

(Instructions and Forms) Temporary Restraining Orders, Temporary Injunctions, and Temporary Orders In Child Custody Emergencies

These instructions explain the steps to:

1. Request a Temporary Restraining Order for the protection of a child, and
2. Attend a second court hearing to request a Temporary Injunction and Temporary Orders for conservatorship, visitation, and child support.

Each step includes a link to the form or forms needed for that step.

Remember that all TROs must be filed along with (or into an active) Original SAPCR, Modification, or Enforcement case! You should review the instructions for your Original SAPCR, Modification, or Enforcement kit along with these instructions.

WARNING! These instructions provide general information, not legal advice. It's a good idea to talk with a lawyer about your particular situation.

You must read [\(Article\) TROs, Temporary Injunctions, and Temporary Orders In Child Custody Emergencies](https://texaslawhelp.org/node/6591/) (<https://texaslawhelp.org/node/6591/>) [1] to help you understand what a court can do in this situation.

Step 1: Prepare your original SAPCR, modification, or enforcement case.

Before you file a motion for temporary restraining orders, temporary orders, or a temporary injunction, you must prepare your Original SAPCR, Modification, or Enforcement case.

Read the instructions for the Original SAPCR, modification, or enforcement case that you plan to file.

If you are a nonparent, make sure you have **standing** to file the case.

- **Suit Affecting the Parent-Child Relationship**
(<https://texaslawhelp.org/toolkit/sapcr-i-need-custody-order-i-am-childs-parent>) [2]
- **Suit Affecting the Parent-Child Relationship (nonparent)**
(<https://texaslawhelp.org/toolkit/sapcr-i-need-custody-order-i-am-not-childs-parent>) [3]
- **Modification (<https://www.texaslawhelp.org/node/674>) [4]**
- **Enforcement (<https://www.texaslawhelp.org/node/1607>) [5]**

Prepare all your forms according to the instructions.

Step 2: Fill out your court forms.

Fill out the Motion for Temporary Restraining Order, Temporary Injunction, and Temporary Orders:

- **Motion for Temporary Restraining Order, Temporary Injunction, and Temporary Orders (1 respondent) (<https://texaslawhelp.org/form/petitioner%E2%80%99s-motion-temporary-restraining-order-temporary-injunction-and-temporary-orders-1>) [6]**, or
- **Motion for Temporary Restraining Order, Temporary Injunction, and Temporary Orders (2 respondents) (<https://texaslawhelp.org/form/petitioner%E2%80%99s-motion-temporary-restraining-order-temporary-injunction-and-temporary-orders-2>) [7]**

This form (the “Motion” for short) tells the judge all three things you are asking for:

1. At the **first** emergency hearing you are asking for a **TRO** that tells the other parents or conservators not to do certain things for 14 days; you are also asking the judge to schedule a second hearing.
2. At the **second** hearing, you are asking the judge to change your TRO into a temporary injunction that tells the other parent or conservator to continue not doing certain things until your case is over.
3. Also at the second hearing, you are asking for **temporary orders**

regarding conservatorship, visitation, and child support.

You do not have to request temporary orders for all three of these things. Many parents may just want to place limits on visitation and not make any other changes to child support or conservatorship. Other parents or nonparents may want to change who has managing conservatorship of the child, and as a result will also need to make changes to both visitation and child support.

If you are filing this along with an Original SAPCR, leave the cause number and court number on the first page blank. The clerk will fill in this information when you file it.

If you are filing this Motion along with a Modification or Enforcement action, write the cause number and court number on the first page of the Petition just as it is written on the order you want to change or enforce. (Write these numbers at the top of any document you file in your modification or enforcement case.)

Print your answers using blue or black ink. Do not leave blanks.

Any time you see a blank to fill in the name of the Petitioner or a Respondent, make sure you write in the full name of that person.

Remember to think about what evidence you have to support that everything you are asking for is in the child or **children's best interest** (<https://texaslawhelp.org/faq/what-does-court-think-about-when-deciding-what-best-interest-child>) [8]. For example, if the other parent can have a safe and loving relationship with your child as long as all visits are supervised by another trusted adult, it may not be in your child's best interest to try to completely end all visits. See **Gathering and Presenting Evidence** (<https://texaslawhelp.org/article/gathering-and-presenting-evidence>) [9].

Who is the petitioner? You are the petitioner—the person who is asking the court for the TRO, temporary injunction, and temporary orders. This is true even if you are listed as the Respondent in the existing order.

Who must be listed as a respondent? If you are filing your Motion along with an Original SAPCR, the other parent of the child must be listed as the respondent. If you are a nonparent, both parents must be listed as

Respondents, even if you are only requesting a TRO for one parent.

If you are filing your Motion along with a Modification or Enforcement action, any person listed as a party in the existing order must be listed as a **respondent**.

In some cases the only respondent is the other parent. In other cases, there may be additional Respondents, such as family members or friends who are the child's legal conservator or who have court-ordered visitation rights.

- If your case has **one** Respondent, use the TRO forms for two parties (one respondent).
- If your case has **two** different Respondents (not including the Attorney General's Office), make sure to use the TRO forms for three parties (with two respondents).

If you have more than two respondents (not including the Attorney General's Office), you should talk to a lawyer about how to include additional respondents in your Motion and Orders. Visit TexasLawHelp's **Legal Help Finder** (<https://texaslawhelp.org/legal-help/legal-help-finder>) [10] or call a **lawyer referral service** (<https://texaslawhelp.org/node/85>) [11].

There will likely be additional forms that you need to attach to your motion. If you are not sure which forms you need, you should speak to an attorney.

- **Affidavit for TRO** (<https://texaslawhelp.org/node/6247/>) [12]
 - This affidavit will be included in most requests for TRO when there is an emergency. If you are unsure if it applies to you, talk to an attorney.
 - Attach this affidavit if you are asking that the court issue a TRO (1) attaching the body of the child; (2) taking the child into the possession of the court or putting the child in your possession; or (3) excluding a parent from possession of or access to a child.
- **Affidavit for Temporary Orders Changing Custodial Parent or Geographical Restriction** (<https://texaslawhelp.org/node/6356/>) [13]
 - Complete and attach this affidavit if you are asking to change who the custodial parent is; change the geographic restriction; create a

geographic restriction; or remove the geographic restriction.

- **Certificate of Attempted Notice (<https://texaslawhelp.org/node/6246/>) [14]**
 - If your county requires you to try to give notice to the other parent (check your **county's local rules (<http://maps.txcourts.gov/>) [15]**) before obtaining a TRO, follow the instructions in the form and include it among the forms you file in Step 3, below.

It is a good idea to go ahead and fill out your Temporary Restraining Order, Temporary Injunction and Temporary Order so that it is ready to go if the judge decides to sign it. Print out an extra blank copy in case the judge orders something different than what you've asked for.

- **Temporary Restraining Order, Temporary Injunction and Temporary Order (1 Respondent) (<https://texaslawhelp.org/node/6770/>) [16]**
- **Temporary Restraining Order, Temporary Injunction and Temporary Order (2 Respondents) (<https://texaslawhelp.org/form/temporary-restraining-order-and-order-setting-hearing-2-respondents-sapcr-or-modification>) [17]**

□ **Step 3: File (turn in) the motion and present it to the court.**

Usually, the person filing the Motion for TRO, Temporary Injunction, and Temporary Orders will file it at the same time as the Petition for Original SAPCR, Enforcement, or Modification (referred to as the Petition).

- However, if an Original SAPCR, Modification, or Enforcement action is already pending, you can file a Motion for TRO into that case. **The Motion for TRO will NEVER be filed on its own to create a new case.**
- File (turn in) your completed Petition and Motion for TRO and other forms with the court in the county where the child has lived for 90 days (if it is an original SAPCR) or where the current order was made (if it is a modification or enforcement). You should be able to file it electronically instead of in person. See **eFile Self Help (<https://selfhelp.efiletexas.gov/SRL>) [18]**.

- Talk to your District Clerk’s Office about their local rules for handling a Motion for TRO.
- Some counties require the Petitioner to file the Petition and the Motion first, and then the clerk will send your Motion to the judge that will hear the case. Other counties may want you to present your Motion for TRO to a judge and get a signature before you file it. One way or another, your Petition and Motion should both be filed with the Clerk, and you should speak to a judge and request your TRO all on the same day. If you are in a smaller county and a judge is not available that day, ask the clerk how soon you can see a judge and when to come back.
- Different counties also have different rules about which judges can hear your TRO case. Although Texas law allows any presiding judge, associate judge, or district or county court judge to hear a Motion for TRO, some counties may want you to try to present your Motion to the judge assigned to your case first; if that judge is unavailable, you should be able to present it to any other judge. Other counties may have a certain judge available each day for “uncontested docket,” and that judge will be the one to hear your Motion. You can ask your District Clerk what your county’s procedure is.
- Read **Tips for the Courtroom** (<https://texaslawhelp.org/article/tips-courtroom>) [19], **Virtual Court** (<https://texaslawhelp.org/article/virtual-court>) [20], and **Gathering and Presenting Evidence** (<https://www.texaslawhelp.org/node/6360>) [21].
- You do not know if the judge will grant your TRO and—for those counties where the Respondent must be given notice—you do not know if the Respondent will appear at the hearing. So it is good practice to fill out your Temporary Restraining Order in advance with the things you are asking for, AND to bring an extra blank copy of the Temporary Restraining Order in case the judge orders something different than what you asked for. On the blank copy, you can go ahead and fill in the case number, court, and style at the top of the page. On the blank copy, you can go ahead and fill in the case number, court, and style at the top of

the page.

□ Step 4: The judge will rule on your Motion for TRO.

Hand the judge your completed forms:

- **Petitioner’s Motion for Temporary Restraining Order, Temporary Injunction and Temporary Orders 1 Respondent**
(<https://texaslawhelp.org/form/petitioner%E2%80%99s-motion-temporary-restraining-order-temporary-injunction-and-temporary-orders-1>) [6], (<https://texaslawhelp.org/form/petitioner%E2%80%99s-motion-temporary-restraining-order-temporary-injunction-and-temporary-orders-1>) [6] or
- **Petitioner’s Motion for Temporary Restraining Order, Temporary Injunction and Temporary Orders, 2 Respondents**
(<https://texaslawhelp.org/form/petitioner%E2%80%99s-motion-temporary-restraining-order-temporary-injunction-and-temporary-orders-2>) [7].
- **Affidavit for TRO (<https://texaslawhelp.org/form/affidavit-temporary-restraining-orders>) [22]**
- **TRO Affidavit - Change of Custodial Parent or Geographic Restriction (<https://texaslawhelp.org/node/6356/>) [13]**
- **Certificate of Attempted Notice (<http://www.texaslawhelp.org/node/6246>) [23]**, if necessary

It is a good idea to go ahead and fill out your Temporary Restraining Order, Temporary Injunction and Temporary Order so that it is ready to go if the judge decides to sign it. Print out an extra blank copy in case the judge orders something different than what you’ve asked for.

- **Temporary Restraining Order, Temporary Injunction and Temporary Order (1 Respondent) (<https://texaslawhelp.org/node/6770/>) [16]**
- **Temporary Restraining Order, Temporary Injunction and Temporary Order (2 Respondents) (<https://texaslawhelp.org/form/temporary-restraining-order-and-order-setting-hearing-2-respondents-sapcr-or-modification>) [17]**

Have your filled out and your blank Temporary Restraining Order on hand; the

judge may want to look at it, as well.

The judge will review your affidavit and may ask you additional questions. Then the judge will either deny your TRO or will grant your TRO. If the judge grants your TRO, he or she should fill it in (if necessary), sign it, and set your next hearing within 14 days. This second hearing should take precedence over other civil matters.

Note: If the court is unable to set the second hearing within 14 days, you can:

- File a (<https://texaslawhelp.org/form/motion-extend-temporary-restraining-order>) [24] **Motion to Extend the TRO** (<https://texaslawhelp.org/form/motion-extend-temporary-restraining-order>) [24], and
- Have the **Order to Extend TRO** (<http://www.texaslawhelp.org/node/6300>) [25] granted within the 14 days;

Otherwise, the TRO will expire after 14 days, and the protections will be lost. The court is allowed to grant one 14-day extension. After that, any extensions must be agreed to by the Respondent.

If the TRO is not extended or converted into a temporary injunction within 14 days, the TRO will expire at midnight on the 14th calendar day after the TRO was signed, or the date of the second hearing—whichever is earlier.

Step 5: Serve the Respondents with the TRO.

Either the judge will send your temporary restraining order and order setting hearing to the clerk, or you will take it to the clerk's office to be filed. Once filed, the clerk is responsible for issuing a "writ" and serving all the documents on the respondents.

The **writ** will list out who the parties to the case are, describe what happened at court, and command the Respondents to refrain from doing any acts listed in the TRO. It will also tell the Respondents the day and time for the second hearing on the temporary injunction and temporary orders.

The respondents must be served with the writ, the temporary restraining order, and all the other paperwork filed with the clerk. The method of service will depend on whether you filed your motion for TRO along with your petition

for original SAPCR, modification, or enforcement case, or whether you filed your motion for TRO by itself.

See **[How to Serve the Initial Court Papers \(https://texaslawhelp.org/article/how-serve-initial-court-papers-family-law\)](https://texaslawhelp.org/article/how-serve-initial-court-papers-family-law)** [26] for more info on service. The motion, TRO, and writ must be **served** on the respondents immediately and no later than three days before the second hearing, unless the court shortens this time period.

The TRO is not effective until the respondent to be restrained receives actual notice by personal service or otherwise. Further, the TRO must include the date and the hour that it was issued, because a court cannot hold a respondent in contempt for an act that happened before the order was issued.

□ **Step 6: Prepare for the Temporary Injunction and Temporary Orders Hearing**

Both the temporary injunction and the temporary orders require the Respondents to be given notice of the hearing at least three days in advance, unless the court gives a shorter deadline. If you are requesting child support in your temporary orders, notice of the second hearing must also be given to the Attorney General's Office.

Some counties require parties to do certain things before setting a temporary orders hearing (such as exchanging financial information if child support is requested, or attending mediation). Check your county's local rules, and do not forget that your TRO is only good for 14 days unless the court extends it (the court can only do this once) or the parties agree to extend it (this can be done more than once). If you do not feel safe attending mediation or completing other local requirements, you can ask the judge to waive the requirement or seek other legal remedies.

Prepare Your Evidence

IMPORTANT: Read **[Gathering and Presenting Evidence \(https://texaslawhelp.org/article/gathering-and-presenting-evidence\)](https://texaslawhelp.org/article/gathering-and-presenting-evidence)** [9].

Think about what you believe the safety concerns involving your children are and why the situation was an emergency requiring a TRO. You must be able

to prove your allegations with evidence. Evidence can come in the form of in-person witness testimony, documents, photographs, and videos.

Know the Laws

Keep in mind that when a court makes orders about a child, the court typically must consider what is in the best interest of the child. Read **What does the court think about when deciding what is in the best interest of the child?** (<https://texaslawhelp.org/faq/what-does-court-think-about-when-deciding-what-best-interest-child>) [8]

You should also read **Legal Research: Steps to Follow;** (<https://www.texaslawhelp.org/node/150>) [27] **Legal Research Resources for Beginners** (<https://guides.sll.texas.gov/legal-research-for-beginners>) [28] (from the state law library of Texas) and the **Harris County Law Library's guide on family law research.** (<https://texaslawhelp.org/sites/default/files/familylawresearchguide.pdf>) [29]

You **must** review and understand the applicable laws, which are explained here: **Factors the Family Court Considers for Temporary Orders** (<https://texaslawhelp.org/node/6604/>) [30].

Prepare Your Orders

- Print and prepare your temporary order forms. Remember that some Petitioners will be asking for changes to visitation, custody and child support; some petitioners will only be asking for changes to visitation. If you have two different respondents, you may be asking for a change for one Respondent but not the other. Decide which attachments you need for your order, and print out two copies of each one. Fill out one copy based on what you are asking the judge for, and keep the other copy blank.
 - The attachments can include:
 - **Temporary Child Support** (<https://texaslawhelp.org/form/temporary-child-support-order>) [31]
 - If you are asking that the other parent or parents be ordered to pay child support, complete and attach a Temporary Child Support Order and an Income Withholding Order for each parent who will be ordered to

request.

If you (Petitioner) do not attend the hearing, the TRO will be dissolved (meaning it will no longer be in effect) and your injunction will be denied. It may also take much longer to get another hearing for your temporary orders. It is very important that you attend your second hearing.

Bring these papers with you to the courthouse on the day of your second hearing:

- A file-stamped copy of your Motion for Temporary Restraining Order, Temporary Injunction & Temporary Orders, including affidavits
- A file-stamped copy of the Return of Service showing that the Respondent(s) have been properly served
- A completely filled out Temporary Injunction and Temporary Orders (including attachments) AND a blank copy of your Temporary Injunction and Temporary Orders in case the judge orders something different than what you are asking for.
- A completely filled out **Income Withholding for Support Order** (<https://www.acf.hhs.gov/css/resource/income-withholding-for-support-form>) [35] for each parent if child support will be ordered, changed or stopped.

Next steps:

- When you get to the courthouse, go to the clerk's office.
- Ask the clerk if you need the court file or docket sheet (list of what has been filed in your case).
- When you get to the courtroom, tell the clerk (usually sitting next to the judge's bench) you are there and give the clerk your paperwork. Sit down until the judge calls your case.
- When the judge calls your case, walk to the front of the courtroom and stand in front of the judge's bench. The judge will have you raise your

right hand and swear to tell the truth. Be prepared to quickly tell the judge that you want to change your TRO into a temporary injunction, and what temporary orders you are asking for. It's a good idea to write down everything you want to say ahead of time. You can read it to the judge if you get nervous.

- Even if the Respondent does not appear at the hearing, you still must show the judge “competent evidence” to convince the judge to grant your temporary injunction. Be prepared to tell the judge why you are asking for a temporary injunction and why these orders would be in your child’s best interest.
- If the Respondent does not appear at the hearing, you may be able to get a default order for your temporary orders.
- The judge can limit the amount of time that each party has to present evidence. You can ask at the beginning of the hearing how much time you have. If your time will be limited, you can prepare to offer the most compelling evidence first. Although the judge can limit the evidence, the judge CANNOT deny any party the right to offer evidence.
- The judge will listen to what you say (and what the Respondent says if they come to court) and will make an order. Your Temporary Injunction and Temporary Orders document should reflect exactly what the judge says, and then the judge will sign the orders.

Step 8: File the signed orders with the clerk.

After the judge signs your Temporary Injunction and Temporary Orders, go back to the district clerk’s office. File (turn in) your Temporary Injunction and Temporary Orders signed by the judge. Contact the clerk's office to see if you can file electronically or need to make an appointment.

Get a certified copy of your Temporary Injunction and Temporary Orders signed by the judge from the clerk while you are there. This way, you can show anyone who needs to know the limits that have been placed on a

Respondent's access to the children—such as a school, daycare, doctor, the police, CPS, other relatives, etc. The clerk may charge a fee for the certified copies.

If child support was ordered, ask the clerk what you need to do to set up a child support account. If child support was changed or terminated, ask the clerk to send a copy of the income withholding order for support to the employer of the person who was ordered to pay child support.

□ **Step 9: Serve the respondents with the temporary injunction.**

Similar to Step 5, if your temporary injunction is granted then the clerk is responsible for issuing a writ and serving the respondents with the temporary Injunction. The writ will say who the parties are, describe what happened at court, and command the respondents to refrain from the acts listed in the temporary injunction.

The writ must be served by the sheriff or constable in the county where the respondent to be restrained resides, or by another person authorized by the court.

□ **Step 10: What to do next.**

Remember that the orders you've received are only temporary.

You still must complete your Original SAPCR (**parent filing** (<https://texaslawhelp.org/toolkit/sapcr-i-need-custody-order-i-am-childs-parent>) [2] or **nonparent filing** (<https://texaslawhelp.org/toolkit/sapcr-i-need-custody-order-i-am-not-childs-parent>) [3]), **modification** (<https://texaslawhelp.org/toolkit/modification-i-need-change-custody-visitation-or-support-order>) [36], or **enforcement** (<https://texaslawhelp.org/article/how-enforce-visitation-order>) [37] case.

This will require you to set an additional hearing for Final Orders and to prepare for that hearing. You can review the instructions for your original SAPCR, modification, or enforcement kit to find out how to do this.

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Links

- [1] <https://texaslawhelp.org/node/6591/>
- [2] <https://texaslawhelp.org/toolkit/sapcr-i-need-custody-order-i-am-childs-parent>
- [3] <https://texaslawhelp.org/toolkit/sapcr-i-need-custody-order-i-am-not-childs-parent>
- [4] <https://www.texaslawhelp.org/node/674>
- [5] <https://www.texaslawhelp.org/node/1607>
- [6] <https://texaslawhelp.org/form/petitioner%E2%80%99s-motion-temporary-restraining-order-temporary-injunction-and-temporary-orders-1>
- [7] <https://texaslawhelp.org/form/petitioner%E2%80%99s-motion-temporary-restraining-order-temporary-injunction-and-temporary-orders-2>
- [8] <https://texaslawhelp.org/faq/what-does-court-think-about-when-deciding-what-best-interest-child>
- [9] <https://texaslawhelp.org/article/gathering-and-presenting-evidence>
- [10] <https://texaslawhelp.org/legal-help/legal-help-finder>
- [11] <https://texaslawhelp.org/node/85>
- [12] <https://texaslawhelp.org/node/6247/>
- [13] <https://texaslawhelp.org/node/6356/>
- [14] <https://texaslawhelp.org/node/6246/>
- [15] <http://maps.txcourts.gov/>
- [16] <https://texaslawhelp.org/node/6770/>
- [17] <https://texaslawhelp.org/form/temporary-restraining-order-and-order-setting-hearing-2-respondents-sapcr-or-modification>
- [18] <https://selfhelp.efiletexas.gov/SRL>
- [19] <https://texaslawhelp.org/article/tips-courtroom>
- [20] <https://texaslawhelp.org/article/virtual-court>
- [21] <https://www.texaslawhelp.org/node/6360>
- [22] <https://texaslawhelp.org/form/affidavit-temporary-restraining-orders>
- [23] <http://www.texaslawhelp.org/node/6246>
- [24] <https://texaslawhelp.org/form/motion-extend-temporary-restraining-order>
- [25] <http://www.texaslawhelp.org/node/6300>
- [26] <https://texaslawhelp.org/article/how-serve-initial-court-papers-family-law>
- [27] <https://www.texaslawhelp.org/node/150>
- [28] <https://guides.sll.texas.gov/legal-research-for-beginners>
- [29] <https://texaslawhelp.org/sites/default/files/familylawresearchguide.pdf>

[30] <https://texaslawhelp.org/node/6604/>

[31] <https://texaslawhelp.org/form/temporary-child-support-order>

[32] <https://texaslawhelp.org/form/temporary-medical-and-dental-support-order>

[33] <https://texaslawhelp.org/form/temporary-standard-possession-order>

[34] <https://texaslawhelp.org/article/income-withholding-support-order-iwo-child-support>

[35] <https://www.acf.hhs.gov/css/resource/income-withholding-for-support-form>

[36] <https://texaslawhelp.org/toolkit/modification-i-need-change-custody-visitation-or-support-order>

[37] <https://texaslawhelp.org/article/how-enforce-visitation-order>