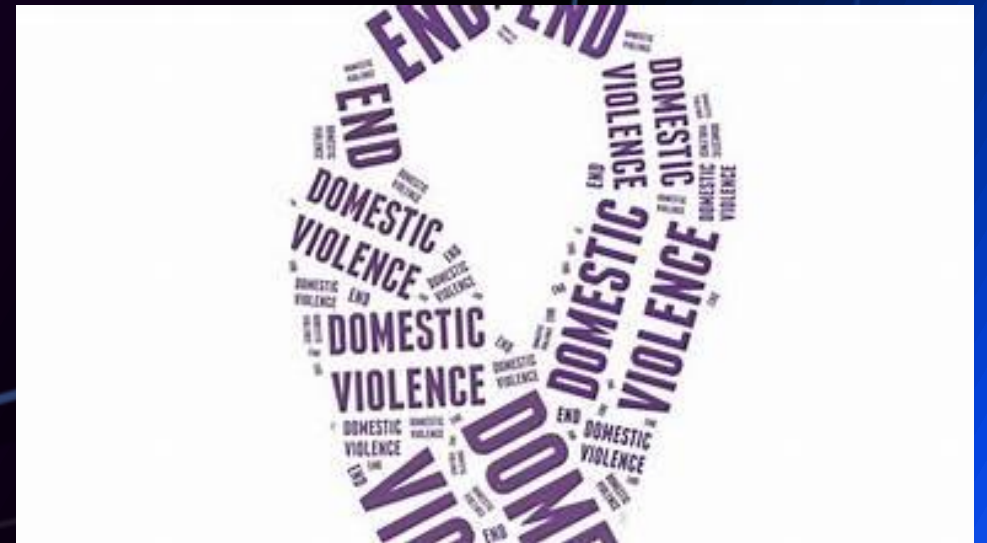
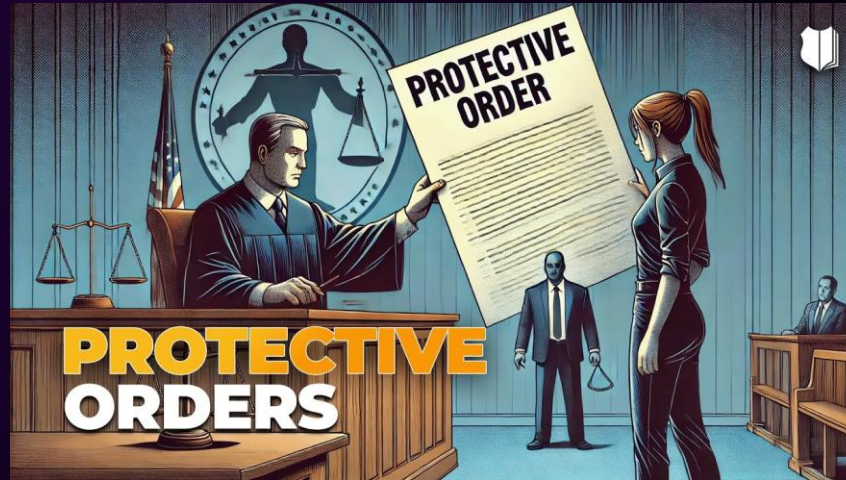


Domestic Violence Awareness: A Survey of Critical Issues for Family Law Practitioners



CASE LAW AND PROTECTIVE ORDER STATUTE UPDATES



Hon Janet Heppard
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STARY V. ETHRIDGE, 712 S.W.3D 58 (TEX. 2025) (05-02-2025).

FACTS:

- Stary (Mom) and Ethridge (Dad) divorced in 2018 with an agreed custody order for their three children.
- In March 2020, Mom was arrested and charged with felony injury to a child; the charges were dismissed in February 2025.
- Dad applied for a civil protective order for the children a week after Mom's arrest, alleging family violence and seeking an order lasting longer than two years.
- At the hearing, Dad testified about instances of Mom injuring the children, supported by medical records. The Court also interviewed the children.
- The trial court found that Mom committed felony family violence and issued a lifetime protective order prohibiting all contact between Mom and her children.

***STARY V. ETHRIDGE*, 712 S.W.3D 58 (TEX. 2025) (05-02-2025).**

WHAT HAPPENED NEXT:

- The trial court's decision was appealed with a claim that the lifetime no contact protective order was equivalent to a termination of parental rights.
- The 1st Court of Appeals affirmed the order.
- The Supreme Court of Texas held that constitutional due process requires **clear and convincing evidence** to support a protective order prohibiting contact between a parent and their children for longer than two years emphasizing that such orders profoundly interfere with a parent's fundamental right to care, custody, and control of their children.
- The court **reversed the judgment of the COA and remanded the case to the trial court for further proceedings, requiring the trial court to apply the clear and convincing evidence standard and to consider the best interest of the children.**

***Vo v. Nguyen*, No. 01-23-00559-CV, 2025
WL 1184229 (Tex. App.—Houston [1st
Dist.] 2025, no pet) (mem. op.) (04-24-
2025).**

FACTS:

- Girlfriend sought a protective order against Boyfriend.
- At the final hearing, when Boyfriend's attorney presented testimony regarding fees, he stated: I've been licensed since 1999. I've worked more hours than what I charged on this case but I told [Boyfriend] my total fee would be \$6,000. I normally charge at the rate of \$350 per hour on these matters.
- The trial court orally denied Girlfriend's PO application and granted Boyfriend an award of \$6000 for attorney's fees.
- The day after the hearing, Boyfriend's attorney filed an affidavit in support of the request for fees and attached his billing statement.
- Though the girlfriend objected, the trial court signed a written order conforming with the oral ruling.
- The following day, the court held a hearing on Girlfriend's objections and overruled them. Girlfriend appealed.

***Vo v. Nguyen*, No. 01-23-00559-CV, 2025
WL 1184229 (Tex. App.—Houston [1st
Dist.] 2025, no pet) (mem. op.) (04-24-
2025).**

WHAT HAPPENED NEXT:

- Girlfriend appealed arguing that Boyfriend was not entitled to fees **because the evidence was insufficient to support the attorney's fee award and there was no affirmative pleading requesting attorney fees.**
- The COA noted that the Family Code authorizes an award of reasonable attorney fees related to **an application** for a protective order in TFC§ 81.005.
- The COA also noted that Boyfriend's attorney's testimony did not identify the particular services performed, when they were performed, the reasonable amount of time required to perform the services, or the reasonable hourly rate for the services. Although the attorney subsequently filed an affidavit with the information, the affidavit was filed the day after the fees were assessed against Girlfriend.
- COA found that the trial court erred in awarding fees bec they were not properly proved up; the judgment was modified to vacate that award and affirmed as modified.

***Landa v. Rogers*, 2025 Tex. App. LEXIS
6274 (Tex. App. – Houston [14th Dist.]
August 19, 2025) (mem. op.) (Cause No.
14-24-00168-CV)**

FACTS:

- Landa and Rogers are the parents of a child.
- On February 1, 2024, Landa filed a Protective Order (and claimed indigency) against Rogers who filed an answer denying the allegations.
- Rogers also requested attorney fees claiming the application was “frivolous” and designed to harass him.
- The protective order was denied and Landa was ordered to pay attorney fees to Rogers pursuant to TFC 92.001 (Immunity re: attorney fees in a bad faith FV report).
- Landa did not object to the attorney fee award at the time of trial.

***Landa v. Rogers*, 2025 Tex. App. LEXIS
6274 (Tex. App. – Houston [14th Dist.]
August 19, 2025) (mem. op.) (Cause No.
14-24-00168-CV)**

WHAT HAPPENED NEXT:

- Landa filed an appeal objecting to the award of attorney fees. Although timely requested, **no Findings of Fact and Conclusions of Law were filed.**
- The COA reversed the part of the trial court's order awarding attorney's fees to Rogers, rendered judgment denying Rogers's request for attorney's fees, and affirmed the remainder of the trial court's order stating that attorney fees in a protective order proceeding may only be awarded **against the perpetrator** under TFC §81.005 and may only be awarded to another person under TFC§92.001 if a false allegation of family violence has been made in bad faith to law enforcement.

MATTER OF MARRIAGE OF BRYANT, 715 S.W.3D 451 (TEX.APP.—CORPUS CHRISTI 2025)

FACTS:

- H and W married in 2018. The parties had two children together.
- During marriage, W alleged 4 instances of family violence between 2019 and 2023. H denied the allegations, claiming W would only make these allegations when the parties discussed the possibility of divorce.
- H filed for divorce and conservatorship. He was thereafter arrested for violating his bond conditions from a previous assault allegation arrest, allegedly stalking W, for driving by the house, and for possessing 2 handguns when he was arrested.
- W filed a counter-petition and sought both a protective order and to be appointed as SMC.
- The PO request was denied at a hearing in Sept. 2023.
- At the final divorce trial in Jan 2024, the court asked extensive questions of W and her witnesses about W's FV allegations, the jury's no-bill of the criminal charges, and her alleged recantation of the FV allegations, expressing disbelief about the allegations.
- At the trial's end, the court appointed H as SMC of the children in the divorce.

MATTER OF MARRIAGE OF BRYANT, 715 S.W.3D 451 (TEX.APP.—CORPUS CHRISTI 2025)

WHAT HAPPENED NEXT:

- W appealed the divorce conservatorship claiming H had no pleadings requesting to be named SMC and objecting to H's appointment as SMC being in the children's best interest.
- The COA noted the following:
 - The Court has the discretion to appoint either H or W as SMC, whether one or both parties had pleadings to be appointed as SMC.
 - Appointment of H as SMC was against the great weight and preponderance of the evidence
 - While a judge generally has the ability to question witnesses at trial, the trial judge's conduct in this case was so egregious as to deem the judge biased. This claim of bias could be raised for the first time on appeal.
- The COA also noted that a Grand Jury's no-bill on allegations of FV does not mean the incident did not occur or cannot qualify as an act of FV under the TFC AND that recantation of prior accusations of FV is not uncommon
- The COA remanded for a new trial on the issue of JMC or SMC appointment
- Ruling: Affirmed in part, reversed in part, remanded in part.

PO STATUTE CHANGES

CHAPTER 82. APPLYING FOR A PO - Subchapter A. Application for PO § 82.011. Confidentiality Of Certain Information – AMENDED

On request by an applicant, the court **shall** ~~may~~ protect the applicant's mailing address and county of residence by rendering an order:

- (1) requiring the applicant to:
 - (A) disclose the applicant's mailing address and county of residence to the court;
 - (B) designate a person to receive on behalf of the applicant any notice or documents filed with the court related to the application; and
 - (C) disclose the designated person's mailing address to the court;
- (2) requiring the court clerk to:
 - (A) strike the applicant's mailing address and county of residence from the public records of the court, if applicable; and
 - (B) maintain a confidential record of the applicant's mailing address and county of residence for use only by the court; and
- (3) prohibiting the release of the information to the respondent.



Eff. Date 9/1/2025- The change in law made by this Act applies to a suit that is filed on or after the effective date of this Act.

PO STATUTE CHANGES

CHAPTER 83 – TEMP EX PARTE ORDERS

§ 83.005. CONFLICTING ORDERS-
REPEALED

PO STATUTE CHANGES

CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER

Subchapter A. Findings and Orders - § 85.001(d) Required Findings and Orders- **AMENDED**

If the court renders a protective order for a period of more than two years under **Section 85.025(a-1)**, the court must include in the order a finding described by **that subsection** [~~Section 85.025(a-1)~~].



Eff. Date: 9/1/25- applies only to a protective order rendered on or after the effective date of this Act.

PO STATUTE CHANGES

CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER

Subchapter A. Findings and Orders

§ 85.025: Duration of Protective Order (a-2), (a-3), and (a-4) AMENDED/ADDED

(a-2) If an order under this SUBTITLE is rendered against a respondent who is a party to a suit for dissolution of a marriage in which the applicant or a member of the applicant's family or household is the other party, the order is effective until the second anniversary of the date on which the final decree of dissolution of the marriage is approved and signed by the judge.

(a-3) If an order under this SUBTITLE is rendered against a respondent who is a party to a suit affecting the parent-child relationship in which the applicant or a member of the applicant's family or household is also a party, the order is effective until the second anniversary of the date on which the final order in the suit is rendered by the court.

(a-4) If an order under this SUBTITLE is rendered against a respondent who is charged with a criminal offense involving family violence under Title 5, Penal Code, or an offense under Section 25.11, Penal Code, the order is effective until the second anniversary of the date of the final disposition of the criminal case.

Eff. Date: 9/1/25- applies only to a protective order rendered on or after the effective date of this Act.



PO STATUTE CHANGES

CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER

SUBCHAPTER A. FINDINGS AND ORDERS

§ 85.007: (A)(A-1) CONFIDENTIALITY OF CERTAIN INFORMATION- AMENDED/ADDED

(a) On request by a person protected by an order or member of the family or household of a person protected by an order, the court may exclude from a protective order:

(1) the address, county of residence, and telephone number of ~~[(1)]~~ a person protected by the order[, in which case the order shall state the county in which the person resides]; or

(2) the address and telephone number of:

(A) the place of employment or business of a person protected by the order; or

(B) ~~[(3)]~~ the child-care facility or school a child protected by the order attends or in which the child resides.



Eff. Date: 9-1-25-applies to an application for a protective order that is pending on or filed on or after the effective date of this Act or a notification of change of address or telephone number that is filed on or after the effective date of this Act.

PO STATUTE CHANGES

CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER

SUBCHAPTER A. FINDINGS AND ORDERS

§ 85.007: (A)&(A-1) CONFIDENTIALITY OF CERTAIN INFORMATION- AMENDED/ADDED



(a-1) In a hearing on an application for a protective order, the court shall inform each person described by Subsection (a) who is present at the hearing of the person's right, on request, to have information described by that subsection excluded from the protective order and specifically ask the person if the person wishes the court to exclude that information from the protective order.

Eff. Date: 9-1-25-applies to an application for a protective order that is pending on or filed on or after the effective date of this Act or a notification of change of address or telephone number that is filed on or after the effective date of this Act.

PO STATUTE CHANGES

CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER

Subchapter B. Contents of PO: 85.026(b): Warning on PO - ADDED



(b) Each protective order issued under this SUBTITLE, including a temporary ex parte order, must contain the following prominently displayed statement in boldfaced type, capital letters, or underlined:

"DURING THE TIME IN WHICH THIS ORDER IS VALID AND SUBJECT TO TRANSFER, THE ORDER PREVAILS OVER ANY OTHER ORDER RENDERED IN A SUIT FOR DISSOLUTION OF A MARRIAGE OR A SUIT AFFECTING THE PARENT-CHILD RELATIONSHIP TO THE EXTENT OF ANY CONFLICT BETWEEN THE ORDERS."

Eff. Date 9/1/2025- applies only to a protective order issued on or after the effective date of this Act.

PO STATUTE CHANGES

CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER

Subchapter B. Contents of PO: §85.064: Transfer of PO – AMENDED/ADDED

(a) If a protective order was rendered before the filing of a suit for dissolution of a marriage or suit affecting the parent-child relationship or while the suit is pending as provided by Section 85.062, the court that rendered the order shall [may], on the motion of a party or on the court's own motion, transfer the protective order to the court having jurisdiction of the suit if the court finds that the transfer will not negatively impact the safety of any person protected by the order [~~makes the finding prescribed by Subsection (c)~~].

(b) If a protective order that affects a party's right to possession of or access to a child is rendered after the date a final order was rendered in a suit affecting the parent-child relationship, on the motion of a party or on the court's own motion, the court shall [~~may~~] transfer the protective order to the court of continuing, exclusive jurisdiction if the court finds that the transfer will not negatively impact the safety of any person protected by the order [~~makes the finding prescribed by Subsection (c)~~].

PO STATUTE CHANGES

CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER

Subchapter B. Contents of PO: 85.064: Transfer of PO – AMENDED/ADDED

(c-1) A motion to transfer a protective order under this section must be filed with a signed certificate of service on all parties. A party desiring to contest the motion must file a response not later than the first Monday after the 20th day after the date the motion is served on the party. The response must include a controverting affidavit stating that the transfer would negatively impact the safety of a person protected by the order.

(c-2) If a response to a motion to transfer a protective order is filed as provided by Subsection (c-1), notice of the hearing on the motion to transfer the protective order must be served on all parties not later than the 10th day before the date of the hearing.



PO STATUTE CHANGES

CHAPTER 85. ISSUANCE OF PROTECTIVE ORDER

Subchapter B. Contents of PO: 85.064: Transfer of PO – AMENDED/ADDED

(c-3) Before rendering an order transferring a protective order under this section, the court must provide each person protected by the protective order the opportunity to submit a statement to the court regarding the impact of a potential transfer on the person's safety. The court shall consider a statement submitted under this subsection when determining whether to order a transfer. The statement may be a separate document or combined with the motion to transfer or a response to the motion to transfer. The statement must be filed:

- (1) concurrently with or before the filing of the motion to transfer, if the person protected by the protective order is the person filing the motion to transfer; or
- (2) concurrently with or before the filing of a response to the motion to transfer, if the person protected by the protective order is not the person filing the motion to transfer.

(c-4) An order transferring a protective order under this section must include a finding that the transfer will not negatively affect the safety of any person protected by the order.

Eff. Date 9/1/2025- applies only to a motion to transfer a protective order that is made on or after the effective date of this Act. A motion made before the effective date of this Act is governed by the law in effect on the date the motion was filed, and the former law is continued in effect for that purpose.

PO STATUTE CHANGES

CHAPTER 87. MODIFICATION OF PROTECTIVE ORDER

§87.004(a-1) Change of Address- ADDED

(a-1) On request by a person protected by an order, the court shall keep confidential the changed address or telephone number in the notification described by Subsection (a). On granting a request for confidentiality under this subsection, the court shall order the clerk to maintain a confidential record of the information as described by Section 85.007(b)(2) and exclude that information from the notification. If the applicant seeks to keep confidential the applicant's mailing address, the applicant must:

- (1) disclose the applicant's mailing address and county of residence to the court;
- (2) designate a person to receive on behalf of the applicant any notice or documents filed with the court related to the order; and
- (3) disclose the designated person's mailing address to the court.

EFF. DATE 9/1/2025- applies to an application for a protective order that is pending on or filed on or after the effective date of this Act or a notification of change of address or telephone number that is filed on or after the effective date of this Act.

CCP PO STATUTE CHANGES

CODE OF CRIMINAL PROCEDURE - CHAPTER 17 BAIL

Art. 17.292(j) Magistrate's Order for Emergency Protection-AMENDED

(j) An order for emergency protection issued under this article is effective on issuance, and the defendant shall be served a copy of the order by the magistrate or the magistrate's designee in person or electronically. The magistrate shall make a separate record of the service in written or electronic format. An order for emergency protection issued under Subsection (a) or (b)(1) of this article remains in effect up to the **91st** [~~61st~~] day but not less than **61** [~~31~~] days after the date of issuance. An order for emergency protection issued under Subsection (b)(2) of this article remains in effect up to the **121st** [~~91st~~] day but not less than **91** [~~61~~] days after the date of issuance. After notice to each affected party and a hearing, the issuing court may modify all or part of an order issued under this article if the court finds that:

- (1) the order as originally issued is unworkable;
- (2) the modification will not place the victim of the offense at greater risk than did the original order; and
- (3) the modification will not in any way endanger a person protected under the order.

Eff. Date: 9/1/25-applies only to an order for emergency protection issued on or after the effective date of this Act. An order issued before that date is governed by the law in effect on the date the order was issued, and the former law is continued in effect for that purpose.

CCP PO STATUTE CHANGES

CODE OF CRIMINAL PROCEDURE - CHAPTER 7-B PROTECTIVE ORDERS

Art. 7B.001 Application for Protective Order-AMENDED/ADDED

(a) The following persons may file an application for a protective order under this subchapter without regard to the relationship between the applicant and the alleged offender:

(2) a person who is a victim of an offense under Section 30.02, Penal Code, that is punishable under Subsection (c)(2) or (d) of that section;

Eff. Date: 9/1/2025



CCP PO STATUTE CHANGES

CODE OF CRIMINAL PROCEDURE - CHAPTER 7-B PROTECTIVE ORDERS

Art. 7B.002 Temporary ExParte Order-AMENDED/ADDED

(a) If the court finds from the information contained in an application for a protective order that there is a clear and present danger of ~~sexual assault or abuse; indecent assault, stalking, trafficking;~~ **conduct described by Article 7B.001(a)(1) or (2)** or other harm to the applicant, the court, without further notice to the alleged offender and without a hearing, may issue a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household.

Eff. Date: 9/1/2025



CCP PO STATUTE CHANGES

CODE OF CRIMINAL PROCEDURE - CHAPTER 7B PROTECTIVE ORDERS

Art. 7B.003 Required Findings: Issuance of a PO - Sexual Assault, Stalking- AMENDED/ADDED

(a) At the close of a hearing on an application for a protective order under this subchapter, the court shall find whether there are reasonable grounds to believe that the applicant is the victim of sexual assault or abuse, indecent assault, stalking, **trafficking an offense listed in Article 7B.001(a)(1) or (2).**

(b) If the court finds that there are reasonable grounds to believe that the applicant is the victim of sexual assault or abuse, indecent assault, stalking, trafficking **an offense listed in Article 7B.001(a)(1) or (2),** the court shall issue a protective order that includes a statement of the required findings.

(c) An offender's conviction of or placement on deferred adjudication community supervision for an offense listed in Article 7B.001(a)(1) **or (2)** constitutes reasonable grounds under Subsection (a).

Eff. Date: 9/1/2025

CCP PO STATUTE CHANGES

CODE OF CRIMINAL PROCEDURE - CHAPTER 7-B PROTECTIVE ORDERS Art. 7B.007 - Duration of PO: Rescission AMENDED/ADDED

(a) A protective order issued under Article 7B.003 may be effective for the duration of the lives of the offender and victim or for any shorter period stated in the order. If a period is not stated in the order, the order is effective until the second anniversary of the date the order was issued.

(a-1) The court shall issue a protective order effective for the duration of the lives of the offender and victim if the offender is:

- (1) convicted of or placed on deferred adjudication community supervision for an offense listed in ~~Article 7B.001(a)(1)~~ **Article 7B.001(a)(1) or (2)**; and
- (2) required under Chapter 62 to register for life as a sex offender.

(b) The following persons may file at any time an application with the court to rescind the protective order:

- (1) a victim of an offense listed in ~~Article 7B.001(a)(1)~~ **Article 7B.001(a)(1) or (2)** who is 18 years of age or older;
- (2) subject to Subsection (b-1), a parent or guardian acting on behalf of a victim of an offense listed in ~~Article 7B.001(a)(1)~~ **Article 7B.001(a)(1) or (2)** who is younger than 18 years of age or an adult ward; or

Eff. Date: 9/1/2025

PENAL CODE PO STATUTE CHANGES

TITLE 9: CHAPTER 42. DISORDERLY CONDUCT AND RELATED OFFENSES

PENAL CODE §42.07 Harassment- ADDED

(a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person:

(10) makes obscene, intimidating, or threatening telephone calls or other electronic communications from a temporary or disposable telephone number provided by an internet application or other technological means.

Eff: September 1, 2025



QUESTIONS





Protective Order Overview

Melissa Cass Pickett



FAMILY CODE TITLE 4 PROTECTIVE ORDERS

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Basics of a Family Code Title 4 P.O.

Applicant must show by a preponderance of the evidence that:
Family violence (as defined by § 71.004) has occurred

TFC 81.001: A court *shall* render a protective order as provided by Section 85.001(b) if the court finds that family violence has occurred.

As opposed to an Article 7B PO, a TFC protective order is only available to members of the household or family of the alleged offender or a person in a dating relationship with the alleged offender.

Applicable Definitions for a Title 4 PO

TFC 71.004 “Family violence”:

- (1) **an act** by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is **a threat** that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself;
- (2) **abuse**, as that term is defined by Sections 261.001(1)(C), (E), (G), (H), (I), (J), (K), and (M), by a member of a family or household **toward a child** of the family or household; or
- (3) **dating violence** (defined by TFC 71.0021 as an act--not self-defense—against someone with whom the actor has had a dating relationship, or has dating relationship or marriage to someone the actor dated or married, that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim or applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault).

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Burdens of Proof for Family Code Title 4 P.O.

UNDER TWO-YEAR PROTECTIVE ORDER:

- Applicant must show by a preponderance of the evidence that family violence (defined by § 71.004—includes dating violence) has occurred

Why not clear and convincing evidence?

“Interests at stake...do not equate to cases that require proof by clear and convincing evidence, such as the involuntary termination of parental rights or commitment for mental illness.” *Roper v. Jolliffe*, 493 S.W.3d 624.

PO EXCEEDING TWO YEARS AND PROHIBITING ALL CONTACT BETWEEN A PARENT AND CHILD (*Stary v. Ethridge* case):

- Applicant must show clear and convincing evidence for why the order should exceed two years
- Applicant must show why no contact is in the child’s best interest

“Preponderance of the Evidence” defined

The **greater weight of the evidence**, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.*

Black’s Law Dictionary (11th ed. 2019)

*In other words, more likely true than not true

“Clear and Convincing Evidence” defined

TFC § 101.007: "clear and convincing evidence" is defined as "the measure or degree of proof that will produce in the mind of the trier of fact a **firm belief or conviction** as to the truth of the allegations sought to be established".

Though this section is found in Title 5 of the Family Code, the Texas Supreme Court in *Stary v. Ethridge* uses the same definition above.

Burden When Including a Child in a PO

Courts are somewhat split

Martin v. Martin (El Paso): “By defining the children as protected persons, the order suggests that family violence was committed against them, and the record is directly to the contrary. We thus reform the order to delete the children as defined protected persons, but leave intact the specific prohibition stated in the order that might apply to them as family or household members of a protected person.”

Dolgener v. Dolgener (Houston-14th District): “Section 85.001 does not limit the protected persons listed under the order to solely the applicant or the individuals who suffered family violence. *See id.* § 85.001. This is because an applicant's family members may be at risk of suffering family violence as a result of their relationship to the applicant, even though they have not yet suffered harm. *See Martin*, 545 S.W.3d at 168. Therefore, we conclude that a trial court may list a child who is a family member of a victim of family violence as a protected person under the order, even if the child did not directly suffer family violence.”

Durations of POs Under TFC Title 4

Temporary Ex Parte Protective Order (Title 4)

- 14 days or 20 days if county over 2 million or in district courts that cover more than one county (TFC § 83.002)
- Can be extended for additional 20-day periods, on request of applicant or by court's own motion

Title 4 TFC Final Protective Order*

- Up to 2 years unless exception applies (TFC § 85.025)
- 2 years is NOT a default – any time up to 2 years may be appropriate. If defending the PO, ask for less time.
- Beyond two years:
 - 1) Act constituted felony offense, regardless of whether charged or convicted;
 - 2) Serious bodily injury**; **OR**
 - 3) a) Respondent subject of 2+ previous POs AND
b) after court finds FV.

*Subject to new ruling in *Sary v. Ethridge* – clear and convincing evidence + best interest of the child

**Serious bodily injury is defined as “bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.” Tex. Penal Code § 1.07(a)(46).

Requested Relief Against Respondent

Texas Family Code section 85.022

- Contains a long list of acts Respondent is prohibited from doing, and acts Respondent is required to do.
- Only applies to Respondent found to have committed family violence
- Remember that an Applicant cannot be ordered to do the actions listed in 85.022, because the Applicant was not found to have committed family violence
- If you file a proposed order, make sure that nothing in the order requires your client to do or refrain from doing any act listed in 85.022
- Object if the court orders your Applicant client to do anything listed in 85.022

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CODE OF CRIMINAL PROCEDURE ART. 7B PROTECTIVE ORDERS

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Basics of Art. 7B.001 Code of Criminal Procedure POs

- Filing procedure is the same as a Family Code Title 4 protective order
- Unlike a Title 4 protective order, a 7B protective order can be requested **regardless of the relationship** between Applicant and Respondent.

Applicant must show **reasonable grounds**

Under 7B.001 - that Applicant was a victim of one of the following:

Penal Code 20A.02 (trafficking), 20A.03 (continuous trafficking), 21.02 (continuous sexual abuse of a young child or disabled individual), 21.11 (indecentcy with a child), 22.011 (sexual assault), 22.021 (aggravated sexual assault), 42.072 (stalking-- includes harassment), 43.05 (compelling prostitution), OR **30.02 (burglary) that is punishable under Subsection (c)(2) or (d) of that section.**

Basics of Art. 7B.051 Code of Criminal Procedure PO (Stalking)

- Filing procedure is the same as a Family Code Title 4 protective order
- Unlike a Title 4 protective order, a 7B protective order can be requested **regardless of the relationship** between Applicant and Respondent.

Applicant must show **probable cause**

Under 7B.051 – that Applicant was victim of stalking or harassment.

(1) probable cause exists to believe that an offense under Section 42.072, Penal Code, was committed; and

(2) the nature of the scheme or course of conduct engaged in by the defendant in committing the offense indicates the defendant is likely in the future to engage in conduct prohibited by Section 42.072(a)(1), (2), or (3), Penal Code.

Burdens of Proof in CCP 7B Protective Orders

Reasonable grounds – 7B.001

“reasonable grounds” to believe the Applicant is the victim of sexual assault or abuse, stalking, or trafficking.

- Definition of “reasonable grounds”: No well-defined standard
- Not a “reasonable doubt” standard and possibly lower than “preponderance of the evidence.”

"Reasonable grounds": more than just a hunch or suspicion and is supported by reliable information, such that another person could also have that belief. It is a standard of proof used in criminal procedure that is higher than "reasonable suspicion" but lower than "probable cause," and requires facts that rise above mere suspicion to the point of a "credibly-based probability".

Probable cause – 7B.051

("Probable cause exists where `the facts and circumstances within [the officers'] knowledge and of which they had reasonably trustworthy information [are] sufficient in themselves to warrant a man of reasonable caution in the belief that' an offense has been or is being committed"). *Garza v. Renteria*, using this definition in protective order context.

Duration Under Code of Criminal Procedure

Temporary Order

- Follows Texas Family Code Title 4 § 83.002

Final Order – 7B.007

- For a period stated in the order;
- Can be the lifetime of the offender and victim or any shorter period;
 - **SHALL** be for lifetime if offender is:
 - 1) Convicted or placed on deferred adjudication for an offense listed in Art. 7B.001 **AND**
 - 2) Required under Chapter 62 to register for life as a sex offender
- If order doesn't specify a time, it expires two years after the date of issuance; **OR**
- If offender is confined or imprisoned on the date of expiration, the order expires on the first anniversary after the offender's release.

FILING A PROTECTIVE ORDER APPLICATION IN TEXAS

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OFFICE OF COURT ADMINISTRATION FORMS

- Senate Bill 48 — directed the OCA to create protective order forms, codified as Texas Family Code section 82.004
- A person filing a PO “shall use” mandatory forms
- Available in Word format to fill out online
- <https://www.txcourts.gov/rules-forms/standardized-protective-order-forms/>
- Failure to use the forms does not affect the validity and enforceability of a temporary ex parte protective order or final protective order

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OFFICE OF COURT ADMINISTRATION FORMS

AFTER DECEMBER 4, 2025

Sec. 82.004. FORM AND CONTENT OF APPLICATION. Sec. 82.004. FORM AND CONTENT OF APPLICATION.

(a) A person filing an application under this chapter shall use the protective order application form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, that is available on the office's Internet website, and shall include in the application:

- (1) the name of each applicant;
- (2) the county of residence of each applicant, unless the applicant requests confidentiality pursuant to Section 82.011 or 85.007;
- (3) the name and county of residence of each individual alleged to have committed family violence;
- (4) the relationships between the applicants and the individual alleged to have committed family violence;
- (5) a request for one or more protective orders;
- (6) whether an applicant is receiving services from the Title IV-D agency in connection with a child support case and, if known, the agency case number for each open case; and

(7) any additional information known by the applicant that may assist in finding the respondent for the purposes of services.

(b) An applicant may submit an affidavit of confidentiality to the court pursuant to Section 72.039, Government Code, or Section 82.011 or 85.007, Family Code, to omit confidential information from the application and any subsequent protective order. An affidavit of confidentiality is only for the court's use and shall not be transmitted to the respondent.

(c) A party's failure to use the standardized protective order form as required under Subsection (a) does not affect the validity or enforceability of the application or any subsequent protective order issued.

OFFICE OF COURT ADMINISTRATION FORMS

UNTIL DECEMBER 4, 2025

Sec. 82.004. FORM AND CONTENT OF APPLICATION. A person filing an application under this chapter shall use the protective order application form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, that is available on the office's Internet website, and shall include in the application:

- (1) the name and county of residence of each applicant;
- (2) the name and county of residence of each individual alleged to have committed family violence;
- (3) the relationships between the applicants and the individual alleged to have committed family violence;
- (4) a request for one or more protective orders; and
- (5) whether an applicant is receiving services from the Title IV-D agency in connection with a child support case and, if known, the agency case number for each open case.

OFFICE OF COURT ADMINISTRATION FORMS

Mandated Forms – “Shall” use these

- Application for Temporary and Final Protective Orders
- Temporary Ex Parte Order
- Final Protective Order

Discretionary Forms – “May” use these

- Additional orders regarding possession and access of child, child support, division of property
- Motion to Vacate
- Motion to Modify
- TCIC Form (*practice tip: you should still use this form)

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TIPS FOR COMPLETING THE NEW FORMS

1. Read the forms *very* carefully for each case
 - In the application, many options are “mark all that apply”;
 - Treat it just like a pleading in that you can’t get what you don’t ask for;
 - On final order form, court reporter info is not included; write in or type into PDF.
2. Supplement and add to the forms as needed
 - Only lists 4 children
 - Only allows for 2 names of other protected adults
 - Affidavit form is limiting and doesn’t allow details of incidents
 - Attach an affidavit or declaration, if needed; make sure attachment matches information indicated on the form
3. Consider whether you *really* need a Temporary Ex Parte Order
 - Not all cases need a temporary PO
 - Purpose of affidavit or declaration is only to support request for temporary PO, not a final order

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WHO CAN FILE A TFC PO?

Texas Family Code section 82.002 - Who can file depends on type of PO

- Family violence or child abuse - an adult member of the family or household may file to protect the applicant or any other member of the applicant's family or household.
- Dating violence –
 - an adult member of the dating relationship;
 - or an adult member of the marriage, if the victim is or was married as described by Section 71.0021(a)(1)(B).
 - by a member of the dating relationship, regardless of whether the member is an adult or a child.
- Any adult may apply for a protective order to protect a child from family violence.
- An application may be filed for the protection of any person alleged to be a victim of family violence by:
 - (1) a prosecuting attorney; or
 - (2) the Department of Family and Protective Services.

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WHO CAN FILE A CCP PO?

- The following persons may file an application for a protective order under this subchapter without regard to the relationship between the applicant and the alleged offender:
- (1) a person who is the victim of an offense under Section [20A.02](#), [20A.03](#), [21.02](#), [21.11](#), [22.011](#), [22.012](#), [22.021](#), [42.072](#), or [43.05](#), Penal Code;
- (2) a person who is the victim of an offense under Section [30.02](#), Penal Code, that is punishable under Subsection (c)(2) or (d) of that section;
- (3) any adult, including a parent or guardian, who is acting on behalf of a victim described by Subdivision (1) or (2), if the victim is younger than 18 years of age or an adult ward; or
- (4) a prosecuting attorney acting on behalf of a person described by Subdivision (1), (2), or (3).
- The "State Sexual Assault Response Coordinator"

WHERE TO FILE

Sec. 82.003. VENUE. An application may be filed in:

- (1) the county in which the applicant resides;
- (2) the county in which the respondent resides; or
- (3) any county in which the family violence is alleged to have occurred.

Sec. 85.064. TRANSFER OF PROTECTIVE ORDER.

- (a) If PO is rendered after divorce or SAPCR, or while suit is pending, court shall transfer the PO to court having jurisdiction of suit, unless it will negatively impact safety of a protected person
- (b) If a PO is rendered after a SAPCR, court shall transfer to court with CEJ, unless it will negatively impact safety of protected person
- (c-1) through (c-4) set out meticulous procedure for transfer
- (d) The transfer of a protective order under this section shall be conducted according to the procedures provided by Section 155.207.

TIMING OF FILING

*Both sections are subject to new transfer provision in TFC 85.064

DURING DIVORCE OR SAPCR (TFC 85.062)

- (1) File in the court in which the suit is pending; OR
- (2) File in a court in the county in which the applicant resides if the applicant resides outside the jurisdiction of the court in which the suit is pending.

AFTER DIVORCE OR SAPCR (TFC 85.063)

- (1) File in court that rendered final order if PO is filed in same county OR
- (2) File in court having jurisdiction to render a PO if filed in another county.

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NOTICE TO RESPONDENT

TFC 82.043 (c). SERVICE OF NOTICE OF APPLICATION

Notice of an application for a protective order must be served in the same manner as citation under the Texas Rules of Civil Procedure, except that service by publication is not authorized.

Can you use TRCP 106? Yes!

Henry v. Vaella: “the Family Code provides that notice of an application for a protective order must be served in the same manner as citation under the Texas Rules of Civil Procedure. TEX. FAM. CODE § 82.043(c); *see also* TEX. R. CIV. P. 99 (providing rules for issuance and form of citation), 106 (method of service), 107 (return of service).”

In other words, TRCP 106(b) alternative service may be used for a protective order application.

Temporary Ex Parte Protective Orders – Family Code

- Burden: Clear and present danger of family violence
- Affidavit alone is sufficient to request, no need to appear in person (unless
kickout order included) +
- Temporary ex parte PO can be extended unlimited number of times, subject to
court's requirement to set hearing (unlike a TRO) ○

Court's vacating a temporary ex parte PO without hearing or formal response is subject to mandamus. In re Glenny, Austin, 6-24-25, sw23d 2025 WL 1749993

Remember, the affidavit is NOT for the final hearing, but for granting an ex parte temporary order. If you don't need a temporary order, don't include an affidavit.

Temporary Ex Parte Protective Orders – CCP 7B

- Procedure is the same as a Title 4 temporary ex parte PO
- Burden: Clear and present danger of sexual assault or abuse, indecent assault, stalking, trafficking, or other harm to the applicant
- Now includes clear and present danger of burglary under Section 30.02 of the Penal Code, that is punishable under Subsection (c)(2) or (d) of that section.

Kickout Orders - Excluding Respondent from Residence

Requirements: Affidavit/Unsworn Declaration AND appear in person

Affidavit and testimony must show:

- 1) Applicant must show they either reside there or did w/in 30 days
- 2) Respondent has committed FV w/in last 30 days AND
- 3) **Clear and present danger** that Respondent is likely to commit FV against a member of the household.

Caveat: Court may contact Respondent to allow opportunity to be present at hearing.

NEW! – Transfer of Protective Order

- In effect 9-1-2025 – applies to *Motions to Transfer* made on or after 9-1-25. New statute does not say that this applies only to protective orders filed after 9-1-25

Texas Family Code section 85.064

- 1) If PO rendered before divorce or SAPCR or while those suits are pending, court SHALL transfer on motion of a party to the court having jurisdiction, unless transfer would negatively impact a Protected Person
- 2) If PO affecting possession and access is rendered after a SAPCR, court shall transfer PO to court with CEJ, unless transfer would negatively impact a Protected Person

(c-1) through (c-4) set out a very specific procedure for requesting a transfer.

ADDITIONAL TYPES OF PROTECTIVE ORDER RELIEF

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ADDITIONAL RELIEF UNDER TFC § 85.021

(Requirements of Order Applying to Any Party)

TFC § 85.021(1)

Prohibit a party from:

1. Removing a child who is a family member or lives in the household from:
 - a) Possession of a person named in the order OR
 - b) From the jurisdiction of the court.
2. Transferring, encumbering, or otherwise disposing of mutually owned or leased property of the parties, except in the ordinary course of business OR
3. Removing a pet, companion animal, or assistance animal from the other party.

ADDITIONAL RELIEF (cont'd.)

TFC 85.021(2)

Grant exclusive possession of a residence to a party and order one or more parties to vacate the residence if the residence is:

- 1) Jointly owned or leased by the parties;
- 2) Owned or leased by the party retaining possession; OR
- 3) Owned or leased by the party denied possession, and that party has an obligation to support retaining party or a child of the party granted possession.

*Does not affect title to real property.

TFC 85.021(3)

Give a parent of a child periods of possession and access

ADDITIONAL RELIEF (cont'd.)

TFC 85.021(4)

Order support for a party or child support if the person ordered to pay has an obligation to support the party/child

TFC 85.021(5)

Award to a party use and possession of specified property if:

1. community property
2. jointly owned property, or
3. jointly leased property.

BIPP & COUNSELING UNDER TFC § 85.022

Court may order person found to have committed family violence to:

- 1) Perform acts specified by the court that the court determines are necessary or appropriate to prevent or reduce the likelihood of family violence (**very broad language**);
- 2) Complete a battering intervention and prevention program (BIPP);
- 3) If BIPP is not available, complete a program or counsel with a provider that has begun the BIPP accreditation process; OR
- 4) If 2 & 3 are not available, counsel with a provider who has completed approved family violence intervention training.

The actions a court may order under TFC 85.022 is not an exhaustive list.

Rodriguez v. Doe, 614 S.W.3d 380 (Tex.App.—Houston [14 th Dist.] 2020, no pet.)

Separation of Wireless Telephone Service Account

Separation of Number

Applicant who is primary user of a wireless phone number associated with Respondent's service account may request that the Court:

- 1) Separate the Applicant's wireless phone number from the Respondent's account; AND/OR
- 2) Separate a number primarily used by a child from Respondent's account.

Direct Order to Wireless Provider

- If an Applicant shows by a preponderance of evidence that for each number listed in the request, the petitioner or a child is the *primary user* for that number, the Court SHALL render a separate order directing the wireless telephone service provider to transfer the billing responsibilities and rights to each listed number to Applicant.
- Court shall serve a copy of the order on the registered agent for the wireless service provider.

Additional Relief in a CCP Art. 7B Order

Art. 7B, Subchapter A protective order, the Court may:

Art. 7B.005 (a)(1) order the alleged offender to take action as specified by the court that the court determines is necessary or appropriate to prevent or reduce the likelihood of future harm to the applicant or a member of the applicant's family or household.

Note: Art. 7B.008 states that: To the extent applicable, except as otherwise provided by this subchapter, Title 4, Family Code, applies to a protective order issued under this subchapter.

2025 NOTABLE CASES

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STARY V. ETHRIDGE, 712 S.W.3d 584 (Tex. 2025)

- A no-contact PO exceeding two years deprives a parent the fundamental right to make decisions concerning the care, custody, and control of their child.
- “Clear and convincing evidence” is the burden of proof that an applicant must meet before a court can issue a PO that:
 - 1) exceeds two years and
 - 2) prohibits all contact between the Respondent and their child
- The court must also consider the best interest of the child before prohibiting all contact for more than two years

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TATE v. LANDA No. 01-23-00656-CV, 2025 WL 2697839 (Tex.App.-Houston [1st Dist.] September 23, 2025)

- Because the Protective Order was issued under what is now subchapter A, chapter 7B of the Code of Criminal Procedure, Tate is precluded from moving for a determination of whether there is a continuing need for the Protective Order under section 85.025(b). TEX. FAM. CODE § 85.025(b-3); *see also* L.S., 2018 WL 4100857, at *3 n.5 (recognizing that under section 82.025(b-3), the “rescindment procedure [of section 82.025(b)] does not apply to criminal protective orders”).
- But this prohibition does not preclude Tate from seeking relief provided under other statutes, including modification under section 87.001. *See* L.S., 2018 WL 4100857, at *2 (recognizing, under section 87.001, that “during the effective period of a protective order, the trial court retains the power and jurisdiction to modify the order by either deleting or adding items to the order”); *see also* *Lynch v. Lopez*, No. 02-22-00435-CV, 2023 WL 3878434, at *5 (Tex. App.—Fort Worth June 8, 2023, no pet.) (mem. op.) (same); *J.A.T. v. C.S.T.*, 641 S.W.3d 596, 617 (Tex. App.—Houston [14th Dist.] 2022, pet. denied) (same). Seeking rescission of an order, or a determination of a continuing need for an order, is not the same as seeking modification of the order. They are addressed in different statutory provisions, with different requirements, and they have distinct application and meaning.
- We further conclude that article 7B.007 does not preclude Tate from seeking relief under section 87.001. Article 7B.007 provides for rescission of a protective order, does not permit offenders to seek such rescission, and prevails over any conflict with section 82.025, but it does not contain any language pertaining to section 87.001's modification provisions. *See* TEX. CODE CRIM. PROC. art. 7B.007(b)–(c).
- **TAKEAWAY:** A Respondent cannot rescind a CCP protective order, but *can* request to modify a CCP protective order.

LITTLE-KNOWN FACTS ABOUT PROTECTIVE ORDERS AND PRACTICE TIPS



DID YOU KNOW?

- Respondent's "inability to pay" attorney's fees creates an affirmative defense of Respondent, *not* burden of Applicant to show ability
- Appellate remedy for a "stand alone" final protective order is an appeal [*Ulmer v. Ulmer* (14th Dist. 2004)]
- However, if the PO is granted within a divorce or SAPCR, it is an interlocutory order, and mandamus is the appropriate method [*Morris v. Morris* (14th Dist. 2022)]
- A temporary ex parte PO prevails over any other order rendered in a divorce or SAPCR – TFC 81.012

PRACTICE TIPS

- TRCP 301 applies to POs – if you don't plead for additional orders such as child support, possession and access, etc., it is error for the court to grant your request unless it is tried by consent. *Mendoza v. Frazer*. See also *Rivera v. Figueroa* in “Top Ten Cases” below
- Change of address form – make sure to give your client a copy
- A PO can be granted under both CCP and TFC, so plead both if both apply; at trial, you may get finding on one but not the other
- Keep Applicant affidavit/unsworn declaration short. Provide only the amount of information needed to support a temporary ex parte order.

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TOP TEN CASES TO KEEP IN YOUR TOOLKIT

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TAYLOR V. TAYLOR 608 S.W.3d 265 (Tex.App.—Houston [1st Dist.] 2020, no pet.)

FV cannot be based only on violation of the temporary ex parte order

Entry of a family violence protective order cannot be based upon the respondent's violation of a temporary ex parte protective order.

BURT V. FRANCIS 528 S.W.3d 549, 553-54 (Tex.App.—Eastland 2016, no pet.)

Physical violence not required for finding of FV

No requirement under Texas law for physical violence to have occurred for the Court to issue a protective order. Angry outbursts are sufficient to support a protective order even though there is no evidence of physical violence. *Also contains phrase "Given the remedial nature of the Family Code's protective order provisions, courts should broadly construe its provisions so as to effectuate its humanitarian and preventative purpose."

ROPER V. JOLLIFE 493 S.W.3d 624, 630 (Tex.App.—Dallas 2015, pet. denied)

No right to a jury trial in a P.O. case

Courts, not juries, have sole responsibility as fact finders to make necessary findings of FV protective order brought under Title 4. *Roper v. Jolliffe*, 493 S.W.3d 624 (Tex. App. -- Dallas 2015, pet. denied).

TEEL V. SHIFFLETT 309 S.W.3d 597 (Tex. App.—Houston [14th Dist.] 2010, pet. denied).

Family violence can be supported by past acts of FV alone

Even though no physical violence, and Respondent Dad worked out visitation with Applicant/ mom, and didn't contact Applicant for weeks prior to the hearing, father had previously engaged in family violence by blocking car with his body and jumping on its hood, and continued to harass mother via text messaging.

BOYD V. PALMORE 425 S.W.3d 425, 432 (Tex. App.-Houston [1st Dist.] 2011, no pet.).

Not required to be based on a pattern of more than one act of FV

“Past is prologue; therefore, past violent conduct can be competent evidence which is legally and factually sufficient to sustain the award of a protective order.”

WILMETH V. STATE 808 S.W.2d 703, 706 (Tex. App.—Tyler 1991, no pet.)

A threat under 71.004 need not be express or even verbal

Even in circumstances where no express threats are conveyed, the factfinder may nonetheless conclude that an individual was reasonably placed in fear.

BEDINGHAUS V. ADAMS No. 2-08-096-CV (Tex. App.—Fort Worth 2009, no pet.)(mem. op.).

In determining whether a person is placed in fear of imminent physical harm, the intent of the respondent in his/her actions is not relevant; the sole question is whether the applicant's fear is reasonable.

RIVERA V. FIGUEROA No. 04-18-00256-CV, 2019 WL 691502, at *2 (Tex.App.—San Antonio Feb. 20, 2019, no pet.)(mem.op.).

Court cannot make orders under TFC 85.021 and TFC 85.022 unless Court makes findings necessary to issue a PO. For example, the Court cannot make orders related to possession of and access to children, but fail to make findings for a PO.

See also Cockerham v. Cockerham, 218 S.W.3d 298, 301 (Tex.App.—Texarkana 2007, no pet.)

DOLGENER v. DOLGENER, 651 S.W.3d 242, 259 (Tex.App.—Houston [14th Dist.] 2021, no pet.)

Not required to prove violence occurred against the children to have them included as "Protected Persons" on a final protective order

STARY V. ETHRIDGE, 712 S.W.3d 584 (Tex. 2025)

- "Clear and convincing evidence" is the burden of proof that an applicant must meet before a court can issue a PO that:
 - 1) exceeds two years and
 - 2) prohibits all contact between the Respondent and their child
- The court must also consider the best interest of the child before prohibiting all contact for more than two years

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end abuse/begin again

YOU DESERVE SAFETY.
ITS YOUR LEGAL RIGHT.



Landlord/Tenant Rights in the Face of Family Violence

Presented by LéJoi R. Toliver
AVDA Fort Bend Managing Attorney
October 31, 2025

Objectives

- **Understand common concerns victims of family violence/sexual assault/stalking have with respect to landlord/tenant issues**
- **Understand the remedies available to break a lease due to family violence/sexual assault/stalking**
- **Become a better equipped practitioner/advocate to assist a victim**

Fact Pattern

- **Wilma and her husband Fred have been married for 2 years. Fred has struggled with abusing alcohol, and has gotten violent with Wilma in the past. He is also controlling, requiring Wilma to check in with him often to let him know her whereabouts.**
- **One night, Wilma and Fred get into an argument after Fred comes home drunk. Fred punches Wilma in the mouth several times, and she flees the home they share together. She gets treated at the emergency room the same night and is released. She decides not to press charges against Fred.**
- **She stays in a shelter for 4 weeks and then is able to get her own apartment, signing a 12 month lease.**

Fact Pattern, cont.

- Fred finds out where Wilma's new apartment is from the tracker he previously placed on her cell phone.
- Over the next month, Fred sends Wilma numerous threatening text messages and voicemail messages. She sees him in his car circling the apartment complex parking lot when she comes home from work. Twice, Fred has left unwanted gifts on her doorstep with notes asking her to come back to him.
- Wilma calls the police to report Fred's behavior. The police speak to Fred and tell him to leave Wilma alone. Fred is not arrested.

Fact Pattern, cont.

- The next week, Fred sends Wilma a dozen roses to her home, with a note that says “I will never leave you alone.”
- Wilma wants to move out of her apartment, but still has 10 months remaining on the lease.

What may be some of Wilma's concerns?

- **Immediate/Long Term Safety**
- **Creditworthiness**
- **Moving Expenses**
- **Confidentiality**

What can she do?

Texas Property Code 92.016 – *Family Violence*

- **Texas Property Code 92.016 – *Family Violence***
- **Texas Property Code 92.0161 – *Sex Offenses/Stalking***
- Terminate/Vacate with 30 day notice
- Terminate/Vacate without 30 days notice if occupant or co-tenant
- No liability for future rent and sums due for early termination
 - *“Tenants may have special statutory rights to terminate the lease early in certain situations involving family violence or a military deployment or transfer”*

Documents to Use

- *Temporary Injunction*
- *Ex Parte Order*
- *Protective Order*
- *Magistrates Emergency Order of Protection*

Who Can Assist? *(From the Fact Pattern)*

- ***She gets treated at the emergency room***
 - ***Medical Professional***
- ***She stays in a shelter for 4 weeks***
 - ***Mental Health provider***
 - ***Advocate (defined by TFC 93.001)***
- ***Wilma calls the police to report Fred's behavior***
 - ***Potential Criminal Charges leading to Protective Order***

Advocate Letter

Dear Property Owner, Landlord, or Housing Agent:

- I am a Client Advocate, as defined in Section 93.001 of the Family Code, that has been assisting Wilma Flinstone with services with our agency.
- Upon my interview and assessment with Ms. Flinstone, I have concluded that she is a victim of Family Violence under the definition identified in the Family Code, Sec. 71.004.
- According to the Texas Property Code 92.016, a victim of Family Violence has the Right to Vacate and Avoid Liability Following Family Violence. This letter was requested so that the above-referenced victim may exercise this right.
- This letter was provided directly to the applicant.

When Can Wilma Leave?

- All of the above needs to happen:
 - Signed Order
 - Provide a copy of relevant documents to the Landlord
 - Written Notice of Termination on or before 30th day prior to lease termination
 - 30th Day has passed
 - Tenant vacates the premises

What if the Landlord Says No?

Landlord Penalty

- Landlord is liable for actual damages, one month's rent + \$500 + attorney's fees for violating this section
- Landlord cannot have the tenant waive their right to terminate

Practical Matters

- Immediate/Long Term Safety
 - *Protective Order*
 - *Criminal Charges*
 - *Nondisclosure Finding by a Court*
- Creditworthiness
 - *Free Credit Report*
- Moving Expenses
 - *Crime Victims Compensation*
- Confidentiality
 - *Change of Address – PO Box*

Questions?

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Intimate Partner Violence: Unique Challenges related to Disability, Language Access and LGBTQ+



University of Houston Law Center
Domestic Violence Awareness
Judge Richard T. Bell
October 31, 2025

Objectives

- ▶ Evaluate the Unique Control Factors Facing IPV Survivors in the Following Groups:
 - ▶ Disabled Individuals
 - ▶ Language Access
 - ▶ LGBTQ+
- ▶ Identify Barriers to Seeking Help
- ▶ Discuss Practice Tips

Control Factors Affecting the Disabled

- ▶ Invalidating or minimizing a disability
- ▶ Refusing to help with necessary daily tasks (e.g., using the bathroom)
- ▶ Over-medicating, tampering with, and/or withholding medication
- ▶ Denying access to healthcare appointments
- ▶ Sexual assault when a disability prevents the ability to consent
- ▶ Stealing or withholding finances (social security/disability checks)
- ▶ Destroying or denying access to mobility devices (e.g., wheelchairs, walkers, etc.)
- ▶ Harming or threatening to harm a service animal
- ▶ Using the disability to cause shame and humiliation

Disabled Barriers to Seeking Assistance

- ▶ They are heavily dependent on their abusive caretaker and risk losing their assistance if they report the abuse
- ▶ Lack of communication devices
- ▶ Lack of transportation
- ▶ Fear of losing autonomy by being institutionalized
- ▶ Fear of losing custody of a child
- ▶ Many shelters do not accommodate mobility aids (i.e., wheelchairs, walkers...)
- ▶ Service providers often lack the training necessary to support the particular needs of survivors with disabilities

Control Factors Affecting Language Access

- ▶ Failing to file papers to legalize immigration status, or withdrawing papers that have been filed;
- ▶ Threatening to report to ICE;
- ▶ Keeping them from obtaining job training or schooling (form of isolation);
- ▶ Forcing them to work when they do not have a work permit;
- ▶ Forcing them to sign papers (IRS forms, etc.) that they do not understand
- ▶ Hiding or destroying important papers (passport, identification card, Green Card, birth certificates, health insurance card, etc.);
- ▶ Threatening to harm the victim's family or to stop financial support to the victim's family; and
- ▶ Threatening to take children away or have them deported

Language Access Barriers to Seeking Assistance

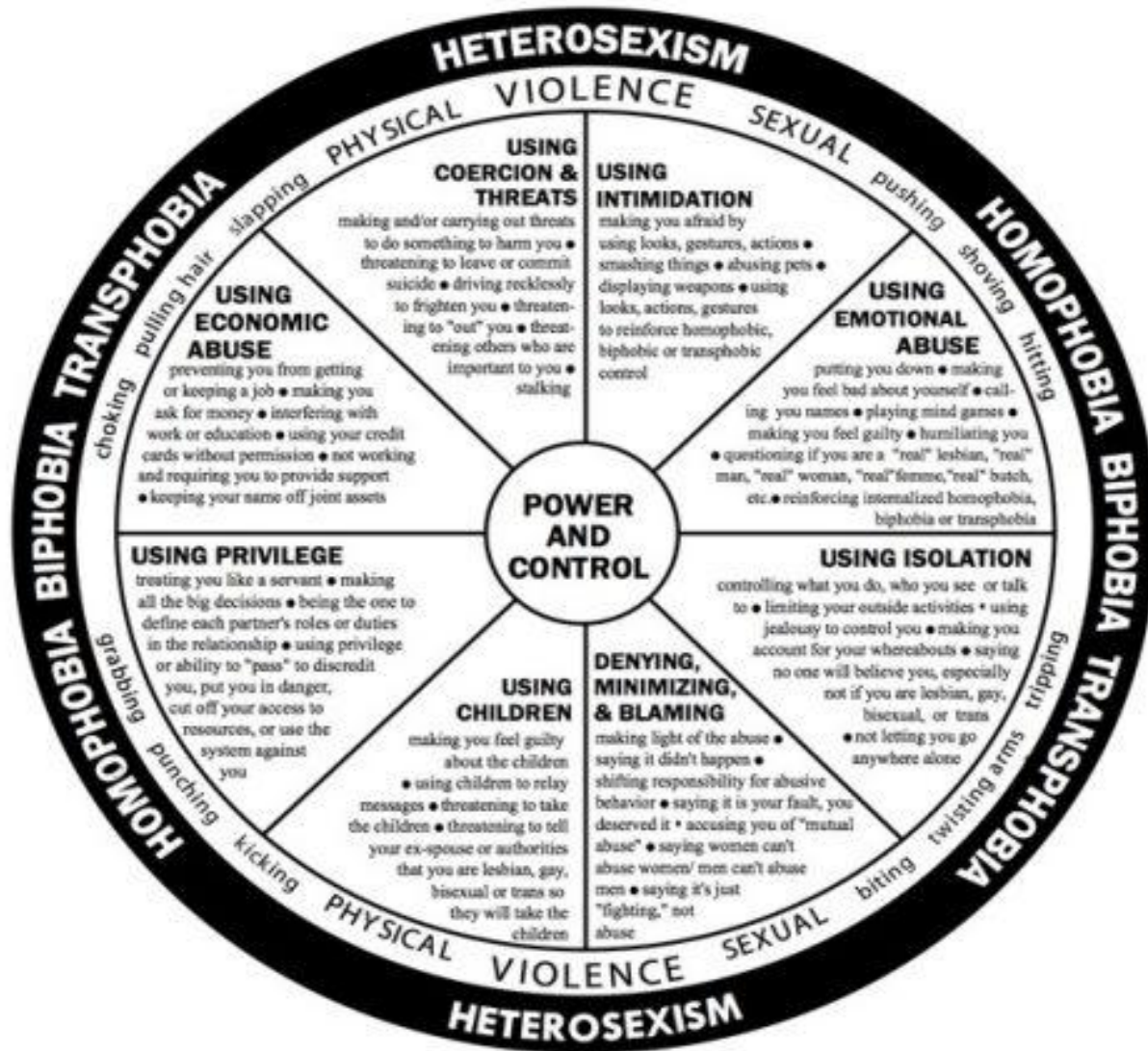
- ▶ May live in seclusion far from family and friends
- ▶ May not work or drive a car
- ▶ Fear or mistrust of law enforcement
- ▶ Inability or fear of inability to communicate
- ▶ Immigration status
- ▶ Fear their children will be taken away
- ▶ Lack of knowledge of resources available or services not offered in their language
- ▶ Fear the abuser will be deported, thereby eliminating their only source of income
- ▶ May have come from a culture that does not talk about domestic violence
- ▶ May be ostracized by their family or community if they reveal the violence

LGBTQ IPV STATISTICS



- ▶ Most studies find the rate of IPV between same sex couples is similar or slightly elevated to opposite sex couples
- ▶ Studies report a slightly higher likelihood of sexual abuse with LGBTQ individuals.

Control Factors of LGBTQ Relationships



- Threats to “out” partner
- Isolating partner from the LGBTQ community
- Defining abusive behavior as normal in LGBTQ
- Denying access to hormones
- Using fear of homophobia
- Threatening to take kids away

LGBTQ Barriers to Seeking Assistance

- ▶ Dangers of “outing” oneself when seeking help and the risk of rejection and isolation from family, friends, and society
- ▶ The lack of LGBTQ+ friendly assistance resources
- ▶ Fear of homophobia from service providers or non-LGBTQ survivors of DV with whom they may interact
- ▶ Low levels of confidence in the sensitivity and effectiveness of law enforcement officials and courts for LGBTQ people

Practice Tips

- ▶ Don't be Afraid to ask for Help
 - ▶ Immigration Attorney
 - ▶ Family Law Attorney
 - ▶ Language Access Coordinator
- ▶ Investigate Resources before Safety Planning (Create Cheat Sheet)
 - ▶ Accept Transgendered Women
 - ▶ Access for Mobility Devices
 - ▶ Languages Spoken by Staff/Interpreters Available
- ▶ Be Aware of these Additional Barriers and Alleviate Concerns when possible

Resources

- ▶ Aid to Victims of Domestic Abuse (AVDA)
- ▶ Montrose Center & Switchboard (Houston)
- ▶ Houston Area Women's Center
- ▶ Fort Bend County Women's Center
- ▶ Texas Council on Family Violence
- ▶ National Domestic Violence Hotline

Thank You

Judge Richard T. Bell
judgerichardtbell@gmail.com

Intersection of Family Violence & Immigration

Josephine Sorgwe
BakerRipley

What happens when an individual does not have immigration status?

Agenda

- Possible Forms of Relief
- Additional Considerations

Possible Forms of Relief

- Violence Against Women Act (VAWA)
- U Visa
- T Visa
- Special Immigrant Juvenile (SIJ)
- Asylum

Violence Against Women Act (VAWA)

Violence Against Women Act (VAWA)

- Designed to help individuals who would normally be able to obtain permanent residence through family visa system, but cannot because of domestic violence
- Allows domestic violence survivor to file a “self-petition” without his/her abuser
- Many requirements relaxed for adjustment of status, including requirements regarding legal entry
- Men, women, and children can qualify

VAWA Requirements

- Who may qualify:
 - Spouse or child of a U.S. citizen
 - Spouse or child of permanent resident
 - Parent of U.S. citizen
 - Parent of an abused child
 - Child over 21 under 25 years old if delay related to violence
 - Child includes step-children and adopted children
- What must they show:
 - Must prove that the U.S. citizen or permanent resident subjected spouse, child, or parent to abuse or extreme cruelty
 - Good moral character
 - Good faith marriage
 - Cohabitation

INA § 101(a)(15)(U)

Special Immigrant Juvenile Status (SIJ)

Special Immigrant Juvenile

- Designed to help children who have been abandoned, abused, or neglected by one or both parents
- Requires findings from family/juvenile court
- After receiving findings, individual may move forward with SIJ process with U.S. Citizenship & Immigration Services (USCIS)
- Benefits
 - Can file for adjustment of status when a visa is immediately available

SIJ Requirements

- Who may qualify:
 - Under 21
 - Currently living in the United States
 - Unmarried
 - Valid juvenile court order stating:
 - In custody of state agency or department;
 - Cannot be reunified due to abuse, abandonment, or neglect;
 - Not in best interests to return to country of residence

U Visa

U Nonimmigrant Visa

- Available for victims of certain crimes and their family members. *See* INA Sec.101(a)(15)(U)
- Created by the Victims of Trafficking and Violence Prevention Act of 2000. Amended in 2005 and 2008
- Enhances law enforcement's ability to investigate and prosecute crimes
- Furthers humanitarian interests by protecting victims of serious crimes

U Visa Eligibility Requirements

- Suffered **substantial physical or mental abuse** as a result of having been a victim of certain criminal activity
- **Possess information** concerning the criminal activity
- Has been **helpful**, is being helpful, or is likely to be helpful in the investigation or prosecution of the criminal activity
- **Certification** from federal, state, or local law enforcement authority
- Criminal activity **violated laws** of the U.S. or occurred in the U.S.

T Visa

T Visa

- Visa available for victims of human trafficking
- Requirements:
 - Subject to “severe trafficking” (the use of force, fraud, or coercion for sex trafficking and/or involuntary servitude, peonage, debt bondage, or slavery)
 - Trafficking happened in the United States
 - Complied with reasonable requests from a law enforcement agency in the investigation and/or prosecution of the crimes
 - Would suffer extreme hardship involving unusual and severe harm upon removal
 - Children under 21 do not have to comply with law enforcement (but it is always beneficial for them to comply)

T Visa

- Work permit and permission to remain in the country for four years under T nonimmigrant status
- Eligible to apply for adjustment of status (permanent residence) after three years
- Derivatives
 - Spouse
 - Child
 - If under 21, can include parents and siblings under 18

Asylum

Statutory Definition of a Refugee

- The term "refugee" means any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is **outside** any country in which such person last habitually resided, and who is **unable or unwilling to return** to, and is unable or unwilling to avail himself or herself of the protection of, that country because of **persecution or a well-founded fear of persecution** on account of **race, religion, nationality, membership in a particular social group, or political opinion**.

Bars to Asylum

- Persecutor
- Convicted of a particularly serious crime
- Committed a serious non-political crime outside the U.S.
- A danger to U.S. security
- Has been firmly resettled in another country
- Has failed to file for asylum within one year after entry and does not meet an exception

Additional Considerations

Additional Considerations

- Crime
- Social Services
- Naturalization

DOMESTIC VIOLENCE AWARENESS –

A Survey of critical Issues for Family Law
Practitioners

BARBARA J. STALDER- FORMER JUDGE 280TH JUDICIAL DISTRICT

OCTOBER 31, 2025





DEALING WITH THE HIGH MAINTENANCE CLIENT

TRAITS OF A HIGH MAINTENANCE CLIENT IN LEGAL DISPUTES

Tells you how to do your job and knows the law better than you—
the google law degree or friends/family law degree

Calls you everyday with the same questions

Is Rude to Staff or are passive aggressive

Desires unrealistic outcomes based on the facts of their case

Is unhappy with everything and everyone



THE LAW ACCORDING TO YOUR CLIENT

THE GOOGLE LAWYER, FRIENDS/FAMILY LAWYER OR LAW & ORDER TV LAWYER

- High Maintenance Clients will often tell you how to do your job or have the strategy for success.
- They Google the facts of their situation and use the results to tell you what needs to be done.
- They often consult their friends and family group to get the “right” strategy and outcome for their case and they will tell you something like the following,
- *“My sister’s best friend’s daughter just got a divorce and her situation was exactly like mine and she was able to get 10 years of alimony”*
- We know the reality of a statement such as this is not remotely close to the truth.
- Clients often believe Law & Order is actually how the Court process works.

LAW IS NOT A MACHINE-YOU DO NOT
PUT IN INFORMATION AND GET A
PREDICTABLE RESULT . . . •

PROFESSOR JOHN MIXON UHLAW FALL 2003



REPETITIOUS PHONE CALLS ON SAME ISSUES

High Maintenance Clients often call you or your staff daily with the same questions. They often hear what they want to hear and not what is said.

UNREALISTIC EXPECTATIONS ARE A COMMON THEME

Clients usually believe their case matches up with someone they know who was able to secure an outcome they like or desire.

Every case is different, with different players including the Judge.

Attorneys cannot guarantee a specific result for the client, even when they have seen similar cases with a judge over time.

Clients do not understand that the law is not a machine where you put into information and get a predictable result.

Often the facts of their case are some that prevent an outcome the client desires. Sometimes attorneys can give various scenarios for outcomes but clients want a definitive result, which attorneys cannot give.



UNRESOLVED TRAUMA OR MENTAL HEALTH ISSUES

- Domestic abuse survivors often have unresolved trauma or undiagnosed trauma.
- Survivors may also have undiagnosed mental health issues that can change the way survivors see the world, their legal case and even those around them

-
- A wound that goes unacknowledged and unwept is a wound that cannot heal... John Eldredge





TRAUMA IN HIGH MAINTENANCE CLIENTS

- Trauma may be a result of a childhood filled with chaos and abuse which is exacerbated by a current domestic violence relationship. Clients often face their fears alone and do not always seek intervention.
- Unresolved trauma or mental health issues can interfere with a client's ability to participate meaningful in their case.
- Clients often take out their pain on others because they have not been able acknowledge that first step in healing is recognizing that help is necessary.

WHAT DOES TRAUMA LOOK LIKE

Client's who call you over and over again may be looking for reassurance.

They may also have difficulty remembering everything and repeat themselves.

They may also be projecting their own fears on you or your staff when they are being rude or when they are not cooperating with the gathering the documents or evidence needed for their case.

They may not trust you and are afraid you will turn out like their abusers.

Clients often put all their eggs in one basket and see you as their end all be all. Meaning, lawyer, therapist, friend and savior.

Clients who tell you how to do their case are individuals who have control issues and may fear relinquishing control to you because of past issues.

Clients also want guarantees because they have difficulty trusting the process and you.

Clients have been hurt and disappointed by those they trusted who betrayed their trust.

Many times, clients also have trauma and mental health issues that impact their interactions and rational thought about their case, they remain in a hyper vigilant state of mind.

MENTAL HEALTH AND HIGH MAINTENANCE CLIENTS

- **Personalities can drive the conflict**
- High Conflict Personalities (HCP) have distinct views about life and the legal process—
- High Conflict Personalities can be divided in the following personality groups:
 - *Borderline Personalities*
 - *Narcissistic Personalities*
 - *Antisocial Personalities*
 - *Histrionic Personalities*
 - *Enablers*

HOW TO DEAL WITH A HIGH MAINTENANCE CLIENT

Recognize the traits from the outset

Decide if you have the emotional bandwidth to take on the client

Be realistic in your own expectations about what you can achieve based on the facts of the case.

Set clear and concise boundaries from the inception of the attorney/client relationship

Follow up any phone call with a written communication recapping your call.

Know the signs of co-dependency

Properly pre-screen and set out clear billing practices

Do not promise or hint at an outcome.

Explain verbally and in writing your billing practices, including reading and responding to emails and voice mails.

Alert your staff as to the client's personality and how best to handle.

Don't feed the need

Homework in writing

Maintain open body language and a calm tone, which can help the other person feel less defensive.

EAR STATEMENTS TO DEVELOP REPORE

Use an EAR statement to demonstrate empathy, attention, and respect, such as, ***“I can see you’re really passionate about this topic. I want to make sure I understand.”***

Practical Techniques:



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COMMUNICATION THROUGH BIFF

Bill Eddy LCSW and lawyer has written multiple books on Dealing with High Conflict Personalities (HCP). Bill Eddy is also founder of the High Conflict Institute and leads a podcast called It's All Your Fault where he discusses how to deal with HCP's.

Bill Eddy has worked in the family law arena for many years and in writing on HCP's and the legal systems has developed a specific way of responding to the HCP's that is non blaming and no attacking.



BILL EDDY'S BIFF METHOD

- B- BRIEF
- I- INFORMATIVE
- F- FRIENDLY
- F-FIRM



BIFF METHOD EXPLAINED

- **BRIEF**– 2-5 SENTENCES
- **INFORMATIVE-STRAIGHT** USEFUL INFORMATION ON THE TOPIC
- **FRIENDLY**- THANK THE READER OR USE WORDS LIKE “*I APPRECIATE YOU LETTING ME KNOW*”
- **FIRM** – WORDS THAT LET THE READER KNOW YOU ARE DISENGAGING, YOU MAY WANT TO GIVE THEM A CHOICE, LIKE “*IF I DO NOT HEAR FROM YOU BY X THEN I WILL DO Y.*”

TAKE AWAYS TO HELP MAKE THE MOST OF THE ATTORNEY-CLIENT RELATION SHIP

- Document your calls with a follow up in writing
- Use the BIFF technique
- Set boundaries and keep them
- Assess whether the client needs additional assistance
- Make the referrals for additional assistance
- Check your own emotional bandwidth
- Don't take their projections as personal attacks
- When things turn personal make the decision to stay or go
- Know your own worth!

TEXAS RULES OF PROFESSIONAL CONDUCT

APPLICATION OF THE RULES TO HIGH MAINTENANCE CLIENTS

20XX

- *Client- Lawyer Relationship*
- 1.01 Competent and Diligent Representation
- A lawyer shall not accept representation if the lawyer knows it is beyond their competence.
- A lawyer shall not neglect the legal matter nor fail to carry out the obligations of the lawyer to the client.
- Once employment is accepted the lawyer should act with competence, commitment, and dedication to the case.
- A lawyer should feel a moral or professional obligation to pursue the matter for the client despite any opposition or personal inconveniences
- A lawyer should not procrastinate in pursuant of a claim for the client and maintain contact and connection with the client and the facts or law of the case.

CLIENT-LAWYER RELATIONSHIP

I.02 SCOPE AND OBJECTIVES OF REPRESENTATION

- A lawyer shall abide by the client's decisions:
- (1) concerning the objective and general methods of representation;
- (2) whether to accept an offer of settlement of a matter except as otherwise authorized by law.
- A lawyer may limit the scope. Objectives, and general methods of representation if the client consents after consultation.
- When a lawyer knows a client expects representation not permitted by the rules of professional conduct or other law, the lawyer shall consult with the client regarding the relevant limitations on the lawyer's conduct.

STRATEGY AND TACTICS

- Under the Rules a lawyer has broad discretion to determine the technical and legal tactics to be used in the case subject to the client's wishes.



ADVOCATE 3.01 MERITORIOUS CLAIMS AND CONTENTIONS

- A lawyer shall not bring or defend a proceeding or assert or controvert an issue therein, unless the lawyer reasonably believes there is a basis for doing so that is not frivolous.
- This rule is often used in conjunction with Federal Rule 11 or Texas Rule 13

3.02 MINIMIZING THE BURDENS AND DELAYS OF LITIGATION^{20XX}

During the course of litigation, a lawyer shall not take a position that unreasonably increases the costs or other burdens of the case or that unreasonably delays the resolution of the matter.

Lawyers should be on top of deadlines and trial dates and should not intentionally cause a delay that could hurt the client's case or cost the client more money. **Always keep the client informed of any delays as well.**



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3.02 COMMENT 5

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DELAY FOR IMPROPER PURPOSE

Clients sometimes want to delay resolution in the proceeding in order to harass or cause the other party more money or inconvenience.

It is NOT justification that similar conduct is tolerated by the bench and the bar. The question a lawyer should be asking themselves is whether there is a substantial purpose for the delay,



This Photo by Unknown Author is licensed under CC BY-SA-NC

3.02 COMMENT *UNREASONABLY COST AND OTHER BURDENS*

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Like delay, increases in the costs or other burdens of litigation may be viewed as serving a wide range of interests of the client.

Many of these interests are legitimate and have merit. Litigation by its very nature is costly and burdensome.

One impermissible act is when a lawyer who counsels or assists a client in seeking multiplication of the costs or other burdens of litigation as the primary purpose, because the client perceives himself as more readily available to bear the burdens than the opposing side and by doing so hopes to gain an advantage in resolving the matter unrelated to the client's position.

TEXAS LAWYERS CREED

WWW.TXCOURTS.GOV

- I am a lawyer; I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Texas Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that Professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this Creed for no other reason than it is right.



RESOURCES AND INFORMATION

[Podcasts Archive - High Conflict Institute](#)

[Just Launched: A New Way to Support Your Clients in High-Conflict Situations - High Conflict Institute](#)

[Domestic Violence and Personality Disorders: What's the Connection? - High Conflict Institute](#)

[Responding to the “Bully’s Story” in Families, at Work, in Court, or Anywhere - High Conflict Institute](#)

[Disorder in the Court: Cluster B Personality Disorders in United States Case Law – PMC](#)

[Navigating High-Conflict People: Expert Strategies from Bill Eddy - Paul Strobl - Master Life Coach - Houston, TX](#)

8 Strategies for Dealing with Difficult Clients www.indeed.com

Get Your Time Back- 11 Ways You Can Better Handle High Maintenance Clients www.forbes.com



ADDITIONAL RESOURCES

- Harris Center provides mental health treatment www.theharriscenter.org
- AVDA BIPP Classes www.avda-tx.org
- Council on Recovery www.counncilonrecovery.org
- An-Nisa Hope Center www.annisa.org
- Harris County Domestic Violence Coordinating Council www.hcdvcc.org
- DAYA www.dayahouston.org
- Family Time Crisis and Counseling Center www.familytimecccc.org

LOCAL AND STATEWIDE RESOURCES

- National Domestic Violence Hotline www.thehotline.org
- Texas Advocacy Project www.texasadvocacyproject.org
- Texas Council on Family Violence www.tcfv.org
- Fort Bend County Women's Center www.fbwc.org
- The Bridge Over Troubled Waters www.tbotw.org
- Bay Area Turning Point www.bayareaturningpoint.org
- Houston Area Women's Center www.hawc.org

Attorney Safety



October 31, 2025

Maisha Colter, LCSW, JD

45/AVDA

45 YEARS OF TRANSFORMING LIVES

Learning Objectives – Part 1



As a result of participating in this webinar, participants will be better able to:

- Identify common threats attorneys face in high-conflict cases.
- Recognize the effects of trauma and secondary trauma on attorney well-being.
- Evaluate barriers to reporting safety concerns within organizations.

Learning Objectives – Part 2



As a result of participating in this webinar, participants will be better able to:

- Apply trauma-informed practices to support attorney resilience.
- Develop safety-conscious policies for workplaces and courtrooms.
- Explore ethical considerations in using civil restraining orders for attorney protection.

Poll 1



Note: Participation in this poll is optional.

Have you ever been threatened with bodily harm by an opposing party, opposing counsel, or a client? (Select all that apply.)

- A. Yes – Opposing Party (or friend, partner, or family member of opposing party)
- B. Yes – Opposing Counsel
- C. Yes – Client
- D. No

Poll 2



Note: Participation in this poll is optional.

Have you ever been subjected to physical intimidation by an opposing party, opposing counsel, or a client? (Select all that apply.)

- A. Yes – Opposing Party (or friend, partner, or family member of opposing party)
- B. Yes – Opposing Counsel
- C. Yes – Client
- D. No

Attorney Trauma & Burnout



- Lawyers representing survivors of violence are exposed to many sources of trauma, including threats to safety.
- Unaddressed trauma → burnout → high turnover rates.
- Burnout reduces case effectiveness and client outcomes.
- Trauma-informed workplaces promote retention, resilience, and advocacy quality.

Safety and the Legal Profession



- 1 in 4 attorneys report being threatened or harassed in connection with their work. AM. BAR ASS'N, *Profile of the Legal Profession* (2022).

Areas of Law with Highest Rates of Threats/Violence Towards Lawyers

1. Family Law
2. Criminal Prosecution
3. Criminal Defense
4. General Practice

Family law and legal aid attorneys are at heightened risk due to emotionally-charged cases.

Buildup to Violence, Part 1



1. Pathway Behavior
2. Fixation
3. Identification
4. Novel Aggression

J. Reid Meloy et al., *The Role of Warning Behaviors in Threat Assessment*, 30 BEHAV. SCI. L. 256 (2012); F.S.

CALHOUN & S.W. WESTON, CONTEMPORARY THREAT MANAGEMENT: A PRACTICAL GUIDE FOR IDENTIFYING, ASSESSING AND MANAGING INDIVIDUALS OF VIOLENT INTENT (2003).

Buildup to Violence, Part 2



5. Energy Burst
6. Leakage of Communication
7. Last Resort
8. Direct, Communicated Threat

J. Reid Meloy et al., *The Role of Warning Behaviors in Threat Assessment*, 30 BEHAV. SCI. L. 256 (2012); F.S.

CALHOUN & S.W. WESTON, CONTEMPORARY THREAT MANAGEMENT: A PRACTICAL GUIDE FOR IDENTIFYING, ASSESSING AND MANAGING INDIVIDUALS OF VIOLENT INTENT (2003).

Intimacy Effect



The more intimate the relationship, the more likely the threat is to escalate to violence.

Spillover Effect



Violence finds a victim.

Threats



- In-person
- Online/in writing
- Telephonic
- Via third parties

Workplace Safety Policies



Have them – in writing!

Talk about them!

Should include:

- Client meetings & communication
- Building access & in-office safety
- Evacuation plan

Workplace Safety Policies, continued



- Procedure for reporting safety concerns to supervisors
- Requirement to report certain safety concerns to supervisors
- Emergency response procedures
- Courthouse safety

Law Office Safety: Parking



- Parking lot:
 - Well-lit
 - Gated
 - Security cameras
- Remote-starting vehicles
- Security escort option

Law Office Safety: Access



- Single public entrance
- Keycard/keypad
- Electronic admittance
- Barrier between reception, inner office
- Attended reception area
- Security cameras

Law Office Safety: Inner Office



- Reception “panic button”
- Code words
- Emergency numbers in office phones
- Visitors should be escorted
- Visitor badges

Comparative Models



- Medical Field: Hospitals use “Code Grey” protocols for violent patients—law firms can adapt similar systems.
- Corporate HR: Mandatory incident reporting + Employee Assistance Programs (EAPs) for staff well-being.
- Judiciary Models: Some courts stagger exits and provide secure witness waiting rooms—adaptable for attorneys.

Law Office Safety: Meetings



- Don't be alone in the office with a potentially threatening person.
- Establish safe meeting locations.
- Remove potential weapons from room.
- Control how meeting will begin and end.

Courthouse Safety



- Staggered exits
- Meeting rooms
- Buddy system
- Communication with security

Safety at Home & Online



- Remove your information from data aggregation websites.
- Keep your social media accounts private.
- Home security system
- Smoke detectors
- Do not meet with clients at your home.

Safety at Home, continued



- Do not use or list your home or personal cell phone for work purposes.
- Keep your vehicles and homes locked at all times – not just at night.
- Keep your home well-lit at night.
- Vary your travel schedule so it is not predictable.
- Inform family, friends of potential danger.

De-escalation Techniques



- Remain calm.
- Attempt to take a break or recess until a future date.
- Do not argue.
- Do not hide behind your authority.
- Avoid an aggressive stance; avoid looking or speaking down to the individual.
- Keep your distance.
- Do not touch the individual.

De-escalation Techniques, continued



- Speak gently, slowly and clearly.
- Use active, empathic listening.
- Restate what is said, to show you are listening.
- Ask questions aimed at getting the individual to explain their thoughts.
- Ask questions to get the individual to think of something other than committing harm.
- Do not be afraid to communicate that you are afraid.

Barriers to Communicating Safety Concerns at Work



- The idea that litigators, especially litigators representing survivors of violence, “signed up” for risk of violence to themselves.
- A desire to be perceived as competent and in control.
- A belief escalation of behavior unlikely.
- Fear of being blamed (especially if client’s, not opposing party’s, behavior is source of concern).

Barriers to Reporting Safety Concerns, continued.



- Fear of being seen as “fragile” or “complaining.”
- Loyalty to client.
- Job security concerns.
- Belief that reporting will not result in meaningful change.
- Lack of clear, confidential reporting channels.

Trauma-Informed Workplace Practices



- Normalize conversations about safety.
- Train attorneys/staff in de-escalation techniques and scenario responses.
- Establish peer support groups for attorney well-being.
- Include safety in onboarding and annual trainings.
- Create confidential, non-punitive ways to report safety concerns.

Civil Restraining Orders: Attorney Considerations



- Confidentiality and attorney-client privilege must be preserved.
- Weigh conflicts of interest with current or former clients.
- Judicial perception and professional reputation are important factors.
- Orders should be tailored to balance attorney safety with client advocacy duties.

Q&A