

Question

A party cannot be removed from their home without a court finding of family violence, and the court must provide a fair forum for all parties involved.

Answer (Texas)

Short response

Under Texas law, a party cannot be removed from their home through a protective order without a court finding of family violence, and the statutory framework ensures that all parties are afforded a fair forum through required hearings and evidentiary procedures. Both the Texas Family Code and Texas appellate courts consistently mandate these procedural and substantive protections.

Summary

Texas statutes and case law make clear that removal of a party from their home—whether through a protective order or exclusion from a residence—requires a judicial finding that family violence has occurred, and, in most cases, that it is likely to occur in the future. The process is structured to guarantee due process, including notice, the opportunity to be heard, and judicial evaluation of evidence, thereby providing a fair forum for all parties involved.

The legislative framework, particularly the Texas Family Code, sets out explicit requirements for findings of family violence before any order affecting residence or possession can be issued. Texas appellate courts have repeatedly affirmed these requirements, emphasizing that protective orders and related relief cannot be granted absent such findings, and that the statutory hearing process is designed to ensure fairness and protect the rights of all parties.

Background and Relevant Law

Legislative Framework

The Texas Family Code provides the primary statutory basis for the removal of a party from their home in the context of family violence. Several key provisions are directly relevant:

Protective Orders and Required Findings: Section 81.001 of the Texas Family Code requires a court to issue a protective order only if it finds that family violence has occurred ([Tex. Fam. Code § 81.001](#)). Section 85.001 further mandates that, at the close of a hearing on an application for a protective order, the court must determine whether family violence has occurred ([Tex. Fam. Code § 85.001](#)). If such a finding is made, the court must render a protective order as provided by the Code.

Exclusion from Residence: Section 83.006 governs the exclusion of a party from their residence by a temporary ex parte order. It stipulates that exclusion is permissible only if the applicant files a sworn affidavit detailing the facts and circumstances justifying exclusion and appears in person to testify at a temporary ex parte hearing. The court must find, based on the affidavit and testimony, that the person to be excluded has committed family violence within the preceding 30 days and that there is a clear and present danger of further family violence ([Tex. Fam. Code § 83.006](#)).

Protective Orders Affecting Residence: Section 85.021 authorizes the court, in a protective order, to grant exclusive possession of a residence to one party and direct another to vacate, but this authority is exercised within the context of a protective order, which itself requires a finding of family violence ([Tex. Fam. Code § 85.021](#)).

Child Protection and Removal: Sections 262.1015, 262.102, and 262.201 address the removal of an alleged perpetrator or a child from a residence in cases involving immediate danger to a child's physical health or safety, or where the child has been a victim of abuse or family violence. These provisions require the court to make specific findings of danger or family violence and to conduct hearings to ensure due process (Tex. Fam. Code §§ 262.1015, 262.102, 262.201).

Case Law

Texas appellate courts have consistently interpreted and applied these statutory requirements, reinforcing the necessity of a court finding of family violence and the provision of a fair forum:

In [Hagner v. Valdez, 04-23-00379-CV \(Tex. App. Mar 26, 2025\)](#), the court held that a trial court must render a protective order only if it finds that family violence has occurred and is likely to occur in the future, and that this determination must be made at the close of a hearing.

[Johnson v. Vernon, 05-24-00179-CV \(Tex. App. Jan 27, 2025\)](#) emphasized the procedural requirement for a hearing on an application for a protective order, with the court required to make findings regarding family violence before issuing any order that could result in removal from the home.

In [Sanchez v. Sanchez](#), the court explained that the Texas Family Code defines family violence and that a finding of such violence is a prerequisite for orders prohibiting a person from going near the residence of the protected person.

[Velasquez v. Rayon](#) (multiple passages) reiterated that a court must find both that family violence has occurred and is likely to occur in the future before issuing a protective order, and that the absence of such findings can result in the vacating of the order.

[In re A.H., 02-22-00241-CV \(Tex. App. Apr 06, 2023\)](#) and [Northfell v. Northfell, 01-22-00082-CV \(Tex. App. Nov 03, 2022\)](#) both confirmed that the statutory framework requires a court to make findings of family violence before issuing protective orders, and that these findings must be based on evidence presented at a hearing.

Earlier cases such as [Cox v. Walden, 13-20-00283-CV \(Tex. App. Jan 13, 2022\)](#), [Bell v. State ex rel. S.E.G., 659 S.W.3d 21 \(Tex. App. 2021\)](#), [Boyd v. Palmore, 425 S.W.3d 425 \(Tex. App. 2011\)](#), and [In re Epperson, 213 S.W.3d 541 \(Tex. App. 2007\)](#) all reinforce the requirement for a court finding of family violence and the necessity of a hearing to ensure fairness.

In the context of child custody and visitation, [In re C.A.C.](#) and [In re L.C.L., 396 S.W.3d 712 \(Tex. App. 2013\)](#) highlight that findings of family violence are required before restricting a parent's access or possession, and that the court must consider the best interests of the child and the safety of all parties.

Analysis

Statutory Prerequisites for Removal

The Texas Family Code establishes a clear and mandatory process for the removal of a party from their home in cases involving family violence. The statutory scheme is designed to protect victims while safeguarding the due process rights of all parties.

Protective Orders: The issuance of a protective order, which may include provisions excluding a party from a shared residence, is contingent upon a judicial finding that family violence has occurred. The court must also find, in most cases, that family violence is likely to occur in the future (Tex. Fam. Code §§ 81.001, 85.001). This requirement is not discretionary; the court is obligated to make these findings based on the evidence presented at a hearing.

Exclusion from Residence: For temporary ex parte orders excluding a party from their residence, the applicant must provide a sworn affidavit and testify at a hearing, and the court must find both recent family violence and a clear and present danger of further violence ([Tex. Fam. Code § 83.006](#)). Even though such orders may be issued without notice to the respondent, the statutory requirements for evidence and judicial findings remain stringent.

Orders Affecting Children: In cases involving the removal of a child or an alleged perpetrator from a residence, the court must find immediate danger to the child's physical health or safety, or that the child has been a victim of abuse or family violence (Tex. Fam. Code §§ 262.1015, 262.102, 262.201). These provisions also require hearings and findings based on evidence.

Procedural Safeguards and Fair Forum

The Texas Family Code and the courts interpreting it are explicit in requiring that all parties be afforded a fair forum:

Notice and Hearing: Except in limited emergency circumstances (such as certain ex parte orders), the respondent is entitled to notice and a hearing before any order affecting their residence or access to children is issued (Tex. Fam. Code §§ 81.001, 85.001, 262.201; [Johnson v. Vernon, 05-24-00179-CV \(Tex. App. Jan 27, 2025\)](#)). The hearing provides an opportunity for both parties to present evidence and argument.

Judicial Findings: The court must make specific findings, based on the evidence, regarding the occurrence and likelihood of family violence ([Hagner v. Valdez, 04-23-00379-CV \(Tex. App. Mar 26, 2025\)](#); [Velasquez v. Rayon](#)). These findings are subject to appellate review, ensuring accountability and adherence to statutory requirements.

Due Process Protections: The requirement for sworn affidavits, testimony, and judicial findings ensures that orders are not issued arbitrarily or without a factual basis. Even in emergency situations, the statutory framework requires prompt hearings and opportunities for the respondent to contest the allegations ([Tex. Fam. Code § 83.006](#)).

Judicial Interpretation and Consistency

Texas appellate courts have consistently enforced these statutory requirements, vacating or reversing protective orders where the necessary findings were not made or where due process was not observed ([Velasquez v. Rayon](#); [Bell v. State ex rel. S.E.G., 659 S.W.3d 21 \(Tex. App. 2021\)](#)). The courts have also clarified that even a single act of violence can constitute a sufficient basis for a finding of family violence, but such a finding must be made by the court after a fair hearing ([In re L.C.L., 396 S.W.3d 712 \(Tex. App. 2013\)](#)).

In the context of child custody and visitation, the courts have held that credible evidence of family violence creates a rebuttable presumption against unsupervised visitation, but the court must still make findings and issue orders designed to protect the safety and well-being of the child and any other victims ([In re C.A.C.](#)).

Scope and Limitations

The statutory and case law framework applies broadly to cases involving protective orders, exclusion from residence, and child protection in the context of family violence. The requirement for a court finding of family violence and the provision of a fair forum are not limited to any particular type of relationship or household arrangement; they apply to all cases falling within the definitions and procedures set out in the Texas Family Code.

Exceptions and Caveats

While the general rule is that a party cannot be removed from their home without a court finding of family violence, there are limited exceptions for emergency situations:

Temporary Ex Parte Orders: In cases of immediate danger, a court may issue a temporary ex parte order excluding a party from a residence without prior notice to the respondent ([Tex. Fam. Code § 83.006](#)). However, even in these cases, the applicant must provide a sworn affidavit and testify at a hearing, and the court must make specific findings of recent family violence and a clear and present danger.

Child Protection Emergencies: Similarly, in cases involving the immediate removal of a child or alleged perpetrator, the court may act without prior notice if there is an immediate danger to the child's physical health or safety ([Tex. Fam. Code § 262.102](#)). Nonetheless, the court must make findings based on the

evidence presented, and a full adversary hearing must follow promptly to ensure due process ([Tex. Fam. Code § 262.201](#)).

Best Interest of the Child: In custody and visitation matters, the court may restrict or deny access based on findings of family violence, but must also consider the best interests of the child and issue orders designed to protect all parties ([In re C.A.C.](#)).

These exceptions do not undermine the fundamental requirement for judicial findings and procedural fairness; rather, they provide mechanisms for immediate protection while preserving the respondent's right to a subsequent hearing.

Conclusion

Texas law is unequivocal: a party cannot be removed from their home through a protective order or similar mechanism without a court finding of family violence, and the statutory framework is designed to ensure that all parties are afforded a fair forum through notice, hearing, and judicial evaluation of evidence. The Texas Family Code and the appellate courts interpreting it consistently require these procedural and substantive protections, reflecting a careful balance between the need to protect victims of family violence and the due process rights of all parties involved. Emergency procedures exist for situations of immediate danger, but even these are subject to strict evidentiary and procedural safeguards. The overarching principle is that removal from the home is a remedy available only after a fair and thorough judicial process resulting in a finding of family violence.

Legal Authorities

[In re Epperson, 213 S.W.3d 541 \(Tex. App. 2007\)](#)

Texas Court of Appeals

Extract

A trial court shall render a protective order if the court finds that family violence (1) has occurred and (2) is likely to occur in the future. TEX. FAM.CODE ANN. § 81.001 (Vernon 2002). 'At the close of a hearing on an application for a protective order, the court shall find whether: (1) family violence occurred; and (2) family violence is likely to occur in the future.' TEX. FAM.CODE ANN. § 85.001(a) (Vernon 2002).

Summary

The Texas Family Code requires a court to find that family violence has occurred and is likely to occur in the future before rendering a protective order. This implies that a party cannot be removed from their home without such a finding, as protective orders often involve removing a party from a shared residence. The requirement for a hearing and findings ensures a fair forum for all parties involved.

[In re L.C.L., 396 S.W.3d 712 \(Tex. App. 2013\)](#)

Texas Court of Appeals

Extract

The Texas Family Code provides that 'family violence' means 'an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself.' ... A single act of violence or abuse can constitute a 'history' of physical abuse for purposes of section 153.004 of the Texas Family Code. ... The trial court is required to 'consider the commission of family violence in determining whether to deny, restrict, or limit the possession of a child by a parent who is appointed as a possessory conservator.'

Summary

The passage defines "family violence" and explains that even a single act can be considered a history of abuse, which is relevant to court decisions regarding conservatorship and access to children. The court must consider family violence when making decisions about possession and access, indicating that a finding of family violence is necessary before restricting a party's rights. This supports the proposition that a party cannot be removed from their home or have their rights restricted without such a finding.

[Johnson v. Vernon, 05-24-00179-CV \(Tex. App. Jan 27, 2025\)](#)

Texas Court of Appeals

Extract

The applicant for a protective order is entitled to a hearing not later than fourteen days after the date of filing an application unless the applicant requests a later date. ... At the close of the hearing on the application for a protective order, the trial court must find whether family violence has occurred and is likely to occur in the future. ... If the court makes those findings, it must render a protective order applying to the person found to have committed family violence.

Summary

Procedural requirements for obtaining a protective order in Texas, including the necessity of a court hearing and a finding of family violence. This supports the proposition that a party cannot be removed from their home without a court finding of family violence, as the issuance of a protective order (which could result in removal from the home) requires such a finding. Additionally, the requirement for a hearing ensures that the court provides a fair forum for all parties involved.

[In re C.A.C.](#)

Texas Court of Appeals

Extract

§ 156.1045(a). *'It is a rebuttable presumption that it is not in the best interest of a child for a parent to have unsupervised visitation with the child if credible evidence is presented of a history or pattern' of family violence by that parent. § 153.004(e).* Under section 153.004, a trial court 'may not allow' a parent to have access to a child when it is shown that there is a history of family violence, unless the trial court (1) finds that awarding the parent access to the child would not endanger the child's physical health or emotional welfare and would be in the best interest of the child and (2) renders a possession order that is designed to protect the safety and well-being of the child and any other person who has been a victim of family violence committed by the parent. § 153.004(d), (d-1).

Summary

The passage from the Texas Family Code, as referenced in the court decision, establishes that a court must consider a history or pattern of family violence when making decisions about a parent's access to a child. It sets a rebuttable presumption against unsupervised visitation if credible evidence of family violence is presented. Furthermore, the court is prohibited from allowing access unless it finds that such access would not endanger the child and is in the child's best interest, and it must issue orders to protect victims of family violence. This supports the proposition that a court must make specific findings related to family violence before altering access or possession, ensuring a fair forum for all parties.

[Velasquez v. Rayon](#)

Texas Court of Appeals

Extract

A court shall render a protective order as provided by Section 85.001(b) if the court finds that family violence has occurred and is likely to occur in the future." ... "To issue a family-violence protective order, the trial court is required to find whether family violence has occurred and whether family violence is likely to occur in the future.

Summary

The Texas Family Code mandates a court to make specific findings of family violence before issuing a protective order. This requirement ensures that a party cannot be removed from their home without a court finding of family violence. The court must also provide a fair forum for all parties involved, as the issuance of a protective order is contingent upon these findings. The passage highlights the necessity of these findings, which aligns with the proposition that a party cannot be removed from their home without such a determination.

[Bell v. State ex rel. S.E.G., 659 S.W.3d 21 \(Tex. App. 2021\)](#)

Texas Court of Appeals

Extract

Appellant's primary issue on appeal is that the trial court erred in granting a protective order when there was not a finding that family violence had occurred in the past. And indeed, issuance of a protective order depends on two distinct and required findings: the existence of past family violence and the likelihood of future family violence. This conclusion flows inexorably from the statutory language. In a section titled 'Required Findings and Orders' the trial court is required to make a finding as to both aspects of family violence. TEX.FAM.CODE ANN. § 85.001(a) ('At the close of a hearing on an application for a protective order, the court shall find whether: (1) family violence has occurred; and (2) family violence is likely to occur in the future.').

Summary

The passage emphasizes the statutory requirement under Texas law that a court must find both past and likely future family violence before issuing a protective order. This requirement ensures that a party cannot be removed from their home without a court finding of family violence, aligning with the proposition that the court must provide a fair forum for all parties involved. The passage directly supports the need for a court finding of family violence before a protective order can be issued, which can lead to a party being removed from their home.

[Velasquez v. Rayon](#)

Texas Court of Appeals

Extract

A court shall render a protective order as provided by Section 85.001(b) if the court finds that family violence has occurred and is likely to occur in the future." ... "To issue a family-violence protective order, the trial court is required to find whether family violence has occurred and whether family violence is likely to occur in the future.

Summary

The passage from the "Velasquez v. Rayon" opinion highlights the requirement under Texas law that a court must find that family violence has occurred and is likely to occur in the future before issuing a protective order. This supports the proposition that a party cannot be removed from their home without such a finding. The requirement for a court finding ensures that the process is fair and that protective orders are not issued arbitrarily. The context of the passage is a legal opinion from the Texas Court of Appeals, which interprets and applies Texas Family Code provisions, making it relevant to the proposition.

[Velasquez v. Rayon](#)

Texas Court of Appeals

Extract

A court shall render a protective order as provided by Section 85.001(b) if the court finds that family violence has occurred and is likely to occur in the future." ... "To issue a family-violence protective order, the trial court is required to find whether family violence has occurred and whether family violence is likely to occur in the future.

Summary

The passage from the "Velasquez v. Rayon" opinion highlights the requirement under Texas law that a court must make specific findings of family violence before issuing a protective order. This requirement ensures that a party cannot be removed from their home without a court finding of family violence. The court must determine that family violence has occurred and is likely to occur in the future, which aligns with the need for a fair forum for all parties involved. The opinion further emphasizes that the absence of such findings can lead to the vacating of a protective order, as seen in the Velasquez case.

[Northfell v. Northfell, 01-22-00082-CV \(Tex. App. Nov 03, 2022\)](#)

Texas Court of Appeals

Extract

Family Code section 81.001 provides that a trial court 'shall render a protective order as provided by Section 85.001(b) if the court finds that family violence has occurred and is likely to occur in the future.' Id. § 81.001. Section 85.001 provides: ... A trial court may issue a protective order for a period exceeding two years if it finds that 'the person who is the subject of the protective order' 'committed an act constituting a felony offense involving family violence against the applicant. . . , regardless of whether the person has been charged with or convicted of the offense.' Id. § 85.025(a-1)(1) (emphasis added).

Summary

The Texas Family Code requires a court finding of family violence before issuing a protective order, which can include removing a party from their home. The court must determine that family violence has occurred and is likely to occur in the future. This ensures that the decision is based on legal findings and provides a fair forum for all parties involved, as the court must evaluate evidence and make specific findings before issuing such orders.

[Sanchez v. Sanchez](#)

Texas Court of Appeals

Extract

Section 71.004 of the Texas Family Code defines 'family violence' in part as an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault. Section 85.001 of the Family Code provides as follows, in pertinent part: Id. § 85.001(a), (b)(1). Section 85.022(b) of the Family Code provides that a court may prohibit the person found to have committed family violence from, among other things, communicating directly in a threatening or harassing manner with the person protected by an order or a member of the family or household of the protected person, as well as from going to or near the residence of the protected person or a member of the family or household of the protected person.

Summary

The Texas Family Code defines family violence and outlines the conditions under which a court may issue protective orders, including prohibiting a person from going near the residence of the protected person. This implies that a finding of family violence is necessary for such orders, which can result in a party being removed from their home. The court acts as the factfinder, ensuring a fair forum for all parties involved.

[In re A.H., 02-22-00241-CV \(Tex. App. Apr 06, 2023\)](#)

Texas Court of Appeals

Extract

The Family Code provides that a trial court must render a protective order if it finds that family violence has occurred and is likely to occur in the future. Tex. Fam. Code Ann. §§ 81.001, 85.001, .022. 'Family violence' means an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault but does not include defensive measures to protect oneself. Id. § 71.004(1).

Summary

Legal requirement that a trial court must find that family violence has occurred and is likely to occur in the future before rendering a protective order. This supports the proposition that a party cannot be removed from their home without such a finding. The passage also implies the necessity of a fair forum, as the court must make these findings based on evidence presented, ensuring that all parties have the opportunity to present their case.

[Cox v. Walden, 13-20-00283-CV \(Tex. App. Jan 13, 2022\)](#)

Texas Court of Appeals

Extract

At the close of a hearing on an application for a protective order" a court is required to find whether "family violence has occurred" and whether "family violence is likely to occur in the future." Tex. Fam. Code Ann. § 85.001(a). If a court does find that family violence has occurred in the past and is likely to occur again, it is required to render a protective order. Id. §§ 81.001, 85.001(b). ... A court "shall render a protective order as provided by [§] 85.022 applying only to a person found to have committed family violence" if it finds that family violence has occurred in the past and that it is likely to occur in the future. Tex. Fam. Code Ann. § 85.001(b)(1).

Summary

The passage from the Texas Family Code, as cited in the judgment, clearly states that a court must find that family violence has occurred and is likely to occur in the future before issuing a protective order. This implies that a party cannot be removed from their home without such a finding, as protective orders often include provisions that can affect living arrangements. The requirement for a hearing and findings ensures that the court provides a fair forum for all parties involved.

[Hagner v. Valdez, 04-23-00379-CV \(Tex. App. Mar 26, 2025\)](#)

Texas Court of Appeals

Extract

Under the Texas Family Code, a trial court shall render a protective order if, at the close of a hearing on the application, the court finds family violence has occurred and is likely to occur in the future. TEX. FAM. CODE ANN. §§ 81.001, 85.001.

Summary

A trial court in Texas is required to render a protective order only if it finds that family violence has occurred and is likely to occur in the future. This implies that a party cannot be removed from their home without such a finding. The requirement for a hearing on the application suggests that the court must provide a fair forum for all parties involved to present their case before making a determination.

[Boyd v. Palmore, 425 S.W.3d 425 \(Tex. App. 2011\)](#)

Texas Court of Appeals

Extract

A court shall render a protective order if the court finds that family violence (1) has occurred and (2) is likely to occur in the future. Tex. Fam. Code Ann. §§ 81.001, 85.001 (Vernon 2008). ... At the close of a hearing on an application for a protective order, the court shall find whether: (1) family violence occurred; and (2) family violence is likely to occur in the future. Tex. Fam. Code Ann. § 85.001 (Vernon 2002).

Summary

Statutory requirements under the Texas Family Code for issuing a protective order, which includes a finding that family violence has occurred and is likely to occur in the future. This supports the proposition that a party cannot be removed from their home without such a finding. The requirement for a court hearing and

findings ensures that a fair forum is provided for all parties involved.

[Culver v. Culver, 360 S.W.3d 526 \(Tex. App. 2011\)](#)

Texas Court of Appeals

Extract

To be entitled to a protective order under Title 4 of the Texas Family Code, Billy was required to prove family violence had occurred and would likely occur in the future. Tex. Fam. Code Ann. § 85.001 (West 2008).

Summary

For a protective order to be issued, which could result in a party being removed from their home, there must be a finding of family violence. This aligns with the proposition that a party cannot be removed without such a finding. The requirement to prove family violence ensures that the court provides a fair forum for all parties involved, as it necessitates evidence and legal proceedings.

[Tex. Fam. Code § 85.001 Tex. Fam. Code § 85.001 Required Findings and Orders](#)

Extract

At the close of a hearing on an application for a protective order, the court shall find whether family violence has occurred. If the court finds that family violence has occurred, the court: shall render a protective order as provided by Section FAMILY CODE 85.022 applying only to a person found to have committed family violence; and may render a protective order as provided by Section FAMILY CODE 85.021 applying to both parties that is in the best interest of the person protected by the order or member of the family or household of the person protected by the order.

Summary

A court must find whether family violence has occurred at the close of a hearing on an application for a protective order. This implies that a fair forum is provided for all parties involved, as a hearing is conducted. Furthermore, the court can only render a protective order against a person found to have committed family violence, supporting the notion that a party cannot be removed from their home without such a finding.

[Tex. Fam. Code § 85.021 Tex. Fam. Code § 85.021 Requirements of Order Applying to Any Party](#)

Extract

In a protective order, the court may: ... grant exclusive possession of a residence to a party and, if appropriate, direct one or more parties to vacate the residence if the residence: (A) is jointly owned or leased by the party receiving exclusive possession and a party being denied possession; (B) is owned or leased by the party retaining possession; or (C) is owned or leased by the party being denied possession and that party has an obligation to support the party or a child of the party granted possession of the residence;

Summary

Conditions under which a court may grant exclusive possession of a residence to one party and direct another party to vacate the residence. This is relevant to the proposition because it implies that such orders are made within the context of protective orders, which are typically issued in cases involving family violence. The passage suggests that the court has the authority to make such determinations, indicating that a fair forum is provided for all parties involved, as these decisions are made through legal proceedings.

[Tex. Fam. Code § 83.006 Tex. Fam. Code § 83.006 Exclusion of Party From Residence](#)

Extract

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: files a sworn affidavit that provides a detailed description of the facts and circumstances requiring the exclusion of the person from the residence; and appears in person to testify at a temporary ex parte hearing to justify the issuance of the order without notice. ... the court must find from the required affidavit and testimony that: ... 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 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.

Summary

A person can only be excluded from their residence through a temporary ex parte order if there is a sworn affidavit and testimony justifying the exclusion due to family violence. The court must find evidence of family violence and a clear and present danger of future violence. This supports the proposition that a court finding of family violence is necessary for removal from a home. Additionally, the requirement for a hearing, even if ex parte, provides a forum for the applicant to present their case, which aligns with the need for a fair forum.

[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; ... the issuance of the order is in the best interest of the child.

Summary

A court can issue a temporary restraining order for the removal of an alleged perpetrator only if there is an immediate danger to the child's physical health or safety, or if the child has been a victim of sexual abuse. This implies that a court finding of family violence or a similar threat is necessary before removal. Additionally, the requirement for a court order suggests that a fair forum is provided for all parties involved.

[Tex. Fam. Code § 81.001 Tex. Fam. Code § 81.001 Entitlement to Protective Order](#)

Extract

A court shall render a protective order as provided by Section FAMILY CODE 85.001(b) if the court finds that family violence has occurred.

Summary

A court is required to issue a protective order only if it finds that family violence has occurred. This implies that a party cannot be removed from their home through a protective order without such a finding. The requirement for a court finding ensures that there is a fair process in place, as the court must evaluate the evidence and circumstances before making a decision. This aligns with the proposition that a party cannot be removed from their home without a court finding of family violence and that the court must provide a fair forum for all parties involved.

[Tex. Fam. Code § 262.201 Tex. Fam. Code § 262.201 Full Adversary Hearing; Findings of the Court](#)

Extract

In a suit filed under Section FAMILY CODE 262.101 or FAMILY CODE 262.105, at the conclusion of the full adversary hearing, the court shall order the return of the child to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession from whom the child is removed unless the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that: there was a danger to the physical health or safety of the child...; the urgent need for protection required the immediate removal of the child...; and reasonable efforts have been made to enable the child to return home, but there is a substantial risk of a continuing danger if the child is returned home.

Summary

Requirement for a full adversary hearing before a child can be removed from their home, ensuring that the court provides a fair forum for all parties involved. The court must find sufficient evidence of danger to the child's physical health or safety before ordering removal, which aligns with the proposition that a party cannot be removed without a court finding of family violence or similar danger. The passage also emphasizes the need for reasonable efforts to enable the child's return home, further supporting the proposition.

[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... 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... If, based on the recommendation of or a request by the Department of Family and Protective Services, the court finds that child abuse or neglect has occurred and that the child requires protection from family violence by a member of the child's family or household, the court shall render a temporary order under Title 4 for the protection of the child.

Summary

Conditions under which a court may issue a temporary order for the conservatorship of a child without prior notice and a hearing. It specifies that the court must find immediate danger to the child's physical health or safety, or that the child has been a victim of neglect or sexual abuse. Additionally, it mentions that if the court finds that the child requires protection from family violence, a temporary order for protection must be rendered. This supports the proposition that a party cannot be removed from their home without a court finding of family violence, as the court must make specific findings regarding the child's safety and welfare before issuing such orders.

