

PROTECTIVE ORDERS

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INITIAL CONTACT WITH VICTIMS

- **Law Enforcement**
- **Medical Professionals**
- **Victim Liaisons**
- **Victim Advocates**
- **Victim Assistance Coordinators**

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WHAT IS A PROTECTIVE ORDER

- A court order that provides protection for victim(s);
- from someone who has been violent or has threatened to be violent;
- from doing certain acts to lessen the likelihood of future violence.
- Has criminal repercussions if violated.

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WHO CAN APPLY FOR A PROTECTIVE ORDER

- Physically assaulted or threatened to be hurt; *and*
- Is a close relative of the offender; *and*
- Is in fear of being hurt again; or
- A victim of sexual assault or abuse assault, indecent assault, stalking or trafficking.

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TYPES OF PROTECTIVE ORDERS

- EMERGENCY PROTECTIVE ORDERS;
- TEMPORARY EX PARTE PROTECTIVE ORDER;
- FINAL PROTECTIVE ORDER;
- CCP 7B PROTECTIVE ORDERS; and
- CCP 7B.001(a)(1) MANDATORY PROTECTIVE ORDERS

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EMERGENCY PROTECTIVE ORDERS

- Issued by the magistrate after an arrest for family violence, sexual assault or abuse, indecent assault, stalking or trafficking;
- The offender must be in custody;
- Duration is up to 61 days; or
- 91 days if SBI or a DW was used/or exhibited.

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EMERGENCY PROTECTIVE ORDERS

Advantages:

- a "cooling off" period.
- Provide opportunity to talk to the victim;
- No court appearance necessary;
- No testimony needed.

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TEMPORARY EX PARTE ORDERS

- **Is issued after a judge has reviewed an application for a final protective order.**
- **Good for twenty days;**
- **Hearing *must* be held within 14 days;**
- **May be extended if a final protective order is not obtained within that time.**
- **Is a violation *only* after the Respondent has been served.**

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FINAL PROTECTIVE ORDER

Requires:

- A sworn affidavit;
- Respondent must be served with a copy of the application and affidavit;
- The victim to testify about alleged bad acts;
- Subject to cross examination.

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FINAL PROTECTIVE ORDER

Court Findings for Family Violence:

- Family violence has occurred in the recent past;
- and is likely to occur in the future.

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FINAL PROTECTIVE ORDER

Duration:

- Up to 2 years in family violence cases.
- May exceed 2 years if Respondent:
 - Committed an act constituting a felony offense involving family violence; or
 - Caused SBI to Applicant; or
 - Had 2 or more previous protective orders protecting same applicant.

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PROBLEMS WITH FINAL PROTECTIVE ORDERS

- Require the victim to give an affidavit detailing all bad acts by the perpetrator.
- Comprises victim's safety.
- Becomes part of discovery in criminal case.

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CCP 7B PROTECTIVE ORDERS

- Sexual Assault or abuse;
- Indecent assault
- Stalking; or
- Trafficking.
- No relationship required

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FINDINGS FOR 7B PROTECTIVE ORDERS

- TEXPO - Clear and present danger.
- Final Protective Order - reasonable grounds to believe, and
- Victim is subject to threat and fear of future harm.
- No finding of future threat or harm for victims under 18 is required.

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MANDATORY 7B.001(a)(1) PROTECTIVE ORDERS

- For victims under 18;
- A prosecutor must file an application for a protective order;
 - Upon conviction/deferred adjudication;
 - Offenses after 9/1/2019 regardless of offense date.
 - Duration is for the lifetime of the parties; and
 - A violation carries enhanced punishment. (PC 25.07)

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OTHER OPTIONS FOR PROTECTION

- Bond Conditions;
- A Child Safety Plan, and
- No Contact Provisions on other orders.

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BOND CONDITIONS

- Issued by the magistrate;
- An order for the safety of the victim or community;
- Prohibits going near victim's residence or place of employment
- Prohibits threatening or harassing communication

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BOND CONDITIONS

Advantages:

- It eliminates the requirement of an affidavit.
- Is in effect through the duration of the criminal case.
- A violation is criminally enforceable.

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CHILD SAFETY PLAN

- Is obtained through CPS when the perpetrator has access to the child(ren); and
- The child(ren) is at risk of further violence or harm;
- Prohibits the offender from unsupervised access to the child(ren).

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BENEFITS OF CHILD SAFETY PLANS

- Requires the child(ren) be removed from the dangerous environment;
- Assists with monitoring the welfare, safety and location of the child(ren);
- Helps the protective parent to appear neutral; and
- Serves as a another piece of evidence to be used at trial.

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NO CONTACT PROVISIONS

Added to orders of probation.

- Advantages:

- Protection up to 10 years for felony;
- up to 2 years in misdemeanor cases.
- Eliminates the ability to have the order lifted.
- Offers further criminal prosecution if violated.

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REMEMBER...

- **Not all applicants qualify for protective orders. No one can guarantee that it will be approved.**
- **Know which protective orders is best for your case.**
- **A Protective Order is not bullet proof.**
- **2 or more violations of any protective order or bond condition can be enhanced.**
