

# OFFICE OF COURT ADMINISTRATION

## Information and Instructions For Completing the Various Protective Orders

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The Office of Court Administration of the Texas Judicial System (OCA) is required<sup>1</sup> to develop and make available on OCA's Internet website standardized forms for the Magistrate Order of Emergency Protection,<sup>2</sup> Temporary Ex Parte Order,<sup>3</sup> and Protective Order.<sup>4</sup> The following information and instructions for completing the orders are for use by Applicants, Attorneys, and Judges. Also included is information regarding the Protective Order Registry.

### **A. FOR SELF-REPRESENTED APPLICANTS**

(You completed and filed the application for protective order for yourself or on someone's behalf and you are not an attorney.)

Some courts may require you to submit a proposed order with your application for a protective order. If the court requires you to submit a proposed order, follow these instructions, unless instructed otherwise by the court:

1. ***Decide which order or orders you need.*** If you requested the court to issue a temporary ex parte order before the final hearing you should file the Temporary Ex Parte Order **and** the Protective Order with your application. If you did not request a temporary ex parte order you only need to file the Protective Order with the application.
2. ***Print the order or orders you need.*** Do not change the order(s). Print them as they are. We recommend printing 2 copies of each order (attach one to the application when you file it with the clerk of the court and bring one with you to the hearing).
3. ***Do not complete or fill out the order or orders.*** The court will complete the order(s) if the court grants your request.

If the court does not require you to submit a proposed order with your application, we recommend printing but not completing the order and taking it with you when you attend the hearing.

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<sup>1</sup> Issued under Texas Government Code [Section 72.039](#).

<sup>2</sup> Issued under Texas Code of Criminal Procedure Article 17.292.

<sup>3</sup> Issued under Texas Family Code Ch. 83; Texas Code of Criminal Procedure Article 7B.002.

<sup>4</sup> Issued under Texas Family Code Title 4 or Texas Code of Criminal Procedure Subchapter A, Ch. 7B.

## **B. FOR ATTORNEYS**

If you are a licensed attorney, you may do the following:

1. ***Format the style of the cause and signature line to fit your particular needs.*** *However, please note that the content of the orders is written with the Applicant as the person who was hurt, threatened, or victimized and the Respondent as the person who committed the act of family violence or the criminal offense. If you change the style or signature line, please adjust the content of the order accordingly, if needed. **We do not recommend changing the style or signature line, as the application contains a box that you can mark to indicate that you are filing the application on behalf of the Applicant (the person in need of protection).** If you change the style or signature line, be sure to match the character, font, and justification to those used in the order (Font: Arial, Font size: 11, justified).*
2. ***Delete portions of the Order that do not apply your case.*** For instance, if the Court makes a finding that family violence occurred, which is Option (A) under **II. FINDINGS AND ORDERS** on the Protective Order form and none of the other findings apply, you may remove all of the other findings and rewrite the sentence to read, “ After considering the application, evidence, and arguments of the parties, if any, the Court **FINDS** that family violence occurred. Therefore, the Court grants the application and issues this Protective Order against the Respondent.” If you make edits, be sure to match the character, font, and justification to those used in the order (Font: Arial, Font size: 11, justified).

***ATTORNEYS SHOULD NOT CHANGE THE ORDER OF THE CONTENT OR THE SUBSTANCE (MATERIAL COMPONENTS) OF THE ORDER.*** *Additional orders or instructions may be included in Section VII. ADDITIONAL/SPECIAL ORDERS of the Order, and ADDITIONAL CONDITIONS OR TERMS may be included in Section IV. CONDITIONS AND TERMS OF ORDER. If additional or special orders are not included, please mark the box that indicates none are entered.*

## **C. FOR JUDGES**

***[Senate Bill 48](#) (88<sup>th</sup> Regular Session, 2023) requires courts and magistrates issuing protective orders to use standardized order forms created by OCA.<sup>5</sup> However, a court’s***

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<sup>5</sup> Effective June 1, 2024. See Texas Family Code Sections 83.007(a) and 85.0221(a) and Texas Code of Criminal Procedure Articles 7B.0021(a), 7B.003(d), and 17.292(d-1).

***failure to use a standardized order form does not affect the validity or enforceability of the order issued.***<sup>6</sup>

The Temporary Ex Parte Order and the Protective Order may be used for orders issued under the Family Code, Code of Criminal Procedure, or both. When completing the order, the Applicant is the person who was hurt, threatened, or victimized, and the Respondent is the person who committed the act of family violence or the offense against the Applicant.

State law requires law enforcement agencies and courts to enter Magistrate Order of Emergency Protection, Temporary Ex Parte Order, and Protect Order information into required databases that are used by law enforcement throughout the state to verify the existence and validity of a protective order, as well as to check a Respondent's eligibility to possess a firearm.<sup>7</sup> This information is crucial to the effective and accurate enforcement of these orders. Paperwork variations often result in delays and inaccuracies during the data entry process, thereby impacting enforcement of the orders and firearm dealers check.

#### 1. **PCO CODES**

At the end of each term and condition listed in the protective orders, you will find a code (e.g., **TCIC Form PCO-08**) that corresponds to the same or similar condition listed in the TCIC Data Entry form under Protection Order Conditions (PCO). The code is included to assist law enforcement when entering information required by law into the statewide law enforcement information system that DPS maintains. Please do not change the codes.

#### 2. **FINDINGS IN COMPLIANCE WITH FEDERAL LAW**

The protective order contains a section for **FINDINGS IN COMPLIANCE WITH FEDERAL LAW**. These findings assist data entry personnel when completing the TCIC Data Entry form, specifically the portion that addresses whether a Respondent is prohibited from possessing a firearm pursuant to federal law. Texas law prohibits possession of firearms in all types of protective orders regardless of the relationship between the parties. However, federal law only prohibits firearm possession for orders that meet all of the following conditions:

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<sup>6</sup> See Texas Family Code Sections 83.007(b) and 85.0221(b) and Texas Code of Criminal Procedure Articles 7B.0021(b), 7B.003(e), and 17.292(d-2).

<sup>7</sup> Databases include the Texas Crime Information Center (TCIC), which feeds the information into the National Crime Information Center (NCIC) and the National Instant Criminal Background Check System (NICS), and the state's Protective Order Registry maintained by OCA.

- The Applicant and the Respondent are spouses or former spouses, share a child in common, and/or live together or have lived together in an intimate relationship;
- The Respondent received actual notice of the hearing pertaining to the protective order, and was given an opportunity to participate; **and**
- The protective order restrains the Respondent from harassing, stalking, or threatening the Applicant or child of the Applicant.<sup>8</sup>

Judges should complete this section of the protective order by checking the box only if the three conditions are met. This will alert the person entering the protective order into TCIC to include the federal firearm prohibition which will be transmitted to the National Crime Information Center and the National Instant Criminal Background Check System (NICS). Federal Firearm Licensed Dealers are required to check NICS to determine whether a purchaser is prohibited from possessing a firearm.

#### **D. FOR CLERKS**

The law requires the clerk of the court to enter Magistrate Order for Emergency Protection, Temporary Ex Parte Order, and Protective Order information into the Protective Order Registry (Registry) as soon as possible but no later than 24 hours after the court issues the order.

An Applicant or other protected person may give written permission for the public to view certain limited information about the Applicant's protective order in the Registry. A person may give this permission by filing the *Consent to Publish or Remove Information from Protective Order Registry Public View* form with the clerk of the court. Upon receipt of the form, the clerk must upload it to the Registry for verification and posting by OCA.

Additional information regarding the Registry is provided below. For information regarding the clerks' duties to enter protective orders into the Registry, go to [the Protective Order Registry website](#).

#### **PROTECTIVE ORDER REGISTRY**

The Protective Order Registry is a centralized Internet-based registry for applications and protective orders filed in this state. Members of the justice community, such as court clerks, prosecutors, law enforcement officers, and magistrates can view protective orders in the Registry for enforcement and investigative purposes. The public may view limited information about a final

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<sup>8</sup> See 18 U.S.C. §922 (g)(8).

protective order in the Registry **only if** the person protected by that order gives written permission for the public to do so. A protected person may give permission for the public to view limited information about the order by completing and filing the form for ***Consent to Publish or Remove Information from Protective Order Registry Public View*** with the clerk of the court. Upon receipt of the form, the clerk will upload it to the Registry, and OCA will review it. Once verified, OCA will allow the public to access limited information on its website at <https://topics.txcourts.gov/>.

The limited information includes:

- the name of the court that issued the protective order;
- the case number (sometimes called the “cause number”);
- the full name, county of residence, birth year, and race or ethnicity of the person you are protected from by the protective order (sometimes called the “Respondent”); and
- the dates the protective order was issued, was served, and expired (or will expire).

Even with a protected person’s permission, the public cannot use the Registry to access information regarding other types of protective orders. **Limited access is available for final orders only.** In addition, the public will not have access to a protected person’s name or other personal information. **If an Applicant (or other protected person) does not want information from the protective order to be displayed on the Registry, the Applicant (or other protected person) should not complete or file the form for *Consent to Publish or Remove Information from Protective Order Registry Public View*.**