

PROTECTIVE ORDERS

What is a Protective Order?

A Protective Order is a civil court order that is issued by a Judge to prevent continuing acts of family violence. Protective Orders offered by this office are pursued under the Texas Family Code. A protective order can prohibit the abuser from committing any further acts of family violence against you; communicating in a threatening or harassing manner with a family or household member; going near a victim's residence or place of employment; going near a childcare and school facilities; stalking; removing or harming pets or companion animals; and possessing a firearm.

A protective order is NOT a criminal charge. Criminal acts must be reported to a law enforcement agency in order to be prosecuted. If you have suffered personal injury as a result of a criminal act, you may qualify for crime victims' compensation benefits. To be eligible for consideration, you must report the crime to law enforcement within a reasonable period of time, but not so late as to interfere with or hamper the investigation and prosecution of the crime. For more information, you may contact the victim assistance liaison at the appropriate law enforcement agency.

Does the County Attorney issue Protective Orders?

The County Attorney's Office does NOT issue Protective Orders. The County Attorney's Office may assist the public in filing an Application for a Protective Order in family court and representing the Applicant (victim) in the Protective Order lawsuit. In order to determine if the County Attorney will represent you in a protective order you must appear in person and meet with the County Attorney staff. The County Attorney will then determine whether she will offer to represent you. To schedule an appointment please call the County Attorney's Office at (806) 272-4205.

What if I have a divorce, child custody, or child support case pending?

If you have a divorce, child custody, or child support case pending against the person you are seeking a protective order against, you will likely be better served by obtaining a protective order by your attorney. This is a factor the Assistant County Attorney you meet with will consider in deciding whether to take your case. You must bring a copy of your divorce, custody (SAPCR), and Attorney General pleadings and orders to your meeting because they must be attached to your Application for a Protective Order.

What if I have a pending CPS case?

It is unlikely that the County Attorney will represent you in a protective order if you have a pending CPS or DFPS action. However, you must disclose this fact immediately so the County Attorney staff screening your case to allow the County Attorney to make that determination.

What if I was arrested, but it was really the victim?

The County Attorney frequently relies on law enforcement as witnesses, it is therefore likely that this office will not represent you in a protective order if you were arrested. You must disclose this fact immediately so we can make this determination first.

What is Family Violence?

Family violence is basically defined as an act by one member of a family or household intended to physically harm another member of the family or household, or a serious threat of physical harm.

What if my spouse has been verbally violent?

If the abuser is calling you names, cursing at you, and just generally being nasty toward you verbally, this is not considered violence under the protective order statute. If the abuser is threatening physical violence and it places you in reasonable fear of imminent harm, this may qualify as violence under the statute. Casual threats are rarely sufficient to constitute violence under the statute.

What if my spouse threatened to take my kids away?

Unless there is a pending order that your spouse will be violating in taking your kids away, this is not likely to be sufficient to obtain a protective order.

What if I need a protective order for my kids?

The law does allow the County Attorney to represent a child in a protective order. The County Attorney will determine whether the office will represent the child.

What if I am unable to return home because I am the victim of family violence?

Under certain circumstances, a Judge may grant a temporary *ex parte* protective order the same day. This may require your testimony in court the day you appear in our office, so dress as if you are going to go to court. If you believe this applies to you, please let us know when you call to make your appointment.

Will the Protective Order go into effect immediately?

Once an Application for a Protective Order is filed, the Applicant (victim) can request that the Court issue a temporary *ex parte* (without notice to abuser) protective order that is effective for 20 days. If the Court finds that there is a clear and present danger of family violence based on the Applicant's affidavit and/or testimony, a temporary protective order may be issued until a final court hearing on the matter can be held.

How long will it take to obtain a Final Protective Order?

A hearing will be scheduled to occur within 2 weeks of filing an application for a protective order. You are required to have at least one preparation appointment with our office and at least one court appearance. You must be willing to testify against the abuser in open court. You must be willing and have the ability to commit to these appearances.

How Do I Apply for Protective Order through the County Attorney's Office?

- 1) Before you can schedule an appointment, you must complete the Protective Order Questionnaire, which is available below. You may fax, email or drop off the questionnaire in person to our office, the Muleshoe Police Department, the Bailey County Sheriff's Office, or the County Judge's Office located in the Bailey County Courthouse.
- 2) Someone from the County Attorney's Office will contact you with an available appointment.
- 3) The County Attorney will contact you over the phone or dis on your scheduled appointment time to discuss the family/dating violence that is presented in the questionnaire; this will determine if the County Attorney's Office will represent you in a protective order lawsuit.
- 4) Please complete the Protect Order **Questionnaire** and **Acknowledgment Agreement**
- 5) Please consider arrangements for your children when discussing a protective order questionnaire with the County Attorney's Office on your scheduled appointment(s).
- 6) If the County Attorney's Office is able to represent you in this lawsuit please be prepared to be in our office for several hours if you have to be presented in court. Most of the time this would be if you are requiring the person to be removed (kicked out) from the residence.

What if the County Attorney turns me down, but I still want a protective order?

The following are some of the other options that may be available to you:

- Contact any family law attorney for assistance in filing the lawsuit;
- Contact the Lubbock County Women's Center
- Contact Lone Star Legal Aid to apply for assistance.
- You can file an Application for a Protective Order on your own– just print the forms online and file the lawsuit at the Bailey County District Clerk's Office, which is located at 300 S. 1st, Muleshoe, Texas 79347.

What if I do not want to go through all the time and effort to get a protective order, or do not think I will qualify, what else can I do to protect myself?

There are several options that give some of the same protections found in a protective order.:

- Eviction – See your local Justice of the Peace.

- Trespass Warning – See your local law enforcement (municipal Police Department or Sheriff's Office).
- Attorney General – Establish custody and visitation, and child support.
- DFPS website/hotline – Report suspected child abuse.

What happens after a Final Protective Order is granted by the Court?

After the court hearing, your local police or sheriff's department will be sent a copy of the Protective Order. If the Abuser commits any of the prohibited acts, you should immediately contact local law enforcement, as criminal charges can be filed against the Abuser. The maximum punishment that a violator can, but not necessarily will, receive is one (1) year in jail or a \$4,000.00 fine or a combination of the two. If Abuser violates the Protective Order, you should contact your local law enforcement immediately.

What happens if I change my mind after a Protective Order has been granted?

Protective orders are usually effective for 2 years. It is possible to remove one after it has been issued, but the County Attorney will NOT help you remove it so you will have to do it on your own or hire an attorney to help you. Also, it is solely up to the judge to decide it is removed, and often times the judge will refuse to remove it.