



PEACE BONDS, PROTECTIVE ORDERS AND RESTRAINING ORDERS

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JUSTICE OF THE PEACE - DENTON COUNTY

The following information is not offered as legal advice, but is procedural information only. The court and its staff cannot give legal advice. The information herein is not exhaustive. You should seek legal counsel from a licensed attorney if you have questions.

FREQUENTLY ASKED QUESTIONS

What do they do?

Peace bonds, Protective Orders and Restraining Orders are different instruments that seek to *enjoin* (prevent) future criminal or harmful actions. They are intended to *prevent, not punish*. The penalties for violating these orders include fines or sanctions, confinement in jail and/or criminal charges.

What do they not do?

There is little these orders can do that the laws of the State of Texas do not already enjoin. Laws are already in place to prohibit murder, assault, stalking, terroristic threats, theft and vandalism.

What is a Restraining Order?

A *Restraining Order* can enjoin an individual from nearly any activity that might harm you, including emptying bank accounts,

selling property, canceling credit cards, harassing telephone calls, diverting mail and other similar activities.

***These orders,
while legal documents,
are only
pieces of paper:***

***They are not
walls, locks or
bodyguards.***



How do I obtain a Restraining Order?

They are most commonly sought in connection with a suit for divorce. You should seek private legal counsel for assistance.

What is a Protective Order?

A protective order is intended to prevent *family violence* by a member of a *family or household* (or former member of the household) by another member of the household that is intended to result in:

- ☆ Physical harm, bodily injury or assault; or
- ☆ A threat that reasonably places the member in fear of imminent physical harm, bodily injury or assault, *excluding reasonable discipline of a child by a person having that duty:* or
- ☆ Abuse towards a child of the family or household

...Continued from Page One

Who is “family” according to the law?

- ☆ Spouses, brothers, sisters (those related by “consanguinity or affinity” - blood or marriage);
- ☆ Former spouses;
- ☆ Biological parents of the same child without regard to marriage;
- ☆ Foster child and foster parent *whether or not those individuals reside together.*

What is “household” according to the law?

A household is a unit composed of persons living together in the same dwelling *whether or not they are related to each other.*



How do I obtain a Protective Order?

Call: Denton County District Attorney’s Office at 940-349-2600

or

Go to:

Denton County District Attorney’s Office, Denton County Courts Building, 3rd Floor, 1450 E. McKinney Street, Denton, TX 76201.

- ☆ *North on Main (FM 423) to Highway 380*
- ☆ *West (Left) on Highway 380 to Loop 288*
- ☆ *South (Left) on Loop 288 to McKinney Street*
- ☆ *West (Right) on McKinney.*
- ☆ *Courthouse will be on your left near the Denton County Jail.*
- ☆ You will be interviewed by an Assistant district Attorney or an Investigator.
- ☆ Be prepared to fill out an affidavit with specific facts, including: *personal identification on the abuser: Social Security Number, birthdate, driver’s license number (if available), physical description.*
- ☆ *You must swear to the truth of your affidavit.*
- ☆ The investigator will present your affidavit and **Temporary Protective Order** to a judge for signature.
- ☆ A Constable will give this order priority and will attempt to serve the abuser with the Order within 14 Days. *You are responsible for your own safety during this time.*

- ☆ When service on the abuser is accomplished, you will be notified of a court date to appear before the judge for a **Permanent Protective order.**

What is a Peace Bond?

A peace bond is issued by a Magistrate, and requires an individual (*who is not a household or family member*) to post a bond conditioned that the individual will not commit a specific act of harm for a period of one year. The individual must post either a surety bond or a cash bond for one year (in an amount set by the judge after a hearing), *or go to jail for one year until adequate bond is posted.*

This is a severe penalty!

You must be able to prove the following:

- ☆ There is just reason to believe the offense was **intended to be committed;**
- or
- ☆ That the threat was **seriously made.**

QUESTIONS....Continued from Page Two

What is not a threat?

- ☆ A rash statement about a third person made during a quarrel, or bragging about not being afraid of someone;
- ☆ Abusive language and bragging by a drunk;
- ☆ A rash threat resulting from an outburst of temper in the heat of passion;
- ☆ A rash statement provoked during an angry altercation;

...are not serious threats.

How do I obtain a Peace Bond?

- ☆ Go to the local Justice of the Peace for a Peace Bond.
- ☆ Bring identifying information on the offending individual: *Name, address, work address, birthdate, social security number, driver's license number, etc.*
- ☆ Be *very specific* in completing the affidavit. Make reference to:
 - a. Dates;
 - b. Locations;
 - c. *Specific language* used in threats (don't be afraid to write a curse word in its entirety in the affidavit);

d. Your personal fears for yourself, your family or your property;

e. List names and addresses and phone numbers of witnesses who will testify.

☆ Sign the affidavit before the Court Clerk, Notary Public or Judge.

☆ ***Do not ask to speak with the Judge. The Judge is unable to hear the case if you have spoken with him or her prior to the hearing.***

☆ Based *only on your affidavit* the Judge *may* issue a warrant for the immediate arrest of the offending individual. ***This is very rare.*** More likely, the individual will be summoned to the Court within a few days. You will not need to be there at that time.

☆ At the first court date, the offending individual will be advised of the complaint against him, and the possible

penalties involved, and of his right to counsel. An appearance bond may be set to insure his appearance at a subsequent court date, conditioned that he not accost you or your property pending the hearing.

☆ You will receive notice of a priority Court date, usually within ten days. ***The accused is not entitled to a jury trial.***

☆ Call your witnesses on the phone to advise them of the Court date and bring them with you to Court. You may bring your own attorney, or an Assistant District Attorney will appear.

☆ You and your witnesses will be asked to testify under oath and will be subject to cross-examination by the alleged offender or his attorney. ***You must tell the truth.***

☆ ***There are no guarantees that the court will find a bond should be set or that the accused will be jailed.***

The alleged offender has the right to have counsel appointed due to the possibility of confinement, therefore confinement is neither immediate nor insured.

Consider that an aggressive individual may not be deterred by an order, the cash bond, the judge or the threat of jail.

Be aware that the possibility exists that even if an individual is jailed for failing to post adequate bond, he may be freed by a higher court.

SHOULD I SEEK ONE OF THESE ORDERS?

Consider these questions:

- ☆ *Have serious, specific threats been made?*
- ☆ *Have I reported prior incidents to the police?*
- ☆ *Have I contacted Friends of the Family?*
(Lewisville: 972-221-0650; Crisis Line: 940-382-7273)
- ☆ *Have I sought legal counsel?*
(Women's Advisory Project: 800-777-3247 or
Denton Bar Assn: 940-383-1406)
- ☆ *Do I truly fear for my personal safety, my family's safety or the security of my property?*

If the answer to ALL of these questions is "YES", then you have probably been properly advised by professionals and know what your next step should be.

If the answer to ANY of these questions is "NO", then you should reconsider your situation, motivation and options.



PEACE BONDS, PROTECTIVE ORDERS & RESTRAINING ORDERS

Judge James R. DePiazza

Justice of the Peace, Pct. Two

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