

FAMILY CODE

TITLE 4. PROTECTIVE ORDERS AND FAMILY VIOLENCE

SUBTITLE B. PROTECTIVE ORDERS

CHAPTER 81. GENERAL PROVISIONS

Sec. 81.001. ENTITLEMENT TO PROTECTIVE ORDER. A court shall render a protective order as provided by Section 85.001(b) if the court finds that family violence has occurred and is likely to occur in the future.

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

Sec. 81.0015. PRESUMPTION. For purposes of this subtitle, there is a presumption that family violence has occurred and is likely to occur in the future if:

(1) the respondent has been convicted of or placed on deferred adjudication community supervision for any of the following offenses against the child for whom the petition is filed:

(A) an offense under Title 5, Penal Code, for which the court has made an affirmative finding that the offense involved family violence under Article 42.013, Code of Criminal Procedure; or

(B) an offense under Title 6, Penal Code;

(2) the respondent's parental rights with respect to the child have been terminated; and

(3) the respondent is seeking or attempting to seek contact with the child.

Added by Acts 2015, 84th Leg., R.S., Ch. 1241 (H.B. 1782), Sec. 1, eff. September 1, 2015.

Sec. 81.002. NO FEE FOR APPLICANT. An applicant for a protective order or an attorney representing an applicant may not be assessed a fee, cost, charge, or expense by a district or county clerk of the court or a sheriff, constable, or other public official or employee in connection with the filing, serving, or entering of a protective order or for any other service described by this subsection, including:

- (1) a fee to dismiss, modify, or withdraw a protective order;
- (2) a fee for certifying copies;
- (3) a fee for comparing copies to originals;
- (4) a court reporter fee;
- (5) a judicial fund fee;
- (6) a fee for any other service related to a protective order; or
- (7) a fee to transfer a protective order.

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.
Amended by Acts 1997, 75th Leg., ch. 1193, Sec. 3, eff. Sept. 1, 1997.

Sec. 81.003. FEES AND COSTS PAID BY PARTY FOUND TO HAVE COMMITTED FAMILY VIOLENCE. (a) Except on a showing of good cause or of the indigence of a party found to have committed family violence, the court shall require in a protective order that the party against whom the order is rendered pay the \$16 protective order fee, the standard fees charged by the clerk of the court in a general civil proceeding for the cost of serving the order, the costs of court, and all other fees, charges, or expenses incurred in connection with the protective order.

(b) The court may order a party against whom an agreed protective order is rendered under Section 85.005 to pay the fees required in Subsection (a).

Added by Acts 1997, 75th Leg., ch. 34, Sec. 1, eff. May 5, 1997.
Amended by Acts 1997, 75th Leg., ch. 1193, Sec. 4, eff. Sept. 1, 1997.

Sec. 81.004. CONTEMPT FOR NONPAYMENT OF FEE. (a) A party who is ordered to pay fees and costs and who does not pay before the date specified by the order may be punished for contempt of court as provided by Section 21.002, Government Code.

(b) If a date is not specified by the court under Subsection (a), payment of costs is required before the 60th day after the date the order was rendered.

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

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

Sec. 81.005. ATTORNEY'S FEES. (a) The court may assess reasonable attorney's fees against the party found to have committed family violence or a party against whom an agreed protective order is rendered under Section 85.005 as compensation for the services of a private or prosecuting attorney or an attorney employed by the Department of Family and Protective Services.

(b) In setting the amount of attorney's fees, the court shall consider the income and ability to pay of the person against whom the fee is assessed.

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

Amended by Acts 1997, 75th Leg., ch. 1193, Sec. 6, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 110 (H.B. 841), Sec. 4, eff. May 21, 2011.

Sec. 81.006. PAYMENT OF ATTORNEY'S FEES. The amount of fees collected under this chapter as compensation for the fees:

(1) of a private attorney shall be paid to the private attorney who may enforce the order for fees in the attorney's own name;

(2) of a prosecuting attorney shall be paid to the credit of the county fund from which the salaries of the employees of the prosecuting attorney are paid or supplemented; and

(3) of an attorney employed by the Department of Family and Protective Services shall be deposited in the general revenue fund to the credit of the Department of Family and Protective Services.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 110 (H.B. 841), Sec. 5, eff. May 21, 2011.

Sec. 81.007. PROSECUTING ATTORNEY. (a) The county

attorney or the criminal district attorney is the prosecuting attorney responsible for filing applications under this subtitle unless the district attorney assumes the responsibility by giving notice of that assumption to the county attorney.

(b) The prosecuting attorney responsible for filing an application under this subtitle shall provide notice of that responsibility to all law enforcement agencies in the jurisdiction of the prosecuting attorney.

(c) The prosecuting attorney shall comply with Article 5.06, Code of Criminal Procedure, in filing an application under this subtitle.

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

Sec. 81.0075. REPRESENTATION BY PROSECUTING ATTORNEY IN CERTAIN OTHER ACTIONS. Subject to the Texas Disciplinary Rules of Professional Conduct, a prosecuting attorney is not precluded from representing a party in a proceeding under this subtitle and the Department of Family and Protective Services in another action involving the party, regardless of whether the proceeding under this subtitle occurs before, concurrently with, or after the other action involving the party.

Added by Acts 1997, 75th Leg., ch. 1193, Sec. 7, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 110 (H.B. 841), Sec. 6, eff. May 21, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 393 (S.B. 130), Sec. 1, eff. June 14, 2013.

Sec. 81.008. RELIEF CUMULATIVE. Except as provided by this subtitle, the relief and remedies provided by this subtitle are cumulative of other relief and remedies provided by law.

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

Sec. 81.009. APPEAL. (a) Except as provided by Subsections (b) and (c), a protective order rendered under this subtitle may be appealed.

(b) A protective order rendered against a party in a suit

for dissolution of a marriage may not be appealed until the time the final decree of dissolution of the marriage becomes a final, appealable order.

(c) A protective order rendered against a party in a suit affecting the parent-child relationship may not be appealed until the time an order providing for support of the child or possession of or access to the child becomes a final, appealable order.

Added by Acts 2005, 79th Leg., Ch. 916 (H.B. 260), Sec. 2, eff. June 18, 2005.

Sec. 81.010. COURT ENFORCEMENT. (a) A court of this state with jurisdiction of proceedings arising under this title may enforce a protective order rendered by another court in the same manner that the court that rendered the order could enforce the order, regardless of whether the order is transferred under Subchapter D, Chapter 85.

(b) A court's authority under this section includes the authority to enforce a protective order through contempt.

(c) A motion for enforcement of a protective order rendered under this title may be filed in:

(1) any court in the county in which the order was rendered with jurisdiction of proceedings arising under this title;

(2) a county in which the movant or respondent resides; or

(3) a county in which an alleged violation of the order occurs.

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

Sec. 81.011. USE OF DIGITIZED SIGNATURE. (a) A digitized signature on an application for a protective order under this title or any other pleading or order in a proceeding under this title satisfies the requirements for and imposes the duties of signatories to pleadings, motions, and other papers identified under Rule 13, Texas Rules of Civil Procedure.

(b) A digitized signature under this section may be applied only by, and must remain under the sole control of, the person whose

signature is represented.

Added by Acts 2015, 84th Leg., R.S., Ch. 1165 (S.B. [813](#)), Sec. 3,
eff. September 1, 2015.