORDERS that:

23. \_\_\_\_ Respondent vacate the residence located at  
\_\_\_\_\_  
\_\_\_\_\_, County, Texas on or before \_\_\_\_\_ o'clock a.m./p.m.  
on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

24. \_\_\_\_ Applicant is awarded possession of the following children:-

\_\_\_\_\_

\_\_\_\_ and Respondent is granted possession of or access to these children as follows:



- \_\_\_\_\_ Counsel with a social worker, family service agency, physician, psychologist, licensed therapist or professional counselor;
- X Pay all costs for counseling or treatment program ordered.
- X Pay all costs of court.

SERVICE

This Order:

28. \_\_\_\_\_ was served on Respondent in open court;
29. \_\_\_\_\_ shall be personally served upon Respondent in the same manner as a writ of injunction.

THE CLERK IS ORDERED to send a copy of this order to the chief of police of the City of 30. \_\_\_\_\_, 31. \_\_\_\_\_

County, Texas and to the sheriff of 32. \_\_\_\_\_ County, Texas.

33. \_\_\_\_\_ THE CLERK IS ALSO ORDERED to send a copy to the child care facility or school.

NOTICE TO LAW ENFORCEMENT

34(a). \_\_\_\_\_ The Sheriff of 34(b). \_\_\_\_\_ County, Texas; or

35(a). \_\_\_\_\_ The Chief of Police of 35(b). \_\_\_\_\_ City, Texas is hereby

ordered to provide a law enforcement officer from its department to:

- (1) accompany Applicant to the residence;
- (2) inform Respondent that the court has ordered Respondent to be excluded from residence;
- (3) to protect Applicant while Applicant takes possession of the residence and Respondent takes possession of Respondent's necessary personal property; and
- (4) if Respondent refuses to vacate the residence:
  - (A) to remove Respondent from the residence; and
  - (B) to arrest Respondent for violating the court order.

WARNING

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 WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION.

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 FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS.

EXPIRATION DATE.

This Protective Order shall continue in full force and effect until the 36. \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

37. \_\_\_\_\_  
JUDGE PRESIDING

RECEIPT ACKNOWLEDGED

I hereby acknowledge that I have received a copy of this protective order.

8. \_\_\_\_\_  
RESPONDENT

AGREED ORDER

I, 39. \_\_\_\_\_, Respondent, have read this order, understand it, and agree to all terms of the order.

Approved to form and content:

40. \_\_\_\_\_  
Respondent

41. \_\_\_\_\_  
Applicant

## Where To Go, What To Do

The following guide should take you step-by-step through the process of obtaining a Protective Order. If, at any stage of the process, you encounter difficulties, call the Women's Advocacy Project for help.

**1. File the Application for Protective Order (Form 1) and the Affidavit in Support of Request for Exclusion from Residence (Form 2).**

Now that you have filled out the forms, you will need to file them. Make three copies of everything. Take the originals and copies of the Application for a Protective Order (Form 1), Affidavit in Support of Request for Exclusion from Residence (Form 2) and the Temporary Ex Parte Protective Order and Show Cause Order (Form 3) to the courthouse. File the originals of Form 1 and Form 2 with the clerk's office at the courthouse. Depending on the county, this will be either the district clerk or county clerk. Ask the clerk to stamp your extra copies with the date and time that this original was filed ("file marking").

**2. Get the Judge's Signature on the Temporary Ex Parte Protective Order and Show Cause Order (Form 3) and Set the Hearing.**

In most counties, you will take the file folder that the clerk makes for your case along with the Temporary Ex Parte Protective Order and Show Cause Order (Form 3) to the judge's office, or in some counties, to the "uncontested docket," where a judge is sitting in a courtroom signing documents that do not require a hearing. You may ask the clerk whether there is an uncontested docket in your county. When you locate the judge, ask her or him to sign Form 3 and set the case for a hearing within the next 20 days. In many counties, it is the judge's assistant or other court personnel who have the calendar for scheduling the date and time for the hearing. The judge should let you know who to talk to about the hearing, if the judge does not keep the court calendar.

**3. Give Notice to the Respondent.**

After getting the Temporary Ex Parte Protective Order and Show Cause Order (Form 3) signed by the judge, take the original back to the clerk's office for filing. File mark the copies. Tell the clerk that you need to have the respondent served. The clerk should assist you or send you to the person who can help you. There is a county official, usually the county constable, who actually delivers or serves these papers on the respondent. If the respondent lives in another county, you will need to make arrangements to get the paperwork to the official in that county who is responsible for serving court paper. It is important to note that the respondent must be served before the Protective Order Hearing. Check with the constable's office a few days before the hearing to make sure that this has happened. If the respondent does not get formally served with these papers prior to the hearing, you will take the Order Extending Temporary Order (Form 4) with you to the hearing and request that the judge sign that and reschedule the hearing to a later date.

#### 4. **Arriving at the Courthouse.**

It is important to be aware of the conservative atmosphere of the courtroom. You should dress neatly and conduct yourself in a dignified, courteous manner. You may want to arrive early to get familiar with the courtroom, but at a minimum, you should be on time on your scheduled date. When you arrive, other applicants and respondents may be coming into the same courtroom for other cases that may be heard that same day. It might be helpful to ask a friend or a family member to come with you to keep you company. You could also call your local women's shelter ahead of time, and ask for a volunteer or a staff member to come to Court with you. Someone will usually be happy to come and support you.

#### 5. **The Judge Calls the Docket.**

When court begins, the judge will enter the courtroom and call off the numbers of the cases scheduled to be heard. Remember that you will probably see the respondent if he shows up in court. You should not sit together because the Temporary Ex Parte Protective Order will require that the respondent be apart from you. Stand up when your case is called so that the judge knows that you are there and ready to get your Order. The judge may ask if you expect the case to be in **default**, **agreed**, or **contested**, (these terms are explained below) and about how much time the hearing will take for your case. If the respondent is there and wants to argue against the case (the case is "contested"), you should estimate how much time you will need to present your side of the story and let the judge know that it is your best estimate. This may be a rather short period of time.

#### 6. **Default Hearings.**

The Court will probably start with those cases where the respondent is not present, and is therefore in "**default**." This means that he or she was served with papers and notified of the court proceeding, but could not be present (for whatever reason). Usually, this works in your favor, because it means that you can get the Protective Order on the terms that you want since the respondent is not there to argue about them. The respondent may have a lawyer go to the hearing on his behalf, and the lawyer may ask to reschedule the Protective Order hearing until the respondent can attend. If this should happen, you should ask the court to extend the Temporary Ex Parte Protective Order until the rescheduled hearing can take place.

#### 7. **Agreed Orders.**

Since you do not have a lawyer to represent you, it is not advisable to try to negotiate with the respondent to see if he or she will agree to what you have requested on your Protective Order application. Your safety and comfort are the priorities. However, if the respondent indicates that he or she is willing to agree to your requests, you will have what is called an "**Agreed Order**." The agreement, if any, will be about the stay-away provisions, restrictions on communication, child visitation and support, types of counseling for the respondent, and other terms you want in your Protective Order. If the respondent agrees to the terms, then the court process is less complicated, less expensive for the respondent (who may be ordered to pay court costs) and less time-consuming for all involved.

Remember, you are under no obligation to try to negotiate with the respondent, and unless you have committed family violence against the respondent (self-defense does not count as family violence for this purpose) **do not** agree to a Mutual Protective Order. (If you agree to a mutual order you are admitting to family violence and respondent may use this against you on another court occasion.)

## **8. Contested Orders.**

If you are uncomfortable negotiating with the respondent, or if you decide that you do not want to accept the compromise that the respondent asks for, then you can go before the judge and have a hearing for a “**Contested Order**.” Both you and the respondent have the right to ask for this hearing, at any time you choose to discontinue negotiations about an agreed order.

If you believe that it is likely that the respondent will contest the Protective Order, you should make arrangements for any witnesses to the violence to come to court on the day of the hearing, so that they can tell the judge what they saw or heard. This may include witnesses who saw injuries *after* the violence, as well as anyone who was present or overheard the violence while it was occurring. Frequently, the police officer who made an arrest or came to your house at the time of a violence incident can testify about what he saw in the immediate aftermath of the incident. You should also collect any evidence that you want to show the court—pictures taken of your injuries, torn clothing, medical records. (See page 7 and 10 of this packet for other types of evidence to show at the hearing.) If you have trouble getting these witnesses to come to court, or in obtaining any records or other information you need for court, call the Women’s Advocacy Project for assistance.

Once the hearing gets started, both you and the respondent will have an opportunity to testify. The judge will listen to both of you describe what has been happening as it relates to the two elements necessary for a Protective Order: (1) Did Family Violence occur? And (2) Is it likely to occur again. (See page 7 of this packet for more information about these elements.)

This part of the court proceedings looks like what most people think of as a “trial.” The judge will hear evidence from you and the respondent, and from any other witnesses (such as a police officer who was called to the scene, or any neighbors or co-workers who may have firsthand knowledge of the abuse or your injuries). As the applicant, you will probably be the first one to testify. You will be “sworn in,” by taking an oath that what you are about to say is the truth. Then you will sit in a chair by yourself next to the judge, and speak into a microphone. A court reporter may take down everything that you say as a part of the record of the proceedings. Remember not to look at the respondent if it makes you nervous. Just look at the judge or the person who is there to support you

The respondent or his attorney will have an opportunity to ask you questions. They may try to make the violent episodes seem like they were unimportant, or try to suggest that the incidents never happened at all. The respondent may also testify. If he has an attorney with him, this will happen through a question and answer format between him and his attorney. You will also have the opportunity to ask him questions. Often, the respondent will deny any allegations of violence and instead accuse you of being violent or of being an alcoholic, a drug respondent, a prostitute, etc. Try not to let the respondent upset or distract you. Focus your questions to him on the specifics of the violent incidents that you described in your Application for a Protective Order.

At the end of the hearing, the judge is required to make a finding or decision about whether or not family violence has occurred and is likely to occur again. Other issues that judge may need to hear evidence about are child visitation and support, any property that the judge needs to address (such as the house or car), and whether the respondent needs drug or alcohol or other specialized counseling. If the judge decides that family violence has occurred and is likely to occur again, then the judge will announce that she or he is granting the Protective Order. You should present Form 5 to the judge, your Protective Order, for signature. When this happens, you have succeeded in getting your Protective Order.

If the judge does not grant the Protective Order, this does not mean that what happened in your relationship was not important or that you were wrong to try to get some help by going to court. Please contact your local women’s shelter for assistance with planning for your safety after the proceeding has ended. Remember: If you are not granted a Protective Order on your first attempt, you may try again on the basis of any incidents of family violence that occur after the hearing. You have the right to return to court to report further violence and to again request a Protective Order.

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**If you feel that the hearing was difficult, and you are nervous about leaving the courthouse, do not hesitate to ask an officer to walk you out to your car or the bus stop.**

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## REMINDERS

- \* Keep a copy of the Protective Order with you at all times.
- \* Give a copy of the Protective Order to the locations that you listed in your Protective Order (your workplace, the children’s day care or schools).
- \* Call the police if the respondent violates the Protective Order.
- \* Call your local women’s shelter or the Women’s Advocacy Project for additional help—before, during, and after this process