

FAMILY CODE

TITLE 4. PROTECTIVE ORDERS AND FAMILY VIOLENCE

SUBTITLE B. PROTECTIVE ORDERS

CHAPTER 82. APPLYING FOR PROTECTIVE ORDER

SUBCHAPTER A. APPLICATION FOR PROTECTIVE ORDER

Sec. 82.001. APPLICATION. A proceeding under this subtitle is begun by filing "An Application for a Protective Order" with the clerk of the court.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Sec. 82.002. WHO MAY FILE APPLICATION. (a) With regard to family violence under Section 71.004(1) or (2), an adult member of the family or household may file an application for a protective order to protect the applicant or any other member of the applicant's family or household

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 872  
(S.B. 116), Sec. 3

(b) With regard to family violence under Section 71.004(3), an application for a protective order to protect the applicant may be filed by:

- (1) an adult member of the dating relationship; or
- (2) an adult member of the marriage, if the victim is or was married as described by Section 71.0021(a)(1)(B).

Text of subsection as amended by Acts 2011, 82nd Leg., R.S., Ch. 632  
(S.B. 819), Sec. 2

(b) With regard to family violence under Section 71.004(3), an application for a protective order to protect the applicant may be filed by a member of the dating relationship, regardless of whether the member is an adult or a child.

(c) Any adult may apply for a protective order to protect a child from family violence.

(d) In addition, an application may be filed for the protection of any person alleged to be a victim of family violence by:

- (1) a prosecuting attorney; or
- (2) the Department of Family and Protective Services.

(e) The person alleged to be the victim of family violence in an application filed under Subsection (c) or (d) is considered to be the applicant for a protective order under this subtitle.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Amended by Acts 1997, 75th Leg., ch. 1193, Sec. 8, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 91, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 110 (H.B. 841), Sec. 7, eff. May 21, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 632 (S.B. 819), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 872 (S.B. 116), Sec. 3, eff. June 17, 2011.

Sec. 82.003. VENUE. An application may be filed in:

- (1) the county in which the applicant resides;
- (2) the county in which the respondent resides; or
- (3) any county in which the family violence is alleged

to have occurred.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 392 (S.B. 129), Sec. 1, eff. June 14, 2013.

Sec. 82.004. CONTENTS OF APPLICATION. An application must state:

- (1) the name and county of residence of each applicant;
- (2) the name and county of residence of each individual alleged to have committed family violence;
- (3) the relationships between the applicants and the individual alleged to have committed family violence;

(4) a request for one or more protective orders; and

(5) whether an applicant is receiving services from the Title IV-D agency in connection with a child support case and, if known, the agency case number for each open case.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Amended by Acts 2001, 77th Leg., ch. 296, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 742 (S.B. 355), Sec. 3, eff. September 1, 2013.

Sec. 82.005. APPLICATION FILED DURING SUIT FOR DISSOLUTION OF MARRIAGE OR SUIT AFFECTING PARENT-CHILD RELATIONSHIP. A person who wishes to apply for a protective order with respect to the person's spouse and who is a party to a suit for the dissolution of a marriage or a suit affecting the parent-child relationship that is pending in a court must file the application as required by Subchapter D, Chapter 85.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Amended by Acts 1997, 75th Leg., ch. 1193, Sec. 9, eff. Sept. 1, 1997.

Sec. 82.006. APPLICATION FILED AFTER DISSOLUTION OF MARRIAGE. If an applicant for a protective order is a former spouse of the individual alleged to have committed family violence, the application must include:

(1) a copy of the decree dissolving the marriage; or

(2) a statement that the decree is unavailable to the applicant and that a copy of the decree will be filed with the court before the hearing on the application.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Sec. 82.007. APPLICATION FILED FOR CHILD SUBJECT TO CONTINUING JURISDICTION. An application that requests a protective order for a child who is subject to the continuing exclusive jurisdiction of a court under Title 5 or alleges that a child who is subject to the continuing exclusive jurisdiction of a court under

Title 5 has committed family violence must include:

(1) a copy of each court order affecting the conservatorship, support, and possession of or access to the child; or

(2) a statement that the orders affecting the child are unavailable to the applicant and that a copy of the orders will be filed with the court before the hearing on the application.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Sec. 82.008. APPLICATION FILED AFTER EXPIRATION OF FORMER PROTECTIVE ORDER. (a) An application for a protective order that is filed after a previously rendered protective order has expired must include:

(1) a copy of the expired protective order attached to the application or, if a copy of the expired protective order is unavailable, a statement that the order is unavailable to the applicant and that a copy of the order will be filed with the court before the hearing on the application;

(2) a description of either:

(A) the violation of the expired protective order, if the application alleges that the respondent violated the expired protective order by committing an act prohibited by that order before the order expired; or

(B) the threatened harm that reasonably places the applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault; and

(3) if a violation of the expired order is alleged, a statement that the violation of the expired order has not been grounds for any other order protecting the applicant that has been issued or requested under this subtitle.

(b) The procedural requirements for an original application for a protective order apply to a protective order requested under this section.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Amended by Acts 1999, 76th Leg., ch. 1160, Sec. 1, eff. Sept. 1, 1999.

Sec. 82.0085. APPLICATION FILED BEFORE EXPIRATION OF PREVIOUSLY RENDERED PROTECTIVE ORDER. (a) If an application for a protective order alleges that an unexpired protective order applicable to the respondent is due to expire not later than the 30th day after the date the application was filed, the application for the subsequent protective order must include:

(1) a copy of the previously rendered protective order attached to the application or, if a copy of the previously rendered protective order is unavailable, a statement that the order is unavailable to the applicant and that a copy of the order will be filed with the court before the hearing on the application; and

(2) a description of the threatened harm that reasonably places the applicant in fear of imminent physical harm, bodily injury, assault, or sexual assault.

(b) The procedural requirements for an original application for a protective order apply to a protective order requested under this section.

Added by Acts 1999, 76th Leg., ch. 1160, Sec. 2, eff. Sept. 1, 1999.

Sec. 82.009. APPLICATION FOR TEMPORARY EX PARTE ORDER.

(a) An application that requests the issuance of a temporary ex parte order under Chapter 83 must:

(1) contain a detailed description of the facts and circumstances concerning the alleged family violence and the need for the immediate protective order; and

(2) be signed by each applicant under an oath that the facts and circumstances contained in the application are true to the best knowledge and belief of each applicant.

(b) For purposes of this section, a statement signed under oath by a child is valid if the statement otherwise complies with this chapter.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 632 (S.B. 819), Sec. 3, eff. September 1, 2011.

Sec. 82.010. CONFIDENTIALITY OF APPLICATION. (a) This

section applies only in a county with a population of 3.4 million or more.

(b) Except as otherwise provided by law, an application for a protective order is confidential, is excepted from required public disclosure under Chapter 552, Government Code, and may not be released to a person who is not a respondent to the application until after the date of service of notice of the application or the date of the hearing on the application, whichever date is sooner.

(c) Except as otherwise provided by law, an application requesting the issuance of a temporary ex parte order under Chapter 83 is confidential, is excepted from required public disclosure under Chapter 552, Government Code, and may not be released to a person who is not a respondent to the application until after the date that the court or law enforcement informs the respondent of the court's order.

Acts 2003, 78th Leg., ch. 1314, Sec. 2, eff. Sept. 1, 2003.

#### SUBCHAPTER B. PLEADINGS BY RESPONDENT

Sec. 82.021. ANSWER. A respondent to an application for a protective order who is served with notice of an application for a protective order may file an answer at any time before the hearing. A respondent is not required to file an answer to the application. Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Sec. 82.022. REQUEST BY RESPONDENT FOR PROTECTIVE ORDER. To apply for a protective order, a respondent to an application for a protective order must file a separate application. Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

#### SUBCHAPTER C. NOTICE OF APPLICATION FOR PROTECTIVE ORDER

This section was amended by the 85th Legislature. Pending publication of the current statutes, see S.B. 1242, 85th Legislature, Regular Session, for amendments affecting this section.

Sec. 82.041. CONTENTS OF NOTICE OF APPLICATION. (a) A

notice of an application for a protective order must:

- (1) be styled "The State of Texas";
- (2) be signed by the clerk of the court under the court's seal;
- (3) contain the name and location of the court;
- (4) show the date the application was filed;
- (5) show the date notice of the application for a protective order was issued;
- (6) show the date, time, and place of the hearing;
- (7) show the file number;
- (8) show the name of each applicant and each person alleged to have committed family violence;
- (9) be directed to each person alleged to have committed family violence;
- (10) show the name and address of the attorney for the applicant or the mailing address of the applicant, if the applicant is not represented by an attorney; and
- (11) contain the address of the clerk of the court.

(b) The notice of an application for a protective order must state: "An application for a protective order has been filed in the court stated in this notice alleging that you have committed family violence. You may employ an attorney to defend you against this allegation. You or your attorney may, but are not required to, file a written answer to the application. Any answer must be filed before the hearing on the application. If you receive this notice within 48 hours before the time set for the hearing, you may request the court to reschedule the hearing not later than 14 days after the date set for the hearing. If you do not attend the hearing, a default judgment may be taken and a protective order may be issued against you."

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.  
Amended by Acts 1997, 75th Leg., ch. 1193, Sec. 10, eff. Sept. 1, 1997.

Sec. 82.042. ISSUANCE OF NOTICE OF APPLICATION. (a) On the filing of an application, the clerk of the court shall issue a notice of an application for a protective order and deliver the

notice as directed by the applicant.

(b) On request by the applicant, the clerk of the court shall issue a separate or additional notice of an application for a protective order.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.

Sec. 82.043. SERVICE OF NOTICE OF APPLICATION. (a) Each respondent to an application for a protective order is entitled to service of notice of an application for a protective order.

(b) An applicant for a protective order shall furnish the clerk with a sufficient number of copies of the application for service on each respondent.

(c) Notice of an application for a protective order must be served in the same manner as citation under the Texas Rules of Civil Procedure, except that service by publication is not authorized.

(d) Service of notice of an application for a protective order is not required before the issuance of a temporary ex parte order under Chapter 83.

(e) The requirements of service of notice under this subchapter do not apply if the application is filed as a motion in a suit for dissolution of a marriage. Notice for the motion is given in the same manner as any other motion in a suit for dissolution of a marriage.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.