

PROTECTIVE ORDERS

WHO IS ELIGIBLE FOR PROTECTIVE ORDERS?

1. **Family Members** (related by blood or marriage), former spouses, co-parents, foster children and parents.
1. **People in dating relationships** (“a continuing relationship of a romantic or intimate nature,” not including casual acquaintance or “ordinary fraternization” in work or social situations). Dating violence” includes acts committed against a victim “because of the victim’s marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage.”
2. **Household Members** (“a unit composed of person living together in the same dwelling, without regard to whether they are related to each other”)
3. **Victims of sexual assault or abuse, stalking & human trafficking**

TYPE OF PROTECTIVE ORDERS

1. **Emergency Magistrates Order (Tex. Code Crim. Pro. art. 17.292) (Justice of the Peace)**
 - Prevails over any existing order granting possession or access to children (if there is a conflict);
 - Available even when the perpetrator **has been arrested and is in jail** for a family violence offense or sexual assault;
 - Magistrate may issue on his own (or on request of the victim, prosecutor, or police officer) without a hearing;
 - Good for up to 61 days (91 days if a deadly weapon was used in the assault);
 - Defendant/respondent is usually served in person by the magistrate (**at the jail**);
 - Mandatory that magistrate issue the order if: (1) offense involves serious bodily injury or (2) a weapon is used during domestic violence assault;
 - Police can arrest on site without a warrant for a violation
2. **Temporary Ex Parte Protective Order**
 - Application for Protective Order must be filed with County Attorney’s Office
 - Issued by judge without notice or hearing if the applicant is in clear and present danger;
 - Effective for up to 20 days until a hearing is held (but can be extended) and prevails over existing orders.
3. **Protective Order**
 - Civil order that prohibits a party from specific acts and can order all parties to comply with specific acts;
 - Violations by respondent of some of the specific acts are criminal violations, subject to arrest on site without warrant;

- May be filed in the county: (1) where the applicant resides, (2) where the respondent resides, or (3) any county in which family violence is alleged to have occurred.
- Can be effective up to two years

4. Sexual Assault or Abuse, Stalking or Human Trafficking Protective Orders

- Temporary ex parte order: “clear and present danger” of sexual assault or abuse, stalking, trafficking or other harm to victim.
- Same process as a domestic violence protective order