

Question

The court refused to hear the emergency TRO request. Under Texas law, a court may issue a TRO to prevent immediate and irreparable harm to a party or a child. If the refusal to hear the TRO resulted in immediate and irreparable harm to your daughter, this could be grounds to challenge the court's decision.

Answer (Texas)

Short response

Under Texas law, a court's refusal to hear an emergency temporary restraining order (TRO) request could be grounds for challenge if this refusal resulted in immediate and irreparable harm to a child. Texas family law explicitly provides for the issuance of TROs to protect children's safety and welfare without requiring extensive procedural prerequisites when immediate danger exists.

Summary

Texas Family Code provides significant protections for children through temporary restraining orders (TROs), which courts may issue to prevent immediate and irreparable harm, often with fewer procedural requirements than other contexts. Several provisions, including sections 105.001, 262.1015, and 6.501, explicitly authorize courts to issue TROs for a child's safety and welfare without requiring affidavits or verified pleadings showing immediate and irreparable injury. These provisions recognize the urgency of protecting children from harm and empower courts to act swiftly.

When a court refuses to hear an emergency TRO request that could have prevented harm to a child, this refusal may constitute grounds for challenge, particularly if the child subsequently suffered immediate and irreparable harm. Texas courts have consistently held that the protection of children is a paramount concern, and procedural mechanisms exist to challenge a court's refusal to hear or grant emergency protective measures. The legal standard for challenging such refusal would likely involve demonstrating that the court abused its discretion by failing to consider a properly presented emergency request where the statutory requirements for a TRO were satisfied.

Background and Relevant Legislation

Temporary Orders for Child Safety and Welfare

The Texas Family Code contains several provisions authorizing courts to issue temporary orders, including TROs, to protect children from immediate harm. These provisions generally streamline the process for obtaining such orders when a child's safety is at risk.

Section 105.001 of the Texas Family Code establishes the court's authority to issue temporary orders before final orders in suits affecting the parent-child relationship: "In a suit, the court may make a temporary order, including the modification of a prior temporary order, for the safety and welfare of the child..." [Tex. Fam. Code § 105.001](#). Importantly, this section specifically states that "temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held." This provision significantly streamlines the process for obtaining TROs to protect children, eliminating procedural barriers that might otherwise delay protection.

Similarly, [Tex. Fam. Code § 262.1015](#) addresses the removal of alleged perpetrators through temporary restraining orders. It states that a court may issue a TRO for this purpose if the petition states facts sufficient to satisfy the court that: "there is an immediate danger to the physical health or safety of the child or the child has been a victim of sexual abuse; there is no time, consistent with the physical health or safety of the child, for an adversary hearing;... the issuance of the order is in the best interest of the child." This provision explicitly acknowledges situations where immediate action is required to protect children from danger.

In the context of marriage dissolution, [Tex. Fam. Code § 6.501](#) authorizes courts to "grant a temporary restraining order without notice to the adverse party for the preservation of the property and for the protection of the parties as necessary, including an order prohibiting one or both parties from:... intentionally, knowingly, or recklessly causing bodily injury to the other party or to a child of either party; threatening the other party or a child of either party with imminent bodily injury." This section specifically contemplates the protection of children from physical harm during divorce proceedings.

Notably, [Tex. Fam. Code § 6.503](#) echoes § 105.001 by providing that a "temporary restraining order or temporary injunction under this subchapter: may be granted without an affidavit or a verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held." It further specifies that such orders need not "define the injury or state why it is irreparable" or "state why the order was granted without notice." This provision again emphasizes the legislature's intent to make TROs readily available to protect parties and children without procedural impediments.

In emergency situations, [Tex. Fam. Code § 262.102](#) authorizes courts to issue temporary orders without prior notice and a hearing when "there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse," and "there is no time, consistent with the physical health or safety of the child and the nature of the emergency, for a full adversary hearing." This provision further underscores the legislature's recognition that in some circumstances, immediate judicial action is necessary to protect children.

Finally, [Tex. Fam. Code § 109.001](#) provides that "in a suit affecting the parent-child relationship, on the motion of any party or on the court's own motion and after notice and hearing, the court may make any order necessary to preserve and protect the safety and welfare of the child during the pendency of an appeal as the court may deem necessary and equitable." This provision extends the court's protective authority even during appeals, further emphasizing the paramount importance of child safety.

Case Law on Temporary Restraining Orders

Texas courts have addressed various aspects of temporary restraining orders, including their procedural requirements and the showing necessary to obtain them.

In [In re Brookshire](#), (Tex. App. 2023), the court addressed the procedural requirements for TROs, noting that "the Texas Civil Practice and Remedies Code provides that a party may appeal from an interlocutory order of the trial court that grants a temporary injunction." The court concluded that "the TRO is tantamount to a temporary injunction in character and function, and subject to the procedural requirements thereof," and that "because the TRO does not comply with the procedural requirements for temporary injunctions, we conclude that it is void." The court further stated that "a trial court abuses its discretion if it enters a void order." This case establishes that while TROs may be issued to prevent immediate harm, they must still comply with applicable procedural requirements, and failure to do so constitutes an abuse of discretion.

In [In re J.S.N., 14-23-00205-CV \(Tex. App. Apr 19, 2023\)](#), the court discussed the requirements of Rule 680 of the Texas Rules of Civil Procedure, stating that it "requires that an affidavit or verified complaint show that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing held on the matter." The court further noted that for a TRO granted without notice, Rule 680 requires that it "shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after signing, not to exceed fourteen days, as the court fixes..." This case clarifies the general procedural requirements for TROs under Texas law, although it's worth noting that these general requirements are modified in the family law context by the specific provisions discussed earlier.

In [In re Children's Med. Ctr. of Dall.](#), 05-22-00459-CV (Tex. App. May 18, 2022), the court emphasized that "one of the requirements for obtaining a temporary restraining order is that the applicant prove that he or she faces 'imminent' and 'irreparable' harm if the requested injunctive relief is not granted." The court also noted that "under Rule 683, the trial court's order not only must specifically identify what the alleged harm is but the reasons why that alleged harm is 'irreparable.'" This case establishes the importance of demonstrating imminent and irreparable harm when seeking a TRO, as well as the necessity for the court to articulate why the harm is considered irreparable.

In [In re Sherry Lemons, 47 S.W.3d 202 \(Tex. App. 2001\)](#), the court reiterated that "temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held." This case supports the proposition that in the family law context, particularly under provisions like § 105.001, the normal procedural requirements for obtaining a TRO are relaxed in recognition of the need to protect children expeditiously.

The Texas Supreme Court, in [In re Office of Attorney General, 257 S.W.3d 695 \(Tex. 2008\)](#), outlined the general requirements for TROs under Rules 680 and 684 of the Texas Rules of Civil Procedure, stating that a trial court issuing a TRO must: "(1) state why the order was granted without notice if it is granted ex parte, TEX.R. CIV. P. 680; (2) state the reasons for the issuance of the order by defining the injury and describing why it is irreparable, id.; (3) state the date the order expires and set a hearing on a temporary injunction, id.; and (4) set a bond, TEX.R. CIV. P. 684." The court emphasized that "orders that fail to fulfill these requirements are void." This case establishes the general rule that TROs must meet specific procedural requirements to be valid, though, as noted earlier, these requirements are modified in the family law context.

Secondary Materials

Additional insight is provided by secondary materials addressing contested matters in Texas law. The document entitled "Contested matters" from 2021 states that "an application for a temporary restraining order ("TRO") must be verified based upon the personal knowledge of the affiant," citing *Williams v. Bagley*, 875 S.W.2d 808, 810 (Tex. App.—Beaumont 1994, no writ). It also notes that "the practitioner should check the local rules; a restraining order can be issued ex parte but some local rules require a hearing or at least notice to the opposing party." It further states that "the TRO must include the date on which the request for temporary injunction will be considered," citing Tex. R. Civ. P. 680. This material provides practical guidance on the procedural aspects of obtaining a TRO, while also noting that local rules may impose additional requirements.

Analysis

The Legal Framework for TROs Involving Children

The Texas Family Code establishes a clear legal framework for the issuance of temporary restraining orders to protect children from immediate and irreparable harm. This framework reflects the legislature's intent to prioritize child safety by removing procedural barriers that might otherwise delay protection.

Several provisions of the Family Code explicitly authorize courts to issue TROs without requiring affidavits or verified pleadings showing immediate and irreparable injury. For example, [Tex. Fam. Code § 105.001](#) states that "temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held." Similarly, [Tex. Fam. Code § 6.503](#) provides that TROs in the context of marriage dissolution "may be granted without an affidavit or a verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held." These provisions significantly streamline the process for obtaining TROs to protect children.

The Family Code also recognizes the urgency of protecting children in emergency situations. For instance, [Tex. Fam. Code § 262.102](#) authorizes courts to issue temporary orders without prior notice and a hearing when "there is an immediate danger to the physical health or safety of the child" and "there is no time, consistent with the physical health or safety of the child and the nature of the emergency, for a full adversary hearing." [Tex. Fam. Code § 262.1015](#) similarly authorizes TROs when "there is an immediate danger to the physical health or safety of the child" and "there is no time, consistent with the physical health or safety of the child, for an adversary hearing."

These provisions stand in contrast to the general requirements for TROs under the Texas Rules of Civil Procedure, which typically require a showing of immediate and irreparable injury, as noted in cases like [In re J.S.N., 14-23-00205-CV \(Tex. App. Apr 19, 2023\)](#) and [In re Children's Med. Ctr. of Dall.](#), 05-22-00459-CV (Tex. App. May 18, 2022). The relaxation of these requirements in the family law context underscores the legislature's recognition of the paramount importance of child safety.

Challenging a Court's Refusal to Hear a TRO Request

When a court refuses to hear an emergency TRO request, and this refusal results in immediate and irreparable harm to a child, there may be grounds to challenge the court's decision. The legal basis for such a challenge would likely be that the court abused its discretion by failing to consider a properly presented emergency request where the statutory requirements for a TRO were satisfied.

In [In re Brookshire](#), (Tex. App. 2023), the court stated that "a trial court abuses its discretion if it enters a void order." By extension, a court may also abuse its discretion if it improperly refuses to hear or consider an emergency request for a TRO, particularly when the safety and welfare of a child are at stake. Given the Family Code's emphasis on protecting children from immediate harm, as evidenced by provisions like Tex. Fam. Code §§ 105.001, 262.102, and 262.1015, a court's refusal to even hear an emergency TRO request in such circumstances could be viewed as inconsistent with the legislative intent to prioritize child safety.

Moreover, the Family Code specifically authorizes courts to make "any order necessary to preserve and protect the safety and welfare of the child" in various contexts, including during the pendency of an appeal, as provided in [Tex. Fam. Code § 109.001](#). This broad authorization suggests that courts have not only the authority but also the duty to consider requests for protective orders when a child's safety is at risk.

One potential avenue for challenging a court's refusal to hear a TRO request would be mandamus relief. In Texas, mandamus is appropriate when a trial court clearly abuses its discretion and there is no adequate remedy by appeal. If a court refused to hear an emergency TRO request, and this refusal resulted in immediate and irreparable harm to a child, these conditions might be met, particularly given the lack of an immediate appellate remedy for such a refusal.

Alternatively, if the court's refusal was part of an appealable order or judgment, it could be challenged through a regular appeal. However, this would not provide immediate relief, which is problematic when a child's safety is at risk.

Establishing Immediate and Irreparable Harm

To successfully challenge a court's refusal to hear a TRO request, it would be necessary to establish that this refusal resulted in immediate and irreparable harm to the child. The concept of "immediate and irreparable harm" is referenced throughout the Family Code and case law, but its specific definition may vary depending on the context.

In [In re Children's Med. Ctr. of Dall.](#), 05-22-00459-CV (Tex. App. May 18, 2022), the court noted that one of the requirements for a TRO is that the applicant prove "imminent" and "irreparable" harm, and that the court must "specifically identify what the alleged harm is" and explain "why that alleged harm is 'irreparable.'" This suggests that "immediate and irreparable harm" involves harm that is both imminent (likely to occur in the near future) and irreparable (cannot be adequately remedied through monetary damages or other legal remedies).

In the context of child safety, immediate and irreparable harm might include physical or emotional abuse, neglect, or exposure to dangerous conditions or individuals. The Family Code specifically recognizes "immediate danger to the physical health or safety of the child" as a basis for emergency orders in Tex. Fam. Code §§ 262.102 and 262.1015. It also prohibits "intentionally, knowingly, or recklessly causing bodily injury" or "threatening... with imminent bodily injury" to children in [Tex. Fam. Code § 6.501](#).

To establish that a court's refusal to hear a TRO request resulted in such harm, it would be necessary to present evidence of actual harm that occurred to the child after the refusal, as well as evidence that this harm could have been prevented had the court heard and granted the TRO request. This might include medical records, witness testimony, photographs, or other documentation of the harm suffered by the child.

Exceptions and Caveats

While Texas law generally prioritizes child safety and provides mechanisms for obtaining emergency protective orders, there are several important exceptions and caveats to consider.

First, courts still have discretion in determining whether to grant TROs, even in cases involving child safety. While the Family Code relaxes some of the procedural requirements for obtaining TROs in these contexts, it does not mandate that courts grant every requested TRO. Courts must still determine whether the facts presented warrant the issuance of a protective order.

Second, while the Family Code allows for TROs to be granted without affidavits or verified pleadings in certain contexts, there may still be other procedural requirements that must be met. For example, the "Contested matters" document notes that "an application for a temporary restraining order ('TRO') must be verified based upon the personal knowledge of the affiant," and that "the TRO must include the date on which the request for temporary injunction will be considered," citing Tex. R. Civ. P. 680. Failure to comply with these requirements could provide a legitimate basis for a court to refuse to hear or grant a TRO request.

Third, local rules may impose additional requirements for obtaining TROs, as noted in the "Contested matters" document. It states that "the practitioner should check the local rules; a restraining order can be issued ex parte but some local rules require a hearing or at least notice to the opposing party." Compliance with these local rules may be necessary to obtain a hearing on a TRO request.

Fourth, while a court's refusal to hear a TRO request that results in immediate and irreparable harm to a child may be grounds for challenge, the standard for overturning a court's decision on appeal or through mandamus is generally high. In Texas, appellate courts typically defer to trial courts' discretion in such matters unless there is a clear abuse of discretion.

Finally, it's worth noting that even if a court's refusal to hear a TRO request is found to be improper, this finding may not provide immediate relief for the child who has already suffered harm. The challenge would likely be focused on obtaining prospective relief or remedying ongoing harm, rather than compensating for past harm.

Conclusion

Under Texas law, courts have both the authority and, arguably, the duty to issue temporary restraining orders to prevent immediate and irreparable harm to children. The Texas Family Code contains several provisions that explicitly authorize such orders and streamline the process for obtaining them in recognition of

the paramount importance of child safety.

When a court refuses to hear an emergency TRO request, and this refusal results in immediate and irreparable harm to a child, there may be grounds to challenge the court's decision. The legal basis for such a challenge would likely be that the court abused its discretion by failing to consider a properly presented emergency request where the statutory requirements for a TRO were satisfied.

To successfully challenge a court's refusal, it would be necessary to establish that this refusal resulted in immediate and irreparable harm to the child, such as physical or emotional abuse, neglect, or exposure to dangerous conditions or individuals. This would typically require presenting evidence of actual harm that occurred to the child after the refusal, as well as evidence that this harm could have been prevented had the court heard and granted the TRO request.

While there are procedural requirements and potential exceptions that could affect the outcome of such a challenge, the overarching principle in Texas family law is the protection of children's safety and welfare. When a court's refusal to hear a TRO request compromises this principle and results in harm to a child, the legal system provides mechanisms for holding that court accountable and seeking appropriate remedies.

In summary, if your daughter suffered immediate and irreparable harm as a result of the court's refusal to hear your emergency TRO request, you may have grounds to challenge this refusal through appropriate legal channels, such as mandamus relief or appeal, depending on the specific circumstances of your case.

Legal Authorities

[In re Office of Attorney General, 257 S.W.3d 695 \(Tex. 2008\)](#)

Texas Supreme Court

Extract

Texas Rules of Civil Procedure 680 and 684 require a trial court issuing a temporary restraining order to: (1) state why the order was granted without notice if it is granted ex parte, TEX.R. CIV. P. 680; (2) state the reasons for the issuance of the order by defining the injury and describing why it is irreparable, id.; (3) state the date the order expires and set a hearing on a temporary injunction, id.; and (4) set a bond, TEX.R. CIV. P. 684. Orders that fail to fulfill these requirements are void.

Summary

The Texas Rules of Civil Procedure require specific criteria to be met for a temporary restraining order (TRO) to be valid, including defining the injury and explaining why it is irreparable. If a court refuses to hear a TRO request, and this results in immediate and irreparable harm, it could be grounds to challenge the court's decision, as the rules emphasize the importance of addressing irreparable harm.

[In re Children's Med. Ctr. of Dall., 05-22-00459-CV \(Tex. App. May 18, 2022\)](#)

Texas Court of Appeals

Extract

*Under Texas law, one of the requirements for obtaining a temporary restraining order is that the applicant prove that he or she faces 'imminent' and 'irreparable' harm if the requested injunctive relief is not granted. See, e.g., Elevacity, 2018 WL 915031, at *2 (requiring trial court issuing temporary restraining order to 'state the reasons for the issuance of the order by defining the injury and describing why it is irreparable'). Consequently, under Rule 683, the trial court's order not only must specifically identify what the alleged harm is but the reasons why that alleged harm is 'irreparable.'*

Summary

Texas law requires a demonstration of "imminent" and "irreparable" harm for a TRO to be issued. The court must also provide specific reasons for the issuance of a TRO, including why the harm is considered irreparable. This supports the proposition that if a court refuses to hear a TRO request, and this results in immediate and irreparable harm, it could be grounds to challenge the court's decision.

[In re J.S.N., 14-23-00205-CV \(Tex. App. Apr 19, 2023\)](#)

Texas Court of Appeals

Extract

Rule 680 requires that an affidavit or verified complaint show that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing held on the matter. With respect to a temporary restraining order granted without notice, Rule 680 requires that it 'shall be endorsed with the date and hour of issuance; shall be filed forthwith in the clerk's office and entered of record; shall define the injury and state why it is irreparable and why the order was granted without notice; and shall expire by its terms within such time after signing, not to exceed fourteen days, as the court fixes, unless within the time so fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period.' Tex.R.Civ.P. 680.

Summary

Rule 680 outlines the procedural requirements for issuing a TRO, including the necessity of showing immediate and irreparable harm. This supports the proposition that a court may issue a TRO to prevent such harm, and if a court refuses to hear a TRO request, it could be challenged if it results in immediate and irreparable harm.

[In re Sherry Lemons, 47 S.W.3d 202 \(Tex. App. 2001\)](#)

Texas Court of Appeals

Extract

temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held.

Summary

Under Texas law, temporary restraining orders and temporary injunctions can be granted without the necessity of an affidavit or verified pleading showing immediate and irreparable harm. This suggests that the court has the authority to issue such orders to prevent harm without requiring detailed evidence upfront. Therefore, if a court refuses to hear a TRO request and this results in immediate and irreparable harm, it could be grounds to challenge the court's decision, as the law allows for TROs to be issued to prevent such harm.

[In re Brookshire](#)

Texas Court of Appeals

Extract

In contrast, the Texas Civil Practice and Remedies Code provides that a party may appeal from an interlocutory order of the trial court that grants a temporary injunction. TEX. CIV. PRAC. & REM. CODE ANN. § 51.014(a)(4) (West 2023). ... Consequently, we conclude that the TRO is tantamount to a temporary injunction in character and function, and subject to the procedural requirements thereof. ... Because the TRO does not comply with the procedural requirements for temporary injunctions, we conclude that it is void. ... And because a trial court abuses its discretion if it enters a void order, Respondent necessarily abused her discretion by issuing the TRO.

Summary

Procedural requirements for temporary restraining orders (TROs) and temporary injunctions under Texas law. It highlights that a TRO that functions as a temporary injunction must comply with specific procedural requirements. If these requirements are not met, the TRO is considered void, and issuing such an order constitutes an abuse of discretion by the court. This supports the proposition that if a court refuses to hear a TRO request, and this results in immediate and irreparable harm, it could be grounds to challenge the court's decision, especially if the TRO was improperly handled.

[Tex. Fam. Code § 105.001 Tex. Fam. Code § 105.001 Temporary Orders Before Final Order](#)

Extract

In a suit, the court may make a temporary order, including the modification of a prior temporary order, for the safety and welfare of the child... temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held.

Summary

Texas law allows courts to issue temporary restraining orders (TROs) for the safety and welfare of a child without the necessity of an affidavit or verified pleading. This provision is designed to address situations where immediate and irreparable harm may occur before notice can be served and a hearing can be held. Therefore, if a court refuses to hear an emergency TRO request and this results in immediate and irreparable harm to a child, it could be grounds to challenge the court's decision, as the law provides mechanisms to prevent such harm.

[Tex. Fam. Code § 6.501 Tex. Fam. Code § 6.501 Temporary Restraining Order](#)

Extract

After the filing of a suit for dissolution of a marriage, on the motion of a party or on the court's own motion, the court may grant a temporary restraining order without notice to the adverse party for the preservation of the property and for the protection of the parties as necessary, including an order prohibiting one or both parties from: ... intentionally, knowingly, or recklessly causing bodily injury to the other party or to a child of either party; threatening the other party or a child of either party with imminent bodily injury;

Summary

Texas law allows for the issuance of a temporary restraining order (TRO) without notice to the adverse party to protect parties or children from harm. This includes preventing bodily injury or threats of imminent bodily injury. If a court refuses to hear a TRO request and this results in immediate and irreparable harm, it could be grounds to challenge the court's decision, as the law provides for such protective measures.

[Tex. Fam. Code § 6.503 Tex. Fam. Code § 6.503 Affidavit, Verified Pleading, and Bond Not Required](#)

Extract

A temporary restraining order or temporary injunction under this subchapter: may be granted without an affidavit or a verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held; and need not: (A) define the injury or state why it is irreparable; (B) state why the order was granted without notice; or (C) include an order setting the suit for trial on the merits with respect to the ultimate relief sought.

Summary

Texas law allows for the issuance of a temporary restraining order (TRO) or temporary injunction without the need for an affidavit or verified pleading that specifically shows immediate and irreparable harm. This suggests that the court has the discretion to issue such orders even in the absence of detailed evidence of harm, which supports the idea that a refusal to hear a TRO request could be challenged if it results in harm.

[Tex. Fam. Code § 262.102 Tex. Fam. Code § 262.102 Emergency Order Authorizing Possession of Child](#)

Extract

Before a court may, without prior notice and a hearing, issue a temporary order for the conservatorship of a child under Section FAMILY CODE 105.001(a) or a temporary restraining order or attachment of a child authorizing a governmental entity to take possession of a child in a suit brought by a governmental entity, the court must find that: there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse; continuation in the home would be contrary to the child's welfare; there is no time, consistent with the physical health or safety of the child and the nature of the emergency, for a full adversary hearing under Subchapter C; the child would not be adequately protected in the child's home with an order for the removal of the alleged perpetrator under Section FAMILY CODE 262.1015 or FAMILY CODE 262.1016 or a protective order issued under Title 4.

Summary

Conditions under which such an order can be issued, emphasizing the need for immediate action to protect the child. This supports the proposition that if a court refused to hear an emergency TRO request, and this refusal resulted in immediate and irreparable harm to a child, it could be grounds to challenge the court's decision.

[Tex. Fam. Code § 109.001 Tex. Fam. Code § 109.001 Temporary Orders During Pendency of Appeal](#)

Extract

In a suit affecting the parent-child relationship, on the motion of any party or on the court's own motion and after notice and hearing, the court may make any order necessary to preserve and protect the safety and welfare of the child during the pendency of an appeal as the court may deem necessary and equitable.

Summary

Texas law provides the court with the authority to issue temporary orders to protect the safety and welfare of a child during the pendency of an appeal. This includes the ability to make any order deemed necessary and equitable. If a court refuses to hear a TRO request, and this results in immediate and irreparable harm to a child, it could be argued that the court failed to exercise its authority to protect the child's welfare, which could be grounds to challenge the court's decision.

[Tex. Fam. Code § 262.1015 Tex. Fam. Code § 262.1015 Removal of Alleged Perpetrator; Offense](#)

Extract

A court may issue a temporary restraining order in a suit by the department for the removal of an alleged perpetrator under Subsection (a) if the department's petition states facts sufficient to satisfy the court that: there is an immediate danger to the physical health or safety of the child or the child has been a victim of sexual abuse; there is no time, consistent with the physical health or safety of the child, for an adversary hearing; ... the issuance of the order is in the best interest of the child.

Summary

Texas law allows for the issuance of a temporary restraining order (TRO) when there is an immediate danger to a child's physical health or safety, or if the child has been a victim of sexual abuse. The law emphasizes the urgency and necessity of such orders when there is no time for an adversary hearing, and it is in the

best interest of the child. This supports the proposition that a court's refusal to hear an emergency TRO request, which could prevent immediate and irreparable harm, may be challenged if it results in harm to the child.

Contested matters

Texas Probate Forms and Procedures - James Publishing - Keith Branyon - 2021-05-05

Extract

An application for a temporary restraining order ("TRO") must be verified based upon the personal knowledge of the affiant. Williams v. Bagley, 875 S.W.2d 808, 810 (Tex. App.—Beaumont 1994, no writ). The practitioner should check the local rules; a restraining order can be issued ex parte but some local rules require a hearing or at least notice to the opposing party. The TRO must include the date on which the request for temporary injunction will be considered. Tex. R. Civ. P. 680.

Summary

Texas law allows for the issuance of a TRO to prevent immediate harm, and there are procedural requirements for such orders, including verification and consideration of a temporary injunction. The passage also notes that TROs can be issued ex parte, which means without the presence of the opposing party, under certain conditions. This supports the proposition that a court's refusal to hear a TRO request, especially if it results in immediate and irreparable harm, could be challenged.

This memo was compiled by Vincent AI based on vLex materials available as of April 25, 2025. [View full answer on vLex](#)