

# 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. For more information, read these Texas laws:

- Protective Order: Texas Family Code, chapters 81 through 88
- Restraining Order: Texas Rules of Civil Procedure, starting at 680
- Peace Bonds: Texas Code of Criminal Procedure, article 7
- Sexual Assault Protective Order: Texas Code of Criminal Procedure, article 7A
- Violation of Certain Orders: Texas Penal Code 25.07
- Magistrate's Order for Emergency Protection: CCP Article 17.292-4

| <b>Which to Choose?</b>               | <b>Protective Order</b>  | <b>Temporary Restraining Order (TRO)</b>   | <b>Peace Bond</b>   |
|---------------------------------------|--|--|---|
| <b>What is the situation?</b>         | You have been harmed by a family member or someone you dated, and you fear the abuser will harm you again.                                       | You already have a lawsuit filed and 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.                          |
| <b>What does it do?</b>               | Orders the abuser to stay away from you and your household, your home, your work and your school. May suspend the abuser's right to carry a gun. | 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. |
| <b>Who can help?</b>                  | Dimmit County Attorney's Office<br>830-876-4236.   | 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.   |
| <b>Where do I file the paperwork?</b> | County Clerk's Office  | File in the office where you filed your lawsuit.   | Justice of the Peace court, in the precinct where you live.   |
| <b>How long does it last?</b>         | Up to 2 years.   | Until your lawsuit ends.   | Up to one year.   |

## ***About Protective Orders:***

|  |   |
|--|---|
| <b>What is a <u>Protective Order</u>?</b>                    | A protective order is a civil court order that protects family violence victims for up to two years. If it is a Sexual Assault, it could be for the Lifetime of Respondent.   |
| <b>What can a <u>Protective Order do</u>?</b>                | <ul style="list-style-type: none"> <li>• Order the abuser to stay away from you, your house, your work, and your school.</li> <li>• Order the abuser to stay away from family members named in your application.</li> <li>• Order the abuser not to call or harass you.</li> <li>• Sometimes, it may suspend the abuser’s right to carry a gun.</li> </ul>  |
| <b>A <u>Protective Order is not</u> bullet proof!</b>        | <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>  |
| <b>How can I <u>apply</u> for a <u>Protective Order</u>?</b> | <p>You can apply for a protective order if the abuser:</p> <ul style="list-style-type: none"> <li>• has physically harmed you, or tried to physically harm you; and</li> <li>• is a member of your household or someone you have dated; and</li> <li>• will likely hurt you again.</li> </ul> <p>In Dimmit County, the County Attorney’s Office can help you get a Protective Order. Call the County Attorney’s office at 830-876-4236, or go to the office on the 2nd floor of the Historical Courthouse, 103 North 5th Street. 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?  |
|--|--|--|--|
| <b>Protective Order OR Sexual Assault Protective Order</b>   | 2 years OR<br><br>Lifetime of Respondent | A district or county court judge.  | <ul style="list-style-type: none"> <li>• By arrest when violated</li> <li>• Some provisions may be enforced by civil contempt law suit</li> </ul>  |
| <b>Temporary Ex-Parte Protective Order (TXPO)</b>  | Up to 14 days                            | A district or county court judge. The Protective Order may be granted when an application for a protective order is filed, and the court believes you are in danger. | <ul style="list-style-type: none"> <li>• A civil contempt law suit</li> <li>• 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 and abuser lived together in the last 30 days.</u></li> <li>• <b>NOT enforceable by arrest!</b></li> </ul> |
| <b>Emergency Protective Order (EPO) *Can be requested by Officer, Victim, Judge or any prosecutor.</b> | Up to 90 days                            | Municipal Judge, Justice of the Peace, Or ANY Judge that magistrates after the abuser is arrested.   | Arrest when violated.  |

## ***About Restraining Orders:***

|  |  |
|--|--|
| <b>What is a TRO or Temporary Restraining Order?</b> | <p>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.</p> <p>It orders a party not to do certain things.</p>  |
| <b>What can a TRO <u>do</u>?</b>                     | <ul style="list-style-type: none"> <li>• Order the other lawsuit party not to harm your property.</li> <li>• Order the other lawsuit party not to harass, threaten or harm you or your children.</li> </ul>  |
| <b>A TRO <u>cannot</u>:</b>                          | <ul style="list-style-type: none"> <li>• Kick your spouse out of the home your spouse lives in.</li> <li>• Order the other lawsuit party not to spend money for reasonable or necessary living expenses.</li> <li>• Make orders that keep the other lawsuit party from doing his or her job.</li> <li>• Order temporary custody of a child.</li> </ul>   |
| <b>How can I <u>apply</u> for a TRO?</b>             | <p>You can apply for a restraining order if you have filed a civil lawsuit, like divorce, custody or modification of custody.</p> <p>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.</p>   |
| <b>Isn't there an <u>automatic TRO</u>?</b>          | <p>In Dimmit 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, <u>all parties</u> are ordered not to destroy marital property, disconnect utilities, or do things that might harass the other party or harm the children. If you want a TRO in a family law case, make sure you're asking the court to order something that isn't already ordered by the local rule called the <i>Standing Order Regarding Children, Property and Conduct of the Parties</i>.</p> |

### ***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?                |
|------------------------------------|--------------------------------|----------------|--|--|
| <b>Temporary Restraining Order</b> | Up to 14 days                  | District Judge | A civil lawsuit called "Contempt of court" | Notice is not required, but is preferred |
| <b>Temporary Injunction</b>        | Until the final order by court | District Judge | A civil lawsuit called "Contempt of court" | Notice and Hearing Required              |
| <b>Permanent Injunction</b>        | Until further orders by court  | District Judge | A civil lawsuit called "Contempt of court" | Notice and Hearing Required              |

## ***About Peace Bonds:***

|  |   |   |   |
|--|---|---|---|
| <b>What is a <u>Peace Bond</u>?</b>                    | 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.                  |   |   |
| <b>What can a <u>Peace Bond do</u>?</b>                | 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.   |   |   |
| <b>Peace Bonds are not bullet proof!</b>               | 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.<br><br>If you fear for your safety, speak to a domestic violence counselor about making a Safety Plan.               |   |   |
| <b>How can I <u>apply</u> for a <u>Peace Bond</u>?</b> | You can apply for a peace bond if someone has threatened to harm you or your property.<br><br>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.<br><br>If the crime has already happened, a criminal complaint should be filed with the police or sheriff, instead of a Peace Bond. |   |   |
| <b><u>How long</u> will it last?</b>                   | <b><u>Who</u> issues a <u>peace bond</u>?</b>   | <b>How is it <u>enforced</u>?</b>   | <b>Do you need to give the other person <u>notice</u>?</b>                                      |
| Up to 1 year   | Justices of the Peace   | <ul style="list-style-type: none"> <li>• Loss of bond money.</li> <li>• Possible arrest for criminal action.</li> </ul> | Yes, it is required. Ask the clerk in the Justice of the Peace office how to give legal notice. |

**There are 4 Justice of the Peace in Dimmit County.**

| Precinct 1                               | Precinct 2                               | Precinct 3   | Precinct 4  |
|--|--|--|---|
| 103 North 5th Str<br>Carrizo Springs, Tx | 103 North 5th Str<br>Carrizo Springs, Tx | P.O. Box 519<br>1302 Grand Ave<br>Big Wells, Texas | P.O. Box 236<br>1372 Cleveland<br>Asherton, Texas |
| 830-876-2323 ext 1                       | 830-876-2323 ext 2                       | 830-457-2643                                       | 830-876-9116                                      |