

**Presented by HCDVCC**

---



# **PROTECTIVE ORDERS 101:**

**Overview of Protective Orders for  
Advocates Supporting Survivors.**



# OBJECTIVES

The purpose of this training is to provide advocates with information about Protective Orders, specifically in Harris County, Texas.

After this training, advocates will be able to explain:

- Requirements for a protective order in Texas
- The process for getting a protective order in Harris County
- How clients can represent themselves in protective order court
- The difference between a restrictive and no contact protective order
- The difference between magistrate's order of emergency protection (MOEP), temporary ex-parte order (TXO), and protective order (PO)
- The difference between a restraining order and protective order in Texas
- Best ways to safety plan with a protective order

# PRESENTATION OUTLINE

---

## Before the Court Hearing

---

- What is a protective order?
- Protective order v. temporary restraining order.
- PO v. MOEP v. TXO.
- Kick-out orders.
- Who can apply?
- Ways to apply for PO.

## Preparation for/ During the Court Hearing

---

- Preparing for court hearing.
  - For pro se applicants
  - For applicants with attorneys
- Types of hearings.
- General court rules.
- Court proceedings.
  - For pro se applicants
  - For applicants with attorneys

## After the Court Hearing

---

- What to do if granted PO.
- Reporting violations.
- What to do after being denied a PO
- Safety planning.
- Renewing or modifying a PO

# ABOUT COURT ADVOCATE ROLE:

---

**EMOTIONAL  
SUPPORT**

**SAFETY PLAN**

**EXPLAIN PO  
PROCESS**

**EXPLAIN COURT  
PROCEEDINGS**

**PROVIDE  
RESOURCES**

**INFORMATION  
ON HOW  
TO USE PO**



# COMMON LEGAL PHRASES

---

- **Applicant**: the person applying for a protective order.
- **Respondent**: a defendant in a lawsuit, the person being sued by applicant.
- **Hearing**: a hearing is the formal examination of a cause, either civil or criminal, before a judge. Also, refers to any formal proceeding before a court.
- **Pass No Service (PNS)**: this means the respondent was not served (or the court hasn't received notice of service) therefore the hearing will not happen.

# COMMON LEGAL PHRASES

---

- **Process Server**: an individual who delivers important court documents to an individual who has been summoned to appear in court.
- **Motions**: requests for the judge to make a legal ruling.
- **Movant**: a person who applies to or petitions a court or judge for a ruling in his or her favor.
- **Pro Se**: Latin for "on one's own behalf" someone representing themselves.

Sources:

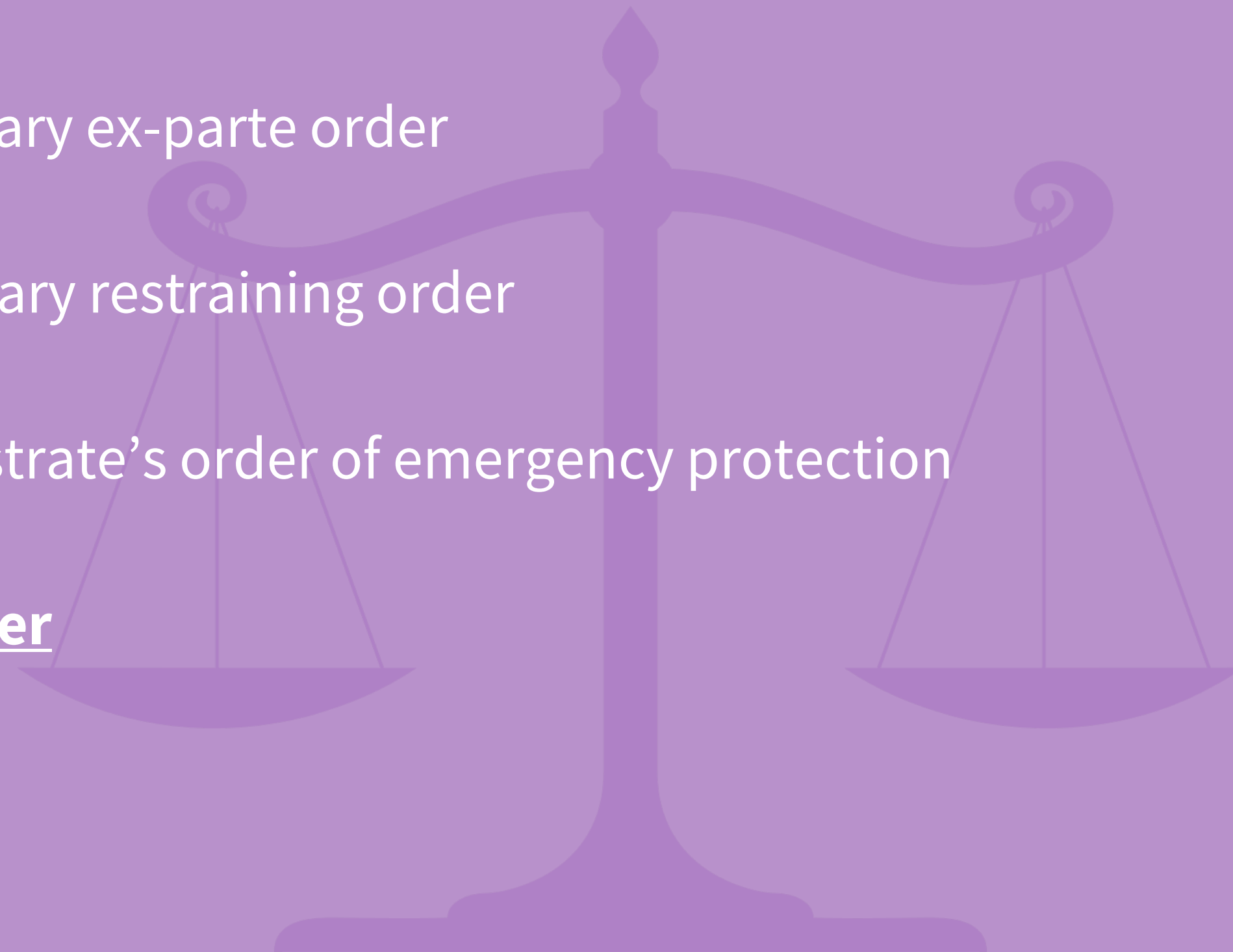
[https://www.americanbar.org/groups/public\\_education/resources/law\\_related\\_education\\_network/how\\_courts\\_work/motions/](https://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/motions/)

<https://www.britannica.com/topic/hearing-law>

# FREQUENTLY USED TERMS

---

- PO: protective order
- TXO: temporary ex-parte order
- TRO: temporary restraining order
- MOEP: magistrate's order of emergency protection
- Kick-out order



**BEFORE THE COURT  
HEARING**

# WHAT IS A PROTECTIVE ORDER?

---

A protective order is a civil suit seeking protection from someone who has been violent.

# WHAT DOES A PROTECTIVE ORDER DO?

---

A protective order, orders the respondent to:

- Not commit acts of violence towards you;
- Refrain from any harassing, threatening, annoying, alarming, abusing, tormenting or embarrassing behavior towards you;
- Not to come within a certain distance of where you live, work, and attend school;
- Not communicate with you at all or in a harassing or threatening manner directly or through a third-party.



# WHO CAN APPLY FOR A PO



- Victims sexual assault, stalking, or harassment;
- Victims of family violence:
  - Former spouses;
  - Member of a dating (a romantic or intimate nature) relationship (adult or minors);
  - Member of a family (related by consanguinity or affinity);
  - Member of the same household;
  - An adult on behalf of a minor;
  - Individuals who are the parents of the same child
  - Foster parents

# WHO CAN APPLY FOR A PO

---

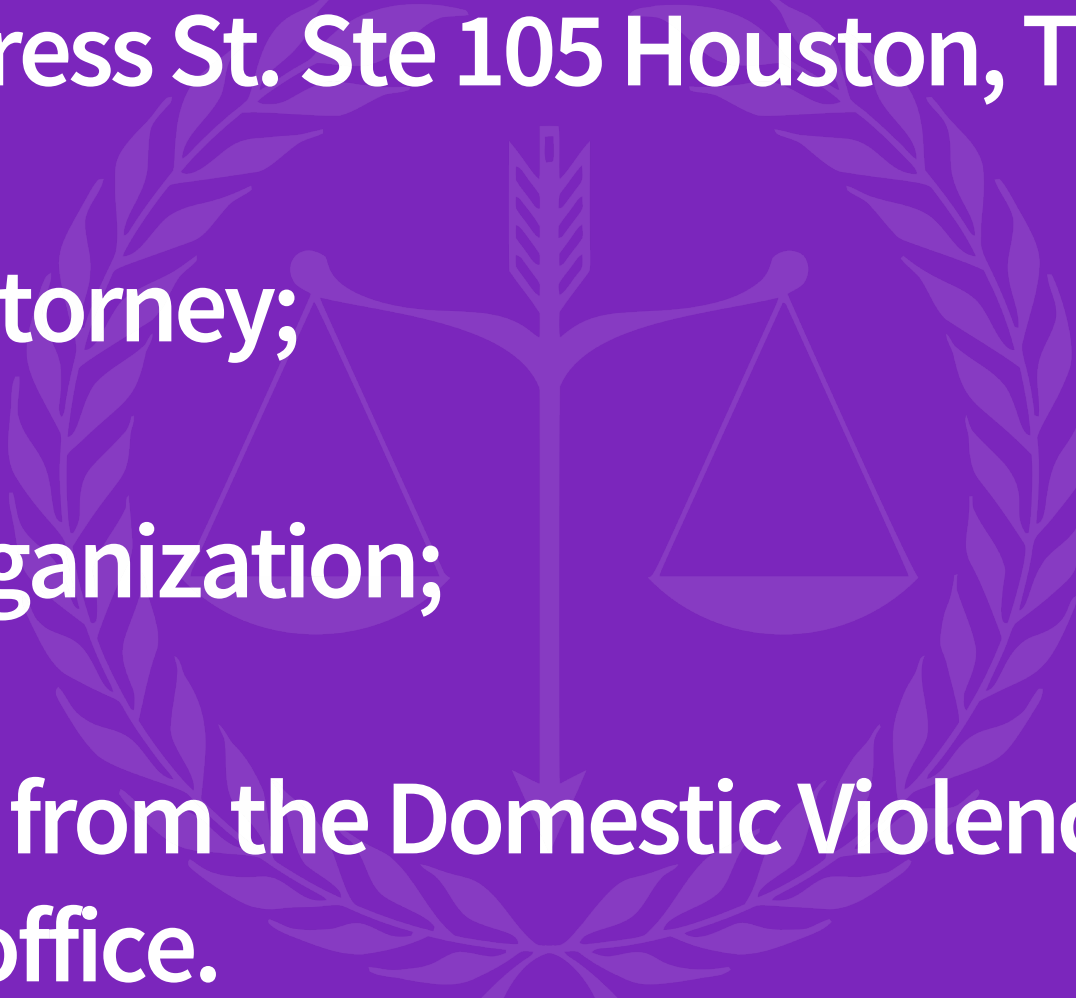


- Crime occurred in Harris County;
- Applicant resides in Harris County;
- Respondent resides in Harris County;



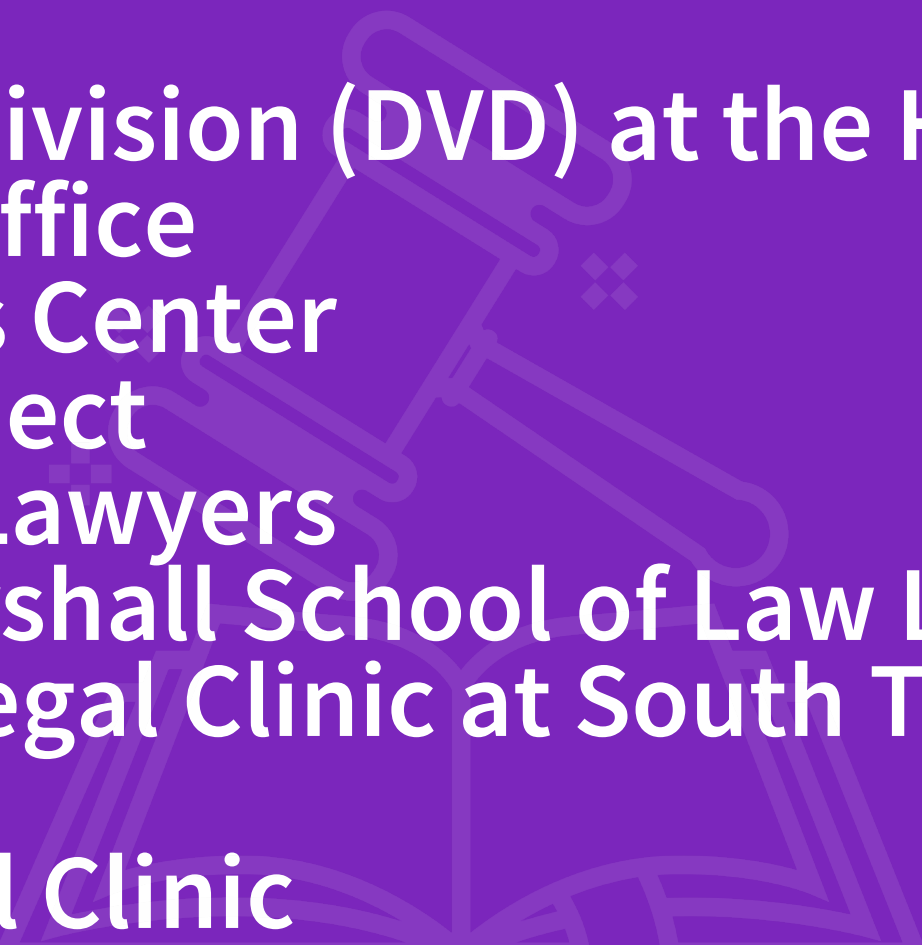
# WAYS TO APPLY FOR PO

---

- In person at 1200 Congress St. Ste 105 Houston, TX 77002;
  - With a private family attorney;
  - With a legal services organization;
  - A prosecuting attorney from the Domestic Violence Division (DVD) at the District Attorney's office.
- 

# ORGANIZATIONS THAT HELP CLIENTS APPLY FOR A PO

---

- Aid to Victim's of Domestic Abuse (AVDA)
  - Lone Star Legal Aid
  - Domestic Violence Division (DVD) at the Harris County District Attorney's Office
  - Texas Legal Services Center
  - Texas Advocacy Project
  - Houston Volunteer Lawyers
  - TSU's Thurgood Marshall School of Law Legal Clinic
  - Randall O. Sorrels Legal Clinic at South Texas College of Law
  - UH Law Center Legal Clinic
- 

# TYPES OF PROTECTIVE ORDERS

---

## NO CONTACT

As the name suggest, this means there is to be **no contact** from the respondent to the applicant, directly or through a third party.



## RESTRICTIVE CONTACT

This is typically implemented when the parties share children. There can still be contact from the respondent to the applicant. It needs to be strictly about the children, **and it can't be harassing or threatening.** 

# DIFFERENCE BETWEEN POs AND TEMPORARY RESTRAINING ORDERS IN TEXAS

---

<b>Protective Order (PO)</b>	<b>Temporary Restraining Order (TRO)</b>
<ul style="list-style-type: none"><li>• Used to prevent further violence, stalking, and/or harassment.</li><li>• For victims of family violence, sexual assault, stalking, and human trafficking.</li><li>• Can be issued for 2 or more years (depending on the facts of the case).</li><li>• <b><i>Has criminal consequences if violated.</i></b> Depending on the violation, the charge can be a felony or misdemeanor.</li></ul>	<ul style="list-style-type: none"><li>• For civil and family court cases.</li><li>• It typically does not exceed 14 days.</li><li>• In civil cases, TROs are issued when “irreparable injury, loss, or damage will occur.”</li><li>• In family cases, TRO’s are issued for “the preservation of the property and for the protection of the parties as necessary.”</li><li>• <b><u>Does NOT have criminal consequences for violations.</u></b></li></ul>

# DIFFERENCE BETWEEN MOEP, TXO, and PO



Magistrate's Order of Emergency Protection (MOEP)	Temporary Ex-Parte Order (TXO)	Protective Order (PO)
<p>Typically, lasts 61-91 days, depending on the charge</p>	<p>Valid for up to 20 days.</p>	<p>Typically issued for minimum 2 years, can be more, depending on the facts of the case.</p>
<p>MOEPs are issued when a <b><i>criminal case is pending, and the defendant has been arrested</i></b> for an offense involving family violence, sexual assault, indecent assault, trafficking, or stalking.</p>	<p>TXOs are issued when “the information contained in an application for a protective order that there is a <b><i>clear and present danger of family violence.</i></b>”</p>	<p>POs are issued after a civil hearing has taken place and the court finds that family violence has occurred or if the parties come to an agreement.</p>
<p>The victim does not need to be present when the MOEP is issued. The magistrate or judge will make a ruling on whether a MOEP is issued.</p>	<p>The victim (or their attorney) will need to apply for a TXO while applying for a po. The victim or their attorney will need to provide an affidavit explaining the <b><i>clear and present danger of family violence.</i></b>”</p>	<p>The victim (or their attorney) will need to apply for the po and be present for the hearing. The victim or their attorney will need to prove that family violence occurred.</p>



# KICK-OUT ORDERS

---

A **kick-out order** is an order from a Judge ordering a respondent to leave the shared residence.

- Applicant must appear in person to testify and does not need to provide notice to respondent.

Sources: <https://texaslawhelp.org/article/kick-out-orders>

<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.83.htm#83.006>



# KICK-OUT ORDERS

---

## How to Apply:

- The applicant will need to complete an application for a temporary ex-parte order and select the “ex parte order: vacate residence immediately” provision.
- The applicant will need to write an affidavit explaining in detail, the reason that the respondent should be removed from the home.
- The events described in the affidavit and testified to in court need to be within 30 days prior to the date the application is submitted.

# KICK-OUT ORDERS

---

## 11 **Ex Parte Order: Vacate Residence Immediately**

The Applicant now lives with the Respondent at: \_\_\_\_\_ or has resided at this Residence within the 30 days prior to filing this Application. The Respondent committed family violence against a member of the household within the 30 days prior to the filing of this Application, as described in the attached Affidavit or Declaration. There is a clear and present danger that the Respondent is likely to commit family violence

## 4

against a member of the household. The Applicant is available for a hearing but asks the Court to issue a Temporary Ex Parte Protective Order immediately without bond, notice, or hearing:

- Granting the Applicant exclusive use and possession of the Residence and ordering the Respondent to vacate the Residence immediately, and remain at least 200 yards away from the Residence pending further Order of the Court; and
- Directing the sheriff, constable, or chief of police to provide a law enforcement officer to accompany the Applicant to the Residence, to inform the Respondent that the Court has ordered the Respondent to vacate the Residence, and to provide protection while the Applicant either takes possession of the Residence or removes necessary personal property.



# KICK-OUT ORDERS

---

## The Judge will need to know:

- That the applicant resides on the premises and has lived there for at least 30 days before their application was filed.
- The respondent has committed family violence, against the applicant or a household member.
- That there is **CLEAR and PRESENT** danger of family violence.

Sources:

<https://texaslawhelp.org/article/kick-out-orders>

<https://statutes.capitol.texas.gov/Docs/FA/htm/FA.83.htm#83.006>



**PREPARATION FOR/  
DURING THE COURT  
HEARING**

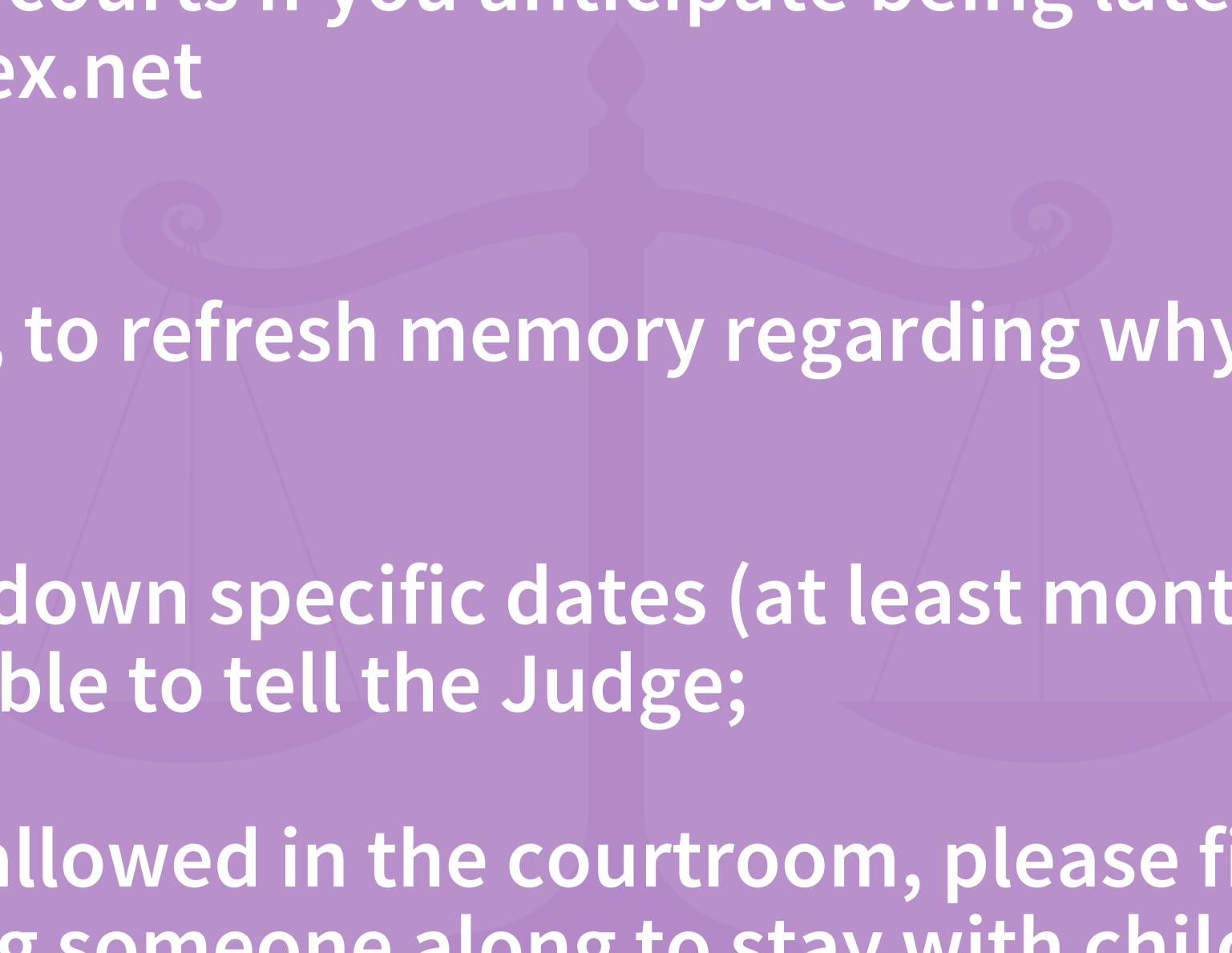
# PREPARING FOR COURT HEARING

---

- Verify if the respondent was served (with the courts, process server, or constable);
- Unless otherwise stated or without prior permission from the court to appear on Zoom; all hearings occur in person;
- Arrive 30-45 mins earlier to find parking, and get through security;
- The courtroom doors don't open until 5-10 mins before 9am, both applicants and respondent will have to wait in the lobby until then. Additional safety planning will be needed;

# PREPARING FOR COURT HEARING

---

- Call or email the courts if you anticipate being late;
    - [280Late@justex.net](mailto:280Late@justex.net)
    - 713-274-4680
  - Review affidavit, to refresh memory regarding why a protective order is being sought;
  - Be sure to write down specific dates (at least month and year) of incidents to be able to tell the Judge;
  - No children are allowed in the courtroom, please find adequate childcare or bring someone along to stay with child while in court.
- 

# PREPARING FOR COURT HEARING

---

## Applicants with Attorneys

- Review the facts of the case with attorney.
- Provide attorney with all evidence.
- If granted a TXO and it was violated, provide attorney with the evidence.
- Safety plan with attorney and assure that they will be coming to court and that they notify the courts if they are running late.

## Pro Se Applicants

- Review affidavit, and declaration.
- Review the Pro Se Applicant Guide & 280th FAQ sheet.
- Gather evidence. Have at least 3 copies: one for self, one for the opposing party, and one for the Judge/court reporter.
- If Ct planning to show a video or play a recording, bring a laptop!
- Provide the court reporter with a USB of the video and audio evidence.
- Safety plan for arrival and departure.

# Types of Hearings

---

## DEFAULT \*\*

The hearing occurs even when the respondent, who has been served, does not appear in court.

## AGREEMENT

Both parties come to an agreement regarding the order.

## CONTESTED

The parties are not able to come to an agreement, so there is going to be a hearing. Both side will get a chance to present their case to the Judge



**\*\* For a default hearing to occur, the respondent needs to be properly served. If the respondent is not served, a default hearing cannot occur.**

# GENERAL COURT RULES

---

- Cell phones should be on silent (not vibrate) or off;
- No audio or visual recording allowed;
- No photographs allowed;
- No talking in the courtroom, there are rooms in the back of the courtroom for applicants to speak with attorney or advocate;
- Applicants and respondents need to inform the bailiffs when they are stepping out of the courtroom;

# GENERAL COURT RULES

---

- No children allowed in the courtroom.
- All parties are expected to “keep their emotions in check” during the court proceedings;
- If the respondent was served less than 48hrs before the court date, they have the right to reset the hearing



# COURT PROCEEDINGS (PRO SE APPLICANTS)

---

- Pro se applicants will have 5-10 mins to present their case;
- Applicants cannot read from a written statement;
- The Judge will ask the applicant to explain what occurred and why they feel they need a protective order;
- Judge may ask applicant clarifying questions;
- The respondent or their attorney will have the opportunity to ask the applicant questions about their testimony;

# **COURT PROCEEDINGS (APPLICANTS WITH ATTORNEY)**

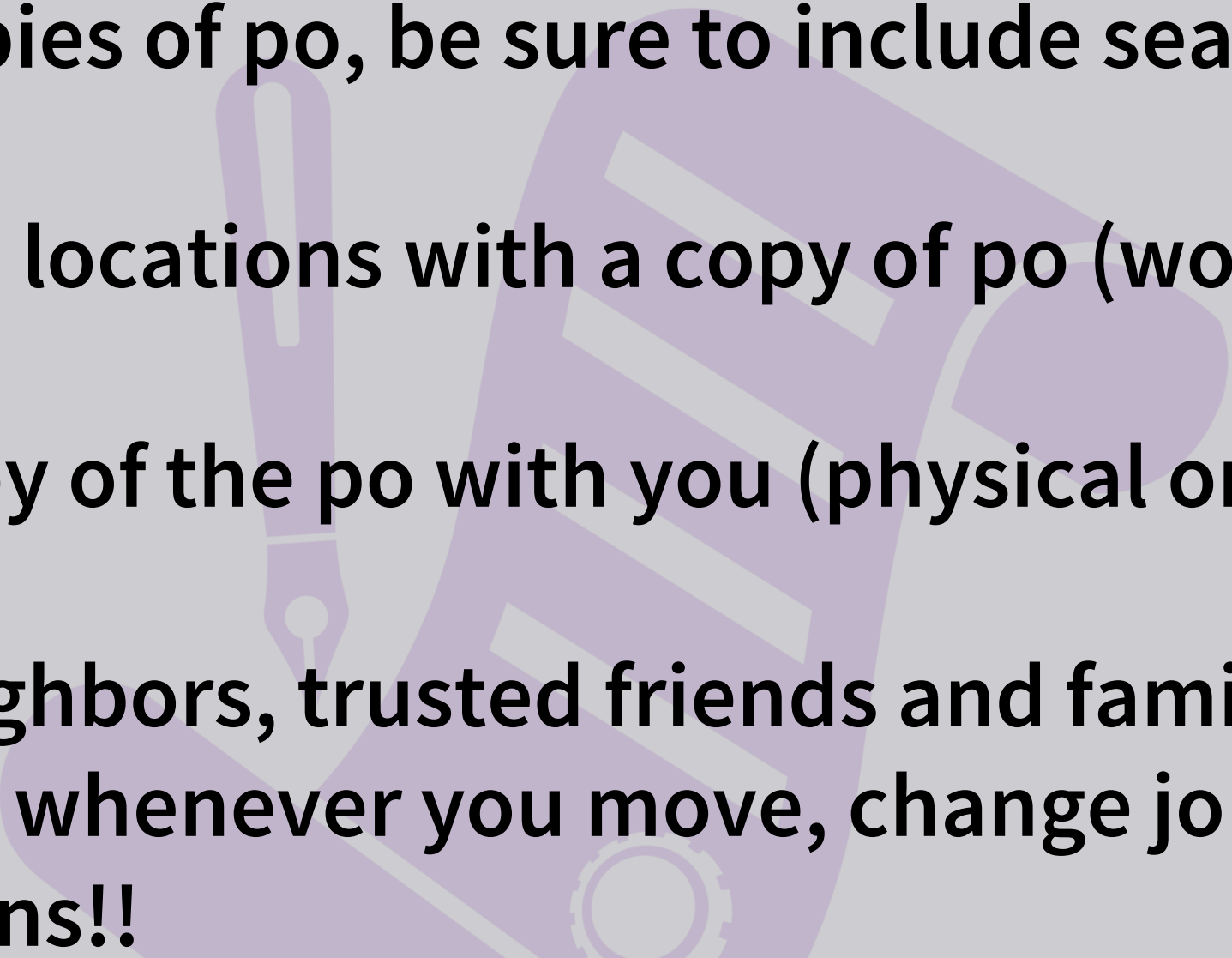
---

- **The Judge MAY ask your attorney to confer with either the respondent or the respondent's attorney to see if the parties can come to an agreement;**
- **The attorney with that 15-45mins to present their case.**
- **The attorney will ask the applicant questions in order to establish the relationship and to detail the incidents that led applicant to apply for a protective order.**
- **The respondent or their attorney will have the opportunity to ask the applicant questions about their testimony;**

# AFTER THE COURT HEARING

# WHAT TO DO AFTER BEING GRANTED A PO

---

- Review document thoroughly to understand conditions;
  - Make multiple copies of po, be sure to include seal on the back of the packet;
  - Provide protected locations with a copy of po (work, school, daycare, etc.);
  - Always have a copy of the po with you (physical or electronic copy-with court seal);
  - Give a copy to neighbors, trusted friends and family;
  - Update addresses whenever you move, change jobs, schools, etc.;
  - Report all violations!!
- 

# UPDATING AN ADDRESS ON THE PO

---

- If po was obtained with DA's office, contact them and let them know your new address (work, home, school, or daycare).
  - Let them know if the address is confidential (unknown to the respondent).
- If po was obtained through a private attorney or through legal services organization; reach out to them and let them know you'd to update your address.
  - Let them know if the address is confidential (unknown to the respondent).
- Pro se applicants can contact the courts directly and ask for the “notification of change of address.” This will need to be filed with the courts, and filing fees apply.
  - On the form, there is an option for the address to be kept confidential.
- The po is valid in ALL 50 states, clients should notify the either the DA's office or the 280<sup>th</sup> court of their move out of the county or state.

# HOW TO REPORT VIOLATIONS



Make sure your client:

- Calls the police and reports the incident.
  - Dispatch needs to know that there is an active protective order in place.
- Goes to a police station and files a report.
  - Very important in cases in which client's address is confidential
- Makes sure it's a separate report/incident (not added to previous reports filed).
- Emphasizes that they'd like to pursue charges for the violations.
- Provides police with the evidence of violations (phone call recordings, screen shots, etc.).
- Keeps a log of all violations with dates, times, and what happened.

# WHAT TO DO AFTER BEING DENIED PO

---

- Clients should create a safety plan with trusted friends, and family;
- Clients can still break out of their lease with a letter from an advocate;
- Continue documenting incidents of abuse (by police report, video, photos, etc..);
- If clients want to apply for a protective order again, they cannot use the same information previously (in the protective order that was denied);
- If clients share a child with the respondent, investigate remedies that can be made in family court through a custody modification.

# SAFETY PLANNING

---



- Code word or phrase with neighbors, trusted friends and family;
- Requesting extra patrol in neighborhood;
- Issuing a trespass affidavit to abuser;
- Safety drill with children (where they should go, who they should call etc..);
- Setting all social media accounts to private;
- If possible, uploading evidence to cloud or to email, so it's accessible from any device.
- Enroll in Address Confidentiality Program with AG's office.



# HELPFUL RESOURCES

## General PO Knowledge & Links

- <https://texaslawhelp.org/article/protective-order-fact-sheet>
- <https://www.justex.net/court/280>
- <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.85.htm>
- Geared towards lawyers, and law enforcement but useful for advocates to know as well: <https://www.tdcaa.com/journal/myths-about-protective-orders/>
- <https://vawnet.org/news/how-can-protective-orders-support-survivors-safety>
- <https://texaslawhelp.org/article/kick-out-orders>

# HELPFUL RESOURCES

## Safety Plan Tools and Information

- Only for your clients in the HCSO jurisdiction: <https://smart911.com/>
- Has a detailed Safety Plan sheet for different scenarios: <https://www.dvccct.org/is-this-abuse/safety-planning/>
- <https://www.texasattorneygeneral.gov/crime-victims/services-crime-victims/address-confidentiality-program>
- <https://www.womenslaw.org/about-abuse/safety-planning>
- To get a Trespass Affidavit with HPD: <https://www.houstontx.gov/police/registrations.htm>

# HELPFUL RESOURCES

## Criminal Case Lookup

- <https://www.vinelink.com/#state-selection>
- <https://www.hcdistrictclerk.com/Common/Default.aspx>
- <https://www.harriscountysoc.org/JailInfo/FindSomeoneInJail>
- <https://jailingq.fortbendcountytexas.gov/>
- <https://www.fortbendcountytexas.gov/government/courts/court-records-research>
- [https://www.mctx.org/departments/departments\\_def/district\\_clerk/inquiry\\_index.php](https://www.mctx.org/departments/departments_def/district_clerk/inquiry_index.php)
- <https://jailroster.mctx.org/>

# **THANK YOU!!!**

**For further questions regarding this presentation and  
protective orders, please contact:**

**Nidia Cantu**

**DVHRT Program Manager**

**[ncantu@hcdvcc.org](mailto:ncantu@hcdvcc.org)**