

(Article) TROs, Temporary Injunctions, and Temporary Orders In Child Custody Emergencies

CPS Family Helpline for Strong Families and Safe Children (<https://texaslawhelp.org/directory/legal-resource/cps-family-helpline-strong-families-and-safe-children>) [1]



This article discusses temporary orders, temporary restraining orders, and temporary injunctions in emergency situations where the Department of Family and Protective Services might be getting involved.

When is a temporary restraining order in a custody case appropriate?

There are several situations where a temporary restraining order can be filed, but this toolkit (<https://texaslawhelp.org/toolkit/temporary-restraining-orders-temporary-injunctions-and-temporary-orders-cps-situations>) [2] is intended ONLY for an **emergency situation** where:

- a child has been harmed or is at risk of being harmed, and
- a protective order is not more suitable to protect the child.

A temporary restraining order (TRO) is a court order that tells a person not to do certain things such as harming a child, leaving the state with a child, or being around a child.

The Family Helpline (<https://texaslawhelp.org/node/1530/>) [3]'s TRO kit (<https://texaslawhelp.org/node/6231/>) [4] is useful in an emergency situation when you need a court order to protect a child quickly, but the child does not qualify for a protective order.

While most other family law issues require you to serve (give legal notice to) all other parents or conservators before you can set a hearing and talk to a judge, a TRO can be granted “ex parte”—meaning the other parent does not have to be given advance notice that you are asking the judge for a TRO. This means that a TRO can be granted by a judge very quickly—often on the same day that you ask for it.

A TRO is only good for 14 days, so it can work as a quick fix to address an emergency situation, and gives you some more time to serve the parents or other conservators, collect additional evidence, and set another hearing to talk to

a judge.

The next hearing should be set within 14 days of when the judge grants your TRO, and will be your chance to ask the judge to convert the TRO into a temporary injunction, and to enter additional temporary orders for custody, visitation, and child support. This next hearing is also the other parent or conservator's chance to come to court and tell the judge their side of the story and ask for something different.



Could a protective order be better for the child than a TRO?

If a child has been a victim of physical abuse, sexual abuse, or family violence, and is in fear of being harmed again or likely to be harmed again, a protective order may be another available legal option. A protective order may provide better protection than a TRO because it is criminally enforceable.

But not all child abuse or child neglect situations meet all the requirements where a court can grant a protective order. If you have questions about whether a protective order is more appropriate to protect a child, please consult an attorney. See **Domestic Violence: Free Legal Assistance for Victims and Survivors** (<https://texaslawhelp.org/node/736/>) [5]. The Family Helpline (<https://texaslawhelp.org/node/1530/>) [3] TRO kit (<https://texaslawhelp.org/node/6231/>) [4] is useful in an emergency situation when you need a court order to protect a child quickly, but the child does not qualify for a protective order.

Read **I need a protective order** (<https://texaslawhelp.org/toolkit/i-need-protective-order>) [6] to learn about protective orders.

Who can file a motion for TRO?

Any person who has standing to file a Suit Affecting the Parent Child Relationship ("SAPCR"), Modification, or Enforcement can file a Motion for TRO. For information on standing, you can refer back to the **Original SAPCR** (<https://texaslawhelp.org/article/faqs-filing-parent-sapcr-custody-case>) [7], **Modification** (<https://texaslawhelp.org/node/674/>) [8], or **Enforcement** (<https://texaslawhelp.org/node/1919/>) [9] kits on TexasLawHelp. Also read the introduction to the Temporary Restraining Orders, Temporary Injunctions, and

Temporary Orders in Child Custody Emergencies toolkit (<https://texaslawhelp.org/node/6231/>). [4].

A TRO cannot be filed on its own. It must be filed along with an Original SAPCR Petition, Petition to Modify, or Petition for Enforcement, or filed into an active SAPCR, Modification, or Enforcement case.

Every case is different, but in general, the person filing the Motion for TRO is also the person who wants to have managing conservatorship of the child and who plans to keep them safe from the other parent or both parents.



What is a temporary injunction?

A temporary injunction is similar to a TRO because it tells another person not to do certain things. The difference between a TRO and a temporary injunction is that a TRO:

1. Is only good for 14 days, but a temporary injunction is good until your case is over, and
2. Can be granted without notice to the other parent or conservator.

A temporary injunction cannot be granted unless the other parties have been given at least 3 days' notice of the hearing and a chance to attend it.

If you can provide competent evidence that the temporary injunction is necessary, a judge should agree to change your TRO into a temporary injunction at your second hearing (scheduled within 14 days of when the TRO is granted).

This means that the protections in the TRO will continue until you get a final order, which can take several months.

However, if the other parent or conservator is able to show that your evidence is not true or that the children are not actually in danger, the judge can dissolve your TRO—meaning that it will no longer be in effect—and refuse to grant your temporary injunction.

Important: If you do not attend your second hearing, then you will not get your temporary injunction and your TRO will expire (the protections will go away).

What are temporary orders?

Temporary orders are orders that are in place until your case is over and you get a final judgment (“final orders”). It often takes many months to get a hearing set for final orders, so temporary orders give you and the other parent or conservators rules to follow until you can have your final orders hearing.

While a TRO and a Temporary Injunction can only tell another person not to do certain things, Temporary Orders can change who has conservatorship (custody) of a child, whether the other parent’s visitation with the child should be limited in some way, and who pays child support.

You may want to change one, two, or all three of these things depending on your situation. You may also want to request additional temporary orders to protect a child, such as an order that you should get to keep a child’s passport.

If you are requesting temporary orders to protect a child, you should think carefully about what rules need to be in place to keep the children safe, and what evidence you have to support that these rules are in the children’s best interest.

© TexasLawHelp.org - **Source URL:** <https://texaslawhelp.org/article/article-tros-temporary-injunctions-and-temporary-orders-child-custody-emergencies>

Links

[1] <https://texaslawhelp.org/directory/legal-resource/cps-family-helpline-strong-families-and-safe-children>

[2] <https://texaslawhelp.org/toolkit/temporary-restraining-orders-temporary-injunctions-and-temporary-orders-cps-situations>

[3] <https://texaslawhelp.org/node/1530/>

[4] <https://texaslawhelp.org/node/6231/>

[5] <https://texaslawhelp.org/node/736/>

[6] <https://texaslawhelp.org/toolkit/i-need-protective-order>

[7] <https://texaslawhelp.org/article/faqs-filing-parent-sapcr-custody-case>

[8] <https://texaslawhelp.org/node/674/>

[9] <https://texaslawhelp.org/node/1919/>

