



Tips for Advocates: Legal & Criminal Justice System

Protective Orders

- Survivors can seek Protective Orders (POs) through a prosecutor, through an attorney, or file without an attorney (referred to as *pro se*). If possible, have an attorney through the process. Advocates can offer to accompany survivors to the hearing for support.
- An applicant can file a PO in the county where either party (survivor or abuser) resides or where the abuse occurred. The survivor's address can be kept confidential, and there is no waiting period to establish residency to obtain one. Check out Texas Law Help's [Protective Order Kit](#) for more information on PO basics and how to keep survivors' address confidential.
- Texas has three types of POs:
 1. Magistrates Order for Emergency Protection (MOEP), sometimes referred to as an Emergency Protection Order. This kind can be issued by a law enforcement officer at the scene if requested by a survivor.
 2. Temporary Ex Parte Protective Order (TExPO): Issued by the Judge when filing for a final PO to act before the time of the final court hearing. A Judge does not have to issue a TExPO.
 3. Final PO: Issued after a court hearing. It normally lasts up to 2 years but can be up to a lifetime under certain circumstances.
- Unlike other states, Texas differentiates between Restraining Orders (RO) and POs. A Restraining Order is a civil order, not criminally enforceable, and usually requires a fee.
- [Under Texas Family Code §81.002](#), courts and prosecutors cannot charge a survivor any costs or fees related to a PO including filing, serving, entering the PO, or for getting additional certified copies of the order.
- Survivors may request that the PO establish no contact; cover children, pets, and others residing in the home; establish child custody and visitation; and order offenders to pay spousal and child support including household expenses amongst other measures. The judge makes the final determination of terms, and survivors may not get everything they request.
- Survivors cannot legally be arrested for "violating" their own PO according to [Texas Penal Code §25.07\(e\)](#). This means that a survivor can choose to have contact with the abuser that they have a PO against and cannot be legally penalized.
- POs can be enforced nationwide and should go into a national database that law enforcement can access to find the terms of a valid order. It can be helpful for survivors to keep a copy of their PO with them at all times.
- Check out Texas Advocacy Project's [Pro Se Protective Order Packet](#) and [Emergency Protective Order in a Box](#) for more information about POs and MOEPs.



Help with Law Enforcement

- [Article 56 of the Texas Code of Criminal Procedure](#) outlines that victims of crime have rights under Texas law. All law enforcement agencies should have [designated victim service staff](#) to uphold these rights.
- Law enforcement officers should take an information report every time they answer a family violence call according to [Texas Code of Criminal Procedure §5.05](#). This can be important evidence for the survivor, even if the offender has no arrest or prosecution results at that time.
- If requested, advocates might accompany clients to law enforcement interviews.
- Survivors have the option of using a pseudonym if they choose to make a law enforcement report. To use this option, the survivor must complete a [Pseudonym Form](#) available from law enforcement. In many cases, the form removes the survivor's name from public files and records concerning the offense, including policy summary reports, press releases, and records of judicial proceedings. Note that this only protects the *survivor's* name in records concerning the offense (not their children or other involved people).
- Check out [Texas Department of Criminal Justice \(TDCJ\)](#) for more information on victim services and resources for victims and their families.

Help with Court System

- Advocates can offer to accompany clients to court. Check out TCFV's [Legal Advocacy Network](#) for more information about working with clients and the court system.
- Survivors may request a safe and private waiting room, an escort to and from their car, alternative options to appearing (such as telephoning in), and other protections needed for court appearances. Contact TCFV for support and technical assistance.
- Survivors with limited English proficiency may request a free, court certified interpreter to be supplied by the court. Check out www.lep.gov and this guide on [Language Access in State Courts](#) for more information on serving survivors with limited English proficiency.
- The [Address Confidentiality Program](#) can help keep a survivor's residence confidential in court cases.



Crime Victim Compensation

- Crime Victim Compensation (CVC) is a statewide program that can provide financial assistance for survivors who make a law enforcement report within three years from the date of the crime. Check out the [Texas Attorney General's Office](#) for more information and eligibility requirements.
- Advocates can complete [training](#) to have access to presumptive eligibility for expedited applications. Contact crimevictims@texasattorneygeneral.gov for more information and assistance or call 1-800-983-9933.

Divorce

- Survivors should always consult with an attorney before filing for divorce or if they have been served with divorce papers. Check out this [map](#) of different Legal Aid agencies in Texas. [Texas Law Help](#) can assist survivors in locating local, free legal services.
- If the survivor cannot obtain an attorney, s/he can proceed *pro se* (without an attorney). Check out [Texas Advocacy Project](#) for more information on *pro se* cases.
- Basic things to be aware of for divorce cases in Texas:
 - The person filing for divorce must have resided in the state for at least 6 months and in the county where filing for 90 days.
 - Most Texas courts will wait to finalize a divorce if one of the parties is pregnant so they can include orders regarding the child in the final decree due to child custody and paternal rights implications.
 - Texas recognizes “communal property” meaning both parties have equal right to property obtained within a marriage. Courts consider the presence of family violence when determining final orders.
 - Texas recognizes common-law marriage, which requires a divorce if the court must divide property or decide on child custody.
- If a survivor needs to file for divorce and cannot afford the filing fees, s/he may file an “[Affidavit of Indigence](#)” requesting that the filing fees be waived.

Additional Topics and Resources

- [Victim Information & Notification Everyday \(VINE\)](#) provides crime victims with offender status and court information via a toll-free number (877) 894-8463 and [Texas VINELink](#). Interested people can obtain court and offender status through jail records, the local county and/or district court website.
- TCFV's Legal Advocate Network – Information, resources, and webinars to support legal advocates in Texas. Call 512-794-1133.