

Protective Order? Restraining Order? Peace Bond?

This handout is meant to explain the difference between restraining orders, protective orders, and peace bonds. There is often confusion between the three. Many people, including some in law enforcement, believe that the three terms mean the same thing. The terms *do not* mean the same thing.

This handout summarizes the uses, benefits, and restrictions of each. Links to the Texas statutes and rules are available on the research links page at http://www.co.collin.tx.us/law_library/index.jsp. For more information, read these Texas laws:

Protective Order: Texas Family Code, chapters 71 through 85

Restraining Order: Texas Rules of Civil Procedure, starting at 680

Peace Bonds: Texas Code of Criminal Procedure, article 7

Which to Choose?	Protective Order	Temporary Restraining Order (TRO)	Peace Bond
What is the situation?	You have been stalked/sexually assaulted or, harmed by a family member, member or former member of the same household, someone you dated, someone that your current dating partner/spouse used to date or be married to, someone you share children with and you fear the abuser will harm you again.	You want the court to order the other party not to harm you or your property.	Someone has threatened to harm you or your property, and you believe she or he will carry out the threats.
What does it do?	Orders the abuser to stay away from you and your household, your home, your work and your school. Will suspend the abuser's right to carry a gun. Addresses can be kept confidential in some circumstances by court order.	Orders the other party in a lawsuit not to harm your property, or to threaten, harass, or harm you or your children.	Orders the person making threats to deposit money with the court, which will be lost if the he or she commits the threatened crime.
Who can help?	Collin County District Attorney's Office: (972) 548-4323, or Private attorney, Legal Aid, or pro se using the forms in the law library	Your attorney can help you with the TRO. If not, you can file for a TRO yourself.	You can hire an attorney to help you or do it yourself.
Where do I file the paperwork?	District Clerk's Office	File in the office where you filed your lawsuit.	Justice of the Peace court, in the precinct where you live.
How long does it last?	Up to 2 years in most circumstances.	Until your lawsuit ends.	Up to one year.

About Protective Orders:

What is a Protective Order?	A protective order is a civil court order with criminal consequences. A protective order protects family violence victims for up to two years, in most circumstances, and if violated, can result in an arrest.
What can a Protective Order do?	<ul style="list-style-type: none"> • Order the abuser to stay away from you, your house, your work, and your school/daycare. • Order the abuser to stay away from family members named in your application. • Order the abuser not to call or harass you or not to have any communication with you. • Suspend the abuser's right to carry a gun.
A Protective Order is not bullet proof!	<p>A Protective Order is only made of paper. It cannot stop fists or weapons. A Protective Order does not offer 24-hour police protection. It can't protect you from someone who doesn't think about consequences or care about being arrested.</p> <p>To keep yourself safe, speak to a domestic violence counselor about making a safety plan. Do this even if the judge gives you a Protective Order.</p>
How can I apply for a Protective Order?	<p>You can apply for a protective order if the abuser:</p> <ul style="list-style-type: none"> • has sexually assaulted/stalked you. <p>OR</p> <ul style="list-style-type: none"> • has physically harmed you, or tried to physically harm you; and • is a family member, member or former member of the same household, someone you dated, someone that your current dating partner/spouse used to date or be married to, someone you share children with; and • will likely hurt you again. <p>In Collin County, the District Attorney's Office can help you get a Protective Order. Call the District Attorney's office at (972) 548-4323, or go to the office on the lower level of the Collin County Courthouse, 2100 Bloomdale Road. Or, using a private attorney, Legal Aid, or pro se using the forms in the law library</p> <p>There is no fee to apply for a Protective Order.</p>

There are 3 main types of Protective Orders:

Type	How long does it last?	Who issues the Protective Order?	How is it enforced?
Protective Order	2 years (in most cases)	A district or county court judge.	<ul style="list-style-type: none"> • Arrest when violated • Some provisions may be enforced by civil contempt law suit
Temporary Ex-Parte Protective Order (TXPO)	Up to 14 days	A district or county court judge. The temp. ex parte protective order may be granted when an application for a protective order is filed, and the court believes you are in immediate danger. It will be in place until the court can have a hearing on your request for a protective order.	<ul style="list-style-type: none"> • May include a "kick-out" order that orders the abuser to vacate the home <u>but only if the violence occurred within the last 30 days and the applicant lived there within the last 30 days.</u> • Arrest when violated if abuser has been served with the order.
Emergency Protective Order (EPO)	Up to 90 days	Municipal Court after the abuser is arrested.	Arrest when violated.

About Restraining Orders:

What is a TRO or Temporary Restraining Order?

A temporary restraining order is a civil court order that preserves property and protects parties who already have a lawsuit filed, including lawsuits for divorce.

It orders someone not to do certain things.

What can a TRO do?

- Order the other lawsuit party not to harm your property.
- Order the other lawsuit party not to harass, threaten or harm you or your children.

A TRO cannot:

- Kick your spouse out of the home your spouse lives in.
- Order the other lawsuit party not to spend money for reasonable or necessary living expenses.
- Make orders that keep the other lawsuit party from doing his or her job.
- Order temporary custody of a child.

How can I apply for a TRO?

You can apply for a restraining order if you have filed a civil lawsuit, like divorce; custody or modification of custody. You apply by including a motion in your petition or by a separate motion filed with the court after the petition to start the lawsuit has been filed.

Isn't there an automatic TRO?

In Collin County, by local rule, all family law cases like divorce, paternity, child custody or support have a TRO that goes into effect as soon as a case is filed. In these cases, all parties are ordered not to destroy marital property, disconnect utilities, or do things that might harass the other party or harm the children. *Collin County Standing Order Regarding Children, Property and Conduct of Parties*. You can see a copy on the Collin County civil district court website.

There are 3 main types of Restraining Orders:

Type	How long does it last?	Who issues it?	How is it enforced?	Notice to Opposing Party?
Temporary Restraining Order	Up to 14 days	Associate or District judge	A civil lawsuit called "Contempt of court"	Notice is not required, but is preferred
Temporary Injunction	Until the final order by court.	Associate or District judge	A civil lawsuit called "Contempt of court"	Notice and Hearing Required
Permanent Injunction	Until further orders by court	Associate or District judge	A civil lawsuit called "Contempt of court"	Notice and Hearing Required

About Peace Bonds:

What is a Peace Bond?	A peace bond is a court order designed to keep the peace by protecting some one who has been threatened, but not harmed. When a judge issues the Peace Bond he is ordering the person who made the threats to deposit money with the court. If the person who made the threats commits the threatened criminal action then the deposited money will be given to the state.		
What can a Peace Bond <u>do</u>?	A peace bond warns someone not to break the law. If the person breaks the law, then he or she will face criminal charges <i>and</i> lose the money (the bond) deposited with the court.		
Peace Bonds are not bullet proof!	A Peace Bond is only made of paper. It cannot stop fists or weapons. A Peace Bond does not offer 24-hour police protection. It can't protect you from some one who doesn't think about consequences or who doesn't care about being arrested or losing the bond money. If you fear for your safety, speak to a domestic violence counselor about making a Safety Plan.		
How can I <u>apply</u> for a Peace Bond?	You can apply for a peace bond if someone has threatened to harm you or your property. You apply for a Peace Bond by filing a Peace Bond Complaint and Statement of Offense by Complaining Party with the Justice of the Peace in your precinct. If the crime has already happened, a criminal complaint should be filed with the police or sheriff, instead of a Peace Bond.		
<u>How long</u> will it last?	<u>Who</u> issues a peace bond?	<u>How is it enforced?</u>	<u>Do you need to give the other person notice?</u>
Up to 1 year	Justices of the Peace	<ul style="list-style-type: none"> • Loss of bond money. • Possible arrest for criminal action. 	Yes, it is required. Ask the clerk in the Justice of the Peace office how to give legal notice.

There are 5 Justices of the Peace (JP) Courts and 5 Constable's Offices in Collin County.

You can see a map of the precincts at http://www.co.collin.tx.us/justices_peace/index.jsp.

Precinct 1	Precinct 2	Precinct 3-1	Precinct 3-2	Precinct 4
Administration Bldg. 2300 Bloomdale Rd. Suite 1164 McKinney, TX 75071	406A Raymond St. Farmersville, TX 75442 2000 N SH 78 Wylie, TX 75098	920 E. Park Blvd. Suite 220 Plano, TX 75074	920 E. Park Blvd. Suite 210 Plano, TX 75074	8585 John Wesley Frisco, TX 75034
(972) 548-4125	(972) 782-8671 (972) 442-3289	(972) 424-1460 ext. 3001	(972) 424-1460 ext. 3051	(972) 731-7300

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Are you in need of a protective order?

Please review the attached information from the law library to determine if your circumstances qualify you for a protective order.

If you qualify for a protective order, you have four options:

1. **Pro Se** (file for a protective order without the assistance of the district attorney or a private attorney).

You may go to the Collin County Law Library, located on the lower level (LL) of the courthouse. A librarian cannot give you any legal advice but they will direct you to the necessary form for you to fill out and file with the District Clerk's Office (located on the first floor) to request a protective order. You will also need to request through the District Clerk to have the person served that you are getting a protective order against. You will need a hearing date and this can be obtained by contacting the court coordinator of the court in which your protective order case is assigned.

2. **District Attorney's Office**

Go to the Collin County District Attorney's Office receptionist area and state to the receptionist that you are there for help getting a protective order. The District Attorney's office is located on the lower level (LL) of the courthouse. Plan on spending at least an hour completing the application. Our office is open from 8:00 a.m. to 5:00 p.m. Your protective order application will be reviewed and you will be contacted to set up an appointment to meet with a domestic violence prosecutor.

Additional information regarding our application process is available online at: www.collincountyda.com

3. **Legal Aid**

You may contact legal aid and see if you qualify for them to help guide you through the process of obtaining a protective order. Their number is (972) 542-9405 and their website is www.lanwt.org. A list of legal aid clinics throughout Collin County is attached to this packet for your review.

4. **Private Attorney**

You may hire an attorney to help guide you through the process of obtaining a protective order.