

FAMILY CODE

TITLE 4. PROTECTIVE ORDERS AND FAMILY VIOLENCE

SUBTITLE B. PROTECTIVE ORDERS

CHAPTER 83. TEMPORARY EX PARTE ORDERS

Sec. 83.001. REQUIREMENTS FOR TEMPORARY EX PARTE ORDER.

(a) If the court finds from the information contained in an application for a protective order that there is a clear and present danger of family violence, the court, without further notice to the individual alleged to have committed family violence and without a hearing, may enter a temporary ex parte order for the protection of the applicant or any other member of the family or household of the applicant.

(b) In a temporary ex parte order, the court may direct a respondent to do or refrain from doing specified acts.

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

Amended by Acts 2001, 77th Leg., ch. 91, Sec. 4, eff. Sept. 1, 2001.

Sec. 83.002. DURATION OF ORDER; EXTENSION. (a) A temporary ex parte order is valid for the period specified in the order, not to exceed 20 days.

(b) On the request of an applicant or on the court's own motion, a temporary ex parte order may be extended for additional 20-day periods.

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

Sec. 83.003. BOND NOT REQUIRED. The court, at the court's discretion, may dispense with the necessity of a bond for a temporary ex parte order.

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

Sec. 83.004. MOTION TO VACATE. Any individual affected by a temporary ex parte order may file a motion at any time to vacate the order. On the filing of the motion to vacate, the court shall set a date for hearing the motion as soon as possible.

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

Amended by Acts 2001, 77th Leg., ch. 91, Sec. 5, eff. Sept. 1, 2001.

Sec. 83.005. CONFLICTING ORDERS. During the time the order is valid, a temporary ex parte order prevails over any other court order made under Title 5 to the extent of any conflict between the orders.

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

Amended by Acts 1997, 75th Leg., ch. 1193, Sec. 11, eff. Sept. 1, 1997.

Sec. 83.006. EXCLUSION OF PARTY FROM RESIDENCE. (a) Subject to the limitations of Section 85.021(2), a person may only be excluded from the occupancy of the person's residence by a temporary ex parte order under this chapter if the applicant:

(1) files a sworn affidavit that provides a detailed description of the facts and circumstances requiring the exclusion of the person from the residence; and

(2) appears in person to testify at a temporary ex parte hearing to justify the issuance of the order without notice.

(b) Before the court may render a temporary ex parte order excluding a person from the person's residence, the court must find from the required affidavit and testimony that:

(1) the applicant requesting the excluding order either resides on the premises or has resided there within 30 days before the date the application was filed;

(2) the person to be excluded has within the 30 days before the date the application was filed committed family violence against a member of the household; and

(3) there is a clear and present danger that the person to be excluded is likely to commit family violence against a member of the household.

(c) The court may recess the hearing on a temporary ex parte order to contact the respondent by telephone and provide the respondent the opportunity to be present when the court resumes the hearing. Without regard to whether the respondent is able to be present at the hearing, the court shall resume the hearing before the end of the working day.

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. 4, eff.
September 1, 2011.