

**PROTECTIVE ORDERS FOR TEEN AND ADULT  
VICTIMS OF FAMILY VIOLENCE, SEXUAL ASSAULT  
AND STALKING**

TRANSFORMATIONS: BUILDING COMMUNITY NETWORKS  
2014 CRIME VICTIM SERVICES CONFERENCE  
OFFICE OF THE ATTORNEY GENERAL

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**OVERVIEW**

**Working with victims of family violence, sexual assault  
and stalking**

**Teen Dating Violence, Options for Safety**

**Protective Orders**

- Emergency POs
- Temporary Ex Parte POs
- Family Violence POs
- Sexual Assault POs
- Stalking POs

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**TIPS FOR LEGAL ADVOCATES...**  
(D'AN DOESN'T NEED NO STINKIN' SLIDES)

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**TEXAS ADVOCACY PROJECT**

Provides a spectrum of life saving legal solutions for victims of interpersonal violence all over Texas

**TEXAS ADVOCACY PROJECT**  
legal solutions to end violence

Teen Justice Initiative extends those services to the group most likely to be affected

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**ORTRALLA'S STORY:  
A SHINING STAR GOES DARK**

Ortralla Mosley



20/20: Violence and Dating: 4/1/05  
<http://abcnewsstore.go.com/>

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**WORKING WITH TEENS:**

- Safety First
- Build trust
- Ask specific questions
- Act fast
- Extra help with decision making
- Be flexible



mcgruffstore.com



<http://www.abanet.org/unmet/teenabuseguide.pdf>

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### DUTY TO REPORT

- Anyone having cause to believe that a minor's physical or mental health or welfare has been or may be adversely affected by abuse or neglect **MUST** report the case immediately to a state or local law enforcement agency or the Texas Department of Protective and Regulatory Services (TDPRS).
- TDPRS has a toll-free, 24-hour Family Violence Hotline: 1-800-252-5400

For more info, see: <http://www.oag.state.tx.us/victims/childabuse.shtml>



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### HOW DO TEXAS PROTECTIVE ORDERS STACK UP?

#### Do I qualify?

- Type of relationship\*
- Type of Abuse\*
- Age\*

#### How do I get a Protection Order?

#### What can I ask For?\*

#### How much will it Cost?



\*laws have changed!

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### PROTECTIVE ORDERS\*

- Family Violence
- Dating Violence
- Sexual Assault
- Stalking (NEWish)
- Human Trafficking (NEWish)

\*Minor's can apply for their OWN!



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## DATING VIOLENCE – TX FAMILY CODE 71.0021

An act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the individual in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself.

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## SCHOOL OPTIONS

### Case Studies:

- Massachusetts
- New York
- Texas
- Rhode Island
- California
- Nebraska

### A GUIDE TO ADDRESSING DATING VIOLENCE IN TEXAS SCHOOLS

July 2007. By 2007, Governor Perry signed House Bill 1136, Sec. 11B.12, effective immediately, amending part of Article 16B of the Texas state constitution to allow school districts to adopt and implement a dating violence policy. The Texas Dating Violence Prevention Team, a group of university and government officials, developed this document by building on national research programs. We hope it will help you to understand your school district's role and how to create a comprehensive dating violence policy. A major emphasis of this document is to help school districts address dating violence by providing a language of 11B.12. Addressing dating violence, (1) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (3) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (4) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (5) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (6) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (7) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (8) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (9) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (10) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (11) means an act by an individual that is against another individual with whom that person has or has had a dating relationship and that is intended to result in physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself.

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Dating violence is a community issue. Texas schools are responding. We can help.



HealthyTeenDating.org

TexasAdvocacyProject.org

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## TEXAS EDUCATION CODE

**Sec. 37.0831. DATING VIOLENCE POLICIES.** (a) Each school district shall adopt and implement a dating violence policy to be included in the district improvement plan under Section 11.252.

(b) A dating violence policy must:

(1) include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Section 71.0021, Family Code; and

(2) address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

Added by Acts 2007, 80th Leg., R.S., Ch. 133, Sec. 1, eff. May 18, 2007.

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## STAY AWAY ORDER

### TEXAS INDEPENDENT SCHOOL DISTRICT SCHOOL-BASED STAY-AWAY AGREEMENT BULLYING, SEXUAL HARASSMENT, DATING VIOLENCE AND SEXUAL VIOLENCE

The intent of this agreement is to increase safety for students who have been the victim of severe or repeated bullying, sexual harassment, dating violence, or sexual violence. It is to be administered in a conference with the alleged perpetrator and his or her parent/guardian.

Name of student: \_\_\_\_\_

Date of most serious incident: \_\_\_\_\_

Description of behaviors involved in incident:  
\_\_\_\_\_  
\_\_\_\_\_

Date of assessment: \_\_\_\_\_

Date of parent/guardian notification: \_\_\_\_\_

In order to protect the rights and safety of all members of our school community, you are required to stay away from (name of victim)

at all times during the school day and at any school-sponsored event. This means that you may not approach, talk to, sit by, or have any contact with (name of victim)

at school or on school property, school buses, and bus stops.

In addition, the following actions are effective immediately:

Active/Passive

Time: \_\_\_\_\_ Entrance: \_\_\_\_\_

Bus/Parking: \_\_\_\_\_

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## RESOURCES

### General National Info:

- Break the Cycle's [TheSafeSpace.org](http://TheSafeSpace.org)
- CDC's [ChooseRespect.org](http://ChooseRespect.org)
- Liz Claiborne's [LovesNotAbuse.org](http://LovesNotAbuse.org)



*"I saw Dave yelling at Megan in the hall so I asked him to stop"*

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## MAGISTRATE'S ORDER FOR EMERGENCY PROTECTION (EPO)

- Can be requested at the arrest of an individual for an offense involving family violence, stalking or sexual assault
- Must be served on Defendant at magistration
- Required when serious bodily injury or if defendant displays or uses a weapon
- Law enforcement, victim or Judge can request
- 31-61 days in length, unless the defendant uses or displays a weapon, then the order shall be 61-91 days
- Criminally enforceable

CCP 17.292

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# FAMILY VIOLENCE PROTECTIVE ORDERS

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## WHAT IS FAMILY VIOLENCE?

1. Violence against family or household members;
2. Dating violence; or
3. Child abuse.

TFC 71.004

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## HOUSEHOLD MEMBERS

- Includes current or former household members
- Unit composed of people living together in same dwelling, without regard to whether they are related to each other.

TFC 71.005

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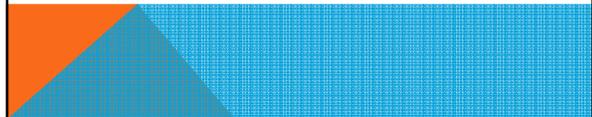
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### 3<sup>RD</sup> PARTY POS

- Definition of Family amended to allow a person to apply for a PO against their current or former partner's current or former partner.
- What does this mean, you ask?
- Still have to prove FV occurred and likely in future between App and 3<sup>rd</sup> party (baby mama drama)



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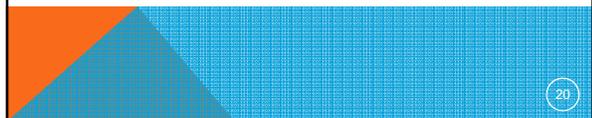
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### CHILD ABUSE

Abuse by a member of the family or household toward a child of the family or household including sexual assault, physical violence or threats of physical violence.

See TFC 71.004(2) and TFC 261.001(1)(C), (E), and (G).



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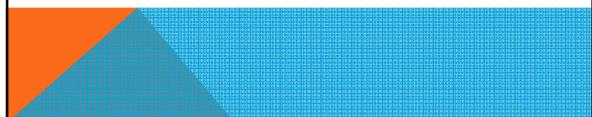
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### WHO MAY FILE APPLICATION FOR PROTECTIVE ORDER

- An adult member of the family or household;
- An adult or minor child member of a dating relationship
- Any adult for the protection of a child against a non-dating partner
- Prosecuting attorney
- DFPS

TFC 82.002



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## WHERE CAN A PERSON FILE FOR A PROTECTIVE ORDER?

An application may be filed in:

- the county in which the Applicant resides,
- the county in which the Respondent resides, or
- the county in which the family violence occurred

TFC 82.003

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## COST FOR APPLYING

- No court costs related to filing of protective order can be assessed to applicant pursuant to Texas Family Code § 81.002
- Costs can be assessed to respondent through the protective order including court costs and attorney fees

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## TIME SET FOR HEARING

On the filing of an application for protective order, the court shall set a date and time for a hearing no later than the 14th day after the date the application is filed.

TFC 84.001

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### TEMPORARY EX PARTE PROTECTIVE ORDERS

- An affidavit must be attached to the Application for PO
- If asking for a kickout, the affidavit must also show that there has been violence in the past 30 days and the parties lived together in the past 30 days
- Court must find that there is a *clear and present danger* of family violence
- Can be entered without notice to and without the presence of the party alleged to have committed family violence
- Court may order the Respondent to do or refrain from doing certain things

TFC 83.001

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### FAMILY VIOLENCE PROTECTIVE ORDERS

**At the close of a hearing, the Court must find:**

- family violence has occurred, AND
- family violence is likely to occur in the future TFC 85.001, OR
- **The court can also issue a PO if the court finds that the respondent violated a previous PO while it was in effect TFC 85.002**

**Additional findings required for the Court to order a PO longer than 2 years**

- Respondent caused serious bodily injury to the Applicant, or
- Respondent has been the subject of two or more POs protecting the same Applicant TFC 85.001

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### ORDERS UNDER TFC 85.021

- Can set a schedule for visitation with the children
- Can order the respondent to pay child support
- Can order the respondent to pay spousal support
- Property orders (exclusive use, no damaging or encumbering)

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## PETS

**TFC 85.021 allows for pets and other companion animals to be included in the PO**

- Respondent cannot remove or harm pets or companion animals
- Criminally enforceable

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## ADDITIONAL ORDERS, TFC 85.022

**Upon a finding that family violence has occurred, the Court may prohibit the Respondent from:**

- going near the protected parties' residence, place of work, child care or school;
- communicating directly with the protected party in a threatening or harassing manner or upon a showing of good cause in any manner except through attorneys;
- engaging in conduct that is intended to harass, annoy, alarm, abuse, torment or embarrass the applicant;
- possessing firearms or ammunition

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## FURTHER ORDERS UNDER TFC 85.022. . .

**Upon a finding that family violence has occurred, the Court may order the Respondent to:**

- attend counseling
- can order respondent to perform acts specified by the court to be necessary or appropriate to prevent or reduce the likelihood of family violence
  - Stay away from the protected party's person;
  - Psych evaluation;
  - Parenting classes
- Return passports, social security cards
- Surrender firearms, etc.

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## AGREED FVPOS

- The parties may agree to the terms of a FVPO, *subject to the approval of the Court.*
- The Court cannot approve an agreement that requires the Applicant to do or refrain from certain acts.
- Agreed orders are enforceable civilly or criminally.

TFC 85.005

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## DURATION

For the period stated in the order not to exceed 2 years.  
**BUT**, if Respondent is incarcerated on the date of expiration, extends one year after date of release from incarceration.

- **Tip:** Applicants and their attorneys should ensure that a written order reflecting the extension is obtained from the Court for enforcement purposes.

TCF 85.025

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## UP TO LIFETIME DURATION

**The Court has the authority to grant orders exceeding 2 years upon a finding that Respondent:**

- Caused serious bodily injury to the Applicant or a member of the Applicant's family or household; or
- Was the subject of 2 or more previous protective orders.

TFC 85.025

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**SEXUAL ASSAULT PROTECTIVE ORDERS  
(SAPO)**

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**WHAT IS A SEXUAL ASSAULT  
PROTECTIVE ORDER?**

- Civil Order
- Civil and Criminal Consequences
- Broad Statute
- No Police Report Requirement for SAPO

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**WHO MAY SEEK SAPO?**

**Victim of**

- TPC 21.02 (continuous SA of child),
- TPC 21.11 (indecenty with a child),
- TPC 22.011 (sexual assault), or
- TPC 22.021 (aggravated sexual assault)

**Parent or guardian of minor victim**

**Prosecuting attorney**

**CCP 7A.01**

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## REQUIRED FINDINGS FOR SAPO

- The Court must find *reasonable grounds exist to believe the applicant is a victim of a sexual assault* (or one of the 4 eligible offenses)
- Only required finding

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## WHAT KIND OF ORDERS CAN THE COURT INCLUDE IN THE SAPO?

Under Texas Code of Criminal Procedure 7A, a court may...

- Prohibit Respondent from communicating directly or indirectly with applicant or family or household in a threatening or harassing manner
- Prohibit Respondent from going to or near the home, job, child care or school of the applicant or any member of family or household (must specify location and minimum distance to maintain unless victim requests confidentiality)
- Prohibit Respondent from engaging in conduct directed specifically toward the applicant or any family or household member that is reasonably likely to harass, annoy, alarm, abuse, torment or embarrass the person
- Prohibit Respondent from possessing a firearm (can also suspend license to carry a concealed handgun)

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## ADDITIONAL ORDERS: CATCH-ALL

Order the Respondent to take action that the court determines is necessary or appropriate to prevent or reduce the likelihood of future harm to applicant or a member of her family or household

CCP 7A.05

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## DURATION OF SAPO

- 2 years = default if not specified in order
- May be of any duration
  - Up to the duration of the lives of the offender and victim
- Automatic 1 yr. extension if Respondent is incarcerated on date of expiration (if not a lifetime order)

CCP 7A.07

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## STALKING PROTECTIVE ORDERS



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## STALKING PROTECTIVE ORDERS IN CIVIL COURT

- CCP Article 7A allows for a victim to file a Protective Order based on stalking
- Court must find that there are *reasonable grounds* to believe that the Applicant is the victim of stalking.
- Possible lifetime duration
- Same orders as SAPO

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## ENFORCEMENT OF POS: CRIMINAL AND CIVIL

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## ENFORCEMENT OF PROTECTIVE ORDERS

### Criminally

- Up to 10 years, depending on the violation
- Fine up to \$10,000, or both
- federally if firearm violation

### Civilly

- contempt of court
- up to 180 days for each violation
- fine up to \$500, or both

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## CIVIL V. CRIMINAL VIOLATIONS

### Criminal Violations

- committing family violence
- communicating with the protected party in a manner prohibited by the order
- going to or near protected locations
- behavior intended to harass, annoy, alarm, abuse, torment or embarrass
- possessing firearms or ammunition
- Harming or removing companion animals or pets
- Texas Penal Code 25.07

### Civil Violations

- going to or near protected parties
- failure to complete counseling
- failure to pay child support
- failure to return children at the end of scheduled visitation
- filed by County/District or private attorney

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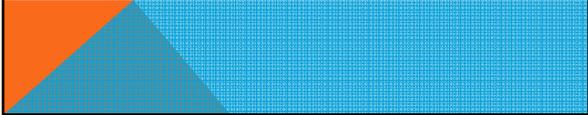
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**CRIMINALLY ENFORCEABLE PROTECTIVE ORDERS FOR VPO, TPC 25.07**

**Criminally enforceable protective orders include:**

- 2 year Family Violence Protective Order (or longer if Court makes additional findings)
- Emergency Protective Orders (EPO or MOEP)
- Temporary Ex Parte PO after service



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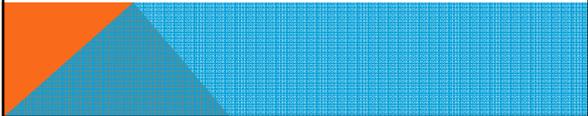
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**CRIMINALLY ENFORCEABLE PROTECTIVE ORDERS FOR VPO, TPC 38.112**

**POs arising out of CCP 7A**

- Sexual Assault POs
- Stalking POs



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**BOND CONDITIONS**

- Per 25.07 TPC, violations of certain bond conditions in family violence cases are criminally enforceable
- A bill passed last session that requires DPS to create an entry field for bond conditions so we should be seeing enforcement of this provision soon.
- The bill also covered bond conditions in sexual assault and stalking cases.
- This is a huge victory for victims of these crimes!

**Caution: An entry field has not been created yet so it is not likely that bond conditions are being enforced by immediate arrest**



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## USEFUL WEBSITES

[www.taasa.org](http://www.taasa.org) Texas Association Against Sexual Assault  
[www.tcfv.org](http://www.tcfv.org) Texas Council on Family Violence  
[www.fvpf.org](http://www.fvpf.org) Family Violence Prevention Fund  
[www.ojp.usdoj.gov/vawo](http://www.ojp.usdoj.gov/vawo) Dept. of Justice VAWA  
[www.usdoj.gov/ovw](http://www.usdoj.gov/ovw) same  
[www.law.sc.edu/ncda](http://www.law.sc.edu/ncda) Nat'l. College of District Attorneys  
[www.ndaa.org](http://www.ndaa.org) Nat'l. District Attorneys' Assoc./APRI  
[www.safetynet.org](http://www.safetynet.org) Technology Assistance  
[www.ncvc.org](http://www.ncvc.org) National Stalking Resource Center  
[www.ncdsv.org](http://www.ncdsv.org) Center for Domestic and Sexual Violence  
National Domestic Violence Hotline 1-800-799-SAFE

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## PRESENTER INFORMATION:

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