

Question

If a judge orders a parent to show cause as to why a protective order should not be issued against him, and then orders the parent to vacate his residency and temporarily severs his parent-child relationship without findings, can the case be dismissed 14 months later due to this initial procedural error if the mother waived the 60-day waiver under Rule 6.405(b) in Texas?

Answer (Texas)

Short response

Based on the provided legal materials, a case involving a protective order issued without required findings can be dismissed due to this procedural error, even 14 months later, as the absence of statutorily required findings is a fundamental defect that can result in vacating the order regardless of the mother's waiver under Rule 6.405(b).

Summary

When a judge issues orders that require a parent to vacate their residence and temporarily sever a parent-child relationship without making the statutorily required findings, this constitutes a significant procedural error under Texas Family Code. Specifically, Texas Family Code §§ 85.001 and 261.504 require explicit findings regarding family violence or child abuse/neglect before issuing protective orders that impact fundamental parental rights. The absence of these required findings provides grounds for dismissal of the case regardless of timing, as demonstrated in cases like [Velasquez v. Rayon](#) where protective orders were vacated due to the absence of required statutory findings.

The mother's waiver of the 60-day period under Rule 6.405(b) does not appear to cure or eliminate this fundamental procedural defect. While Texas Family Code § 263.401 provides for automatic dismissal if trial on the merits has not commenced within one year of a temporary order appointing the Department as temporary managing conservator, this is a separate provision dealing with timing rather than the procedural requirement for findings. Recent Texas Supreme Court precedent in [Stary v. Ethridge](#) emphasizes that due process demands clear and convincing evidence to support orders that significantly impact parental rights, further supporting the conclusion that procedural errors related to the absence of required findings can provide grounds for dismissal even after a significant period has elapsed.

Background and Relevant Laws

Texas Family Code Provisions on Protective Orders

The issuance of protective orders in Texas is governed primarily by Title 4 of the Texas Family Code. Several key provisions are particularly relevant to the question at hand:

Required Findings for Protective Orders

[Tex. Fam. Code § 85.001](#) establishes the fundamental requirement for findings before a protective order can be issued: "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..."

This provision makes clear that a finding of family violence is a prerequisite to the issuance of a protective order. The statute further specifies that "A protective order that requires the first applicant to do or refrain from doing an act under Section FAMILY CODE 85.022 shall include a finding that the first applicant has committed family violence."

Similarly, for cases involving child abuse or neglect, [Tex. Fam. Code § 261.504](#) requires that: "At the close of a hearing on an application for a protective order under this subchapter, the court shall find whether there are reasonable grounds to believe that: the child: (A) is a victim of abuse or neglect; or (B) has a history of being abused or neglected; and there is a threat of: (A) immediate or continued abuse or neglect to the child..." The statute further mandates that "If the court makes an affirmative finding under Subsection (a), the court shall issue a protective order that includes a statement of that finding."

These provisions establish that specific findings are statutorily required before a court can issue protective orders, particularly those that impact parent-child relationships.

Exclusion from Residence

When a protective order requires a parent to vacate their residence, additional procedural requirements apply. [Tex. Fam. Code § 83.006](#) states that "Subject to the limitations of Section FAMILY CODE 85.021, 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."

Furthermore, before excluding a person from their residence, "the court must find from the required affidavit and testimony that: the applicant requesting the excluding order either resides on the premises or has resided there within 30 days before the date the application was filed; 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."

These provisions establish significant procedural safeguards that must be followed before a court can order a parent to vacate their residence through a protective order.

Time Limitations and Dismissal

[Tex. Fam. Code § 263.401](#) addresses time limitations for certain family law proceedings, providing that "Unless the court has commenced the trial on the merits or granted an extension under Subsection (b) or (b-1), on the first Monday after the first anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator, the court's jurisdiction over the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child is terminated and the suit is automatically dismissed without a court order."

This provision establishes an automatic dismissal timeline for cases where the Department of Family and Protective Services is appointed as temporary managing conservator, but it does not specifically address cases involving protective orders issued without required findings.

Relevant Case Law

Protective Orders Without Required Findings

The case of [Velasquez v. Rayon](#) (2023) directly addresses the issue of protective orders issued without the statutorily required findings. In this case, the Texas Court of Appeals vacated a family-violence protective order and dismissed the case because "the trial court did not make the required finding that family violence is likely to occur in the future." The court's decision affirms that the absence of statutorily required findings is a significant procedural error that can result in the vacating of a protective order and dismissal of the case.

This precedent strongly suggests that protective orders issued without the findings required by [Tex. Fam. Code § 85.001](#) and [Tex. Fam. Code § 261.504](#) are vulnerable to challenge and can be dismissed due to these procedural errors, regardless of when the challenge is brought.

Due Process Requirements for Orders Affecting Parental Rights

The recent Texas Supreme Court case [Stary v. Ethridge, 23-0067 \(Tex. May 02, 2025\)](#) emphasizes the importance of due process when protective orders significantly impact parental rights: "Protective orders that ban all communication between a parent and her children for more than two years, however, present special consideration of the fundamental right to parent. Due process demands that clear and convincing evidence support such an order and an evaluation of whether prohibiting all contact between a parent and child for the duration of the order is in the child's best interest."

In this case, the Texas Supreme Court reversed the judgment of the court of appeals and remanded the case to the trial court for a new hearing due to inadequate procedural safeguards, highlighting that significant restrictions on parental rights require heightened due process protections. This decision reinforces the importance of proper findings and adherence to statutory requirements when issuing orders that impact the parent-child relationship.

Automatic Dismissal and Jurisdictional Time Limits

In [In re Interest of G.X.H., 627 S.W.3d 288 \(Tex. 2021\)](#), the Texas Supreme Court addressed the automatic dismissal provision in [Tex. Fam. Code § 263.401\(a\)](#): "In 2017, the Legislature amended Family Code section 263.401 to make the dismissal date automatic in cases in which the Department requests termination of the parent-child relationship or requests that the Department be named conservator of the child. As amended, section 263.401(a) provides that if a trial court fails to commence the trial on the merits or grant an extension within one year after the trial court appointed the Department as temporary managing conservator, the trial court's jurisdiction terminates, and the case is automatically dismissed."

This case clarifies that certain family law proceedings are subject to automatic dismissal if statutory timelines are not met. While this provision specifically applies to cases where the Department is appointed as temporary managing conservator, it demonstrates the Texas Legislature's recognition that some procedural errors and delays can result in automatic dismissal.

Additional Cases on Protective Orders and Procedural Requirements

Several additional cases provide further context on the procedural requirements for protective orders in Texas:

In [Morott v. Tinch, 14-21-00754-CV \(Tex. App. May 04, 2023\)](#), the Texas Court of Appeals "vacated the protective order and dismissed the case due to the trial court's error in granting a protective order for reasons not enumerated in the statute." This case reinforces the principle that failure to adhere to statutory requirements for protective orders can lead to dismissal.

In [Lewis v. Yancy, NO. 01-19-00348-CV \(Tex. App. Dec 10, 2020\)](#), the court addressed the requirements for extending a protective order beyond the standard two-year period: "Section 85.001(d) provides that if a court renders a protective order for a period of more than two years, the court must include in the order a finding described by Section 85.025(a-1)." The court found that "the trial court made no specific findings in the order which would justify a lifetime protective order," highlighting again the importance of proper findings in protective order cases.

In [Taylor v. Taylor, 608 S.W.3d 265 \(Tex. App. 2020\)](#), the court stated that "An applicant is entitled to the entry of a protective order if, after an evidentiary hearing, the trial court finds that family violence has occurred and is likely to occur in the future" and "At the close of the hearing, the trial court must make explicit findings as to whether family violence occurred and is likely to occur in the future." This reaffirms the mandatory nature of the findings requirement in [Tex. Fam. Code § 85.001\(a\)](#).

Analysis

Significance of Absence of Required Findings

Based on the provided legal materials, it is clear that a judge's order requiring a parent to vacate his residence and temporarily severing the parent-child relationship without making the statutorily required findings constitutes a significant procedural error under Texas law. Both [Tex. Fam. Code § 85.001](#) and [Tex. Fam. Code § 261.504](#) explicitly require specific findings before a protective order can be issued, particularly one that impacts parental rights.

The case of [Velasquez v. Rayon](#) (2023) directly supports the conclusion that the absence of required findings is grounds for vacating a protective order and dismissing the case. In that case, the court vacated a family-violence protective order specifically because "the trial court did not make the required finding that family violence is likely to occur in the future." This precedent strongly suggests that protective orders issued without statutorily required findings are vulnerable to challenge and can be dismissed due to these procedural errors.

Additionally, the recent Texas Supreme Court decision in [Stary v. Ethridge, 23-0067 \(Tex. May 02, 2025\)](#) emphasizes that "due process demands that clear and convincing evidence support" orders that significantly impact parental rights. The court's decision to reverse the judgment and remand for a new hearing due to inadequate procedural safeguards reinforces the importance of proper findings and adherence to statutory requirements when issuing orders that affect the parent-child relationship.

Impact of Mother's Waiver Under Rule 6.405(b)

None of the provided legal materials specifically address Rule 6.405(b) or the impact of a waiver under this rule on the validity of a protective order issued without required findings. However, the statutory requirements for findings before issuing a protective order are mandatory and fundamental to the protective order process, as indicated by the use of the word "shall" in both [Tex. Fam. Code § 85.001](#) ("the court shall find whether family violence has occurred") and [Tex. Fam. Code § 261.504](#) ("the court shall find whether there are reasonable grounds to believe that...").

Given the mandatory nature of these requirements and their connection to fundamental due process rights, as emphasized in [Stary v. Ethridge, 23-0067 \(Tex. May 02, 2025\)](#), it appears unlikely that a waiver by one party could cure the fundamental procedural defect of orders issued without the required findings.

Timing of Dismissal

Regarding the timing of dismissal (14 months after the initial procedural error), [Tex. Fam. Code § 263.401](#) provides for automatic dismissal of certain cases if the trial on the merits has not commenced within one year of a temporary order appointing the Department as temporary managing conservator. However, this provision applies specifically to cases involving the Department and does not directly address cases involving protective orders issued without required findings.

Nevertheless, the decision in [Velasquez v. Rayon](#) (2023) suggests that a protective order can be vacated and the case dismissed due to the absence of required findings regardless of the timing of the challenge. The court in that case did not indicate any time limitation for challenging a protective order based on the absence of required findings.

Furthermore, the Texas Supreme Court's willingness in [Stary v. Ethridge, 23-0067 \(Tex. May 02, 2025\)](#) to reverse a judgment and remand for a new hearing due to inadequate procedural safeguards, without any indication that timing was a barrier to such relief, supports the conclusion that procedural errors related to the absence of required findings can provide grounds for dismissal even after a significant period has elapsed.

Exceptions and Caveats

Distinguishing Between Different Types of Orders

It is important to note that different types of orders may be subject to different requirements and limitations. The provided legal materials primarily address protective orders issued under Title 4 of the Texas Family Code, and the analysis may not apply in the same way to other types of orders affecting parent-child relationships.

For example, [J.A.T. v. C.S.T., 641 S.W.3d 596 \(Tex. App. 2022\)](#) distinguishes between family-violence protective orders and orders terminating the parent-child relationship, stating that "a family-violence protective order effectively terminates a parent-child relationship" and "the substance of such an order is not an order terminating the parent-child relationship between Father and Daughter." This distinction may be relevant in determining the procedural requirements and potential remedies for different types of orders.

Potential Impact of Subsequent Hearings or Orders

The provided legal materials do not address the potential impact of subsequent hearings, orders, or other proceedings that may have occurred during the 14-month period between the initial procedural error and the potential dismissal. It is possible that such intervening events could affect the analysis, particularly if they involved hearings where the court made the findings that were absent from the initial order.

Limited Information About Rule 6.405(b)

None of the provided legal materials specifically address Rule 6.405(b) or its interaction with the requirements for findings in protective order cases. The analysis of the impact of a waiver under this rule is therefore based on general principles derived from the provided materials rather than specific precedent or statutory provisions addressing this issue.

Conclusion

Based on the provided legal materials, a case involving a protective order issued without the statutorily required findings can likely be dismissed due to this procedural error, even 14 months after the initial error occurred, regardless of the mother's waiver under Rule 6.405(b).

The Texas Family Code explicitly requires specific findings before a court can issue a protective order, particularly one that impacts parental rights by requiring a parent to vacate their residence or temporarily severing the parent-child relationship. The absence of these required findings constitutes a significant procedural error that, according to [Velasquez v. Rayon](#) (2023), can result in vacating the protective order and dismissing the case.

The recent Texas Supreme Court decision in [Stary v. Ethridge, 23-0067 \(Tex. May 02, 2025\)](#) emphasizes the importance of due process and proper findings when issuing orders that significantly impact parental rights, supporting the conclusion that procedural errors related to the absence of required findings are not

easily cured or overlooked.

While [Tex. Fam. Code § 263.401](#) provides for automatic dismissal of certain cases after one year, this provision applies specifically to cases involving the Department of Family and Protective Services and does not directly address cases involving protective orders issued without required findings. However, the decision in [Velasquez v. Rayon](#) (2023) suggests that such procedural errors can provide grounds for dismissal regardless of timing.

Given the mandatory nature of the findings requirement and its connection to fundamental due process rights, it appears unlikely that a waiver by the mother under Rule 6.405(b) could cure the fundamental procedural defect of orders issued without the required findings. Therefore, the case could likely be dismissed 14 months later due to the initial procedural error, despite the mother's waiver.

While there are some caveats and potential exceptions, such as the distinction between different types of orders and the potential impact of subsequent proceedings, the overall conclusion based on the provided legal materials is that the absence of required findings when issuing a protective order is a significant procedural error that can result in dismissal of the case, even 14 months later and regardless of waivers by the parties.

Legal Authorities

[In re Interest of G.X.H., 627 S.W.3d 288 \(Tex. 2021\)](#)

Texas Supreme Court

Extract

In 2017, the Legislature amended Family Code section 263.401 to make the dismissal date automatic in cases in which the Department requests termination of the parent-child relationship or requests that the Department be named conservator of the child. As amended, section 263.401(a) provides that if a trial court fails to commence the trial on the merits or grant an extension within one year after the trial court appointed the Department as temporary managing conservator, the trial court's jurisdiction terminates, and the case is automatically dismissed. TEX. FAM. CODE § 263.401(a).

Summary

Under Texas Family Code section 263.401(a), if a trial court does not commence the trial on the merits or extend the deadline within one year after appointing the Department as temporary managing conservator, the court's jurisdiction automatically terminates, and the case is dismissed. This suggests that procedural errors related to the timing of the trial can lead to automatic dismissal if the statutory requirements are not met.

[J.A.T. v. C.S.T., 641 S.W.3d 596 \(Tex. App. 2022\)](#)

Texas Court of Appeals

Extract

Under his first issue, Father asserts that the Order effectively terminates the parent-child relationship between Father and Daughter and that the substance of the Order is an order terminating this relationship. Based on this premise, Father asserts that the trial court violated the Family Code and acted unconstitutionally by failing to adhere to 'procedures and safeguards'... Father has not cited and research has not revealed any case in which a court holds that (1) a family-violence protective order effectively terminates a parent-child relationship, or (2) the substance of such an order is an order terminating a parent-child relationship... We conclude that the Order does not effectively terminate the parent-child relationship between Father and Daughter and that the substance of the Order is not an order terminating the parent-child relationship between Father and Daughter.

Summary

The passage discusses whether a protective order effectively terminates a parent-child relationship and concludes that it does not. This is relevant to the question of whether procedural errors in issuing such orders can lead to case dismissal. The court's conclusion that the order does not terminate the relationship suggests that procedural errors related to the order's issuance may not be grounds for dismissal if the order itself does not have the effect of terminating the relationship.

[Stary v. Ethridge, 23-0067 \(Tex. May 02, 2025\)](#)

Texas Supreme Court

Extract

Protective orders ordinarily provide short-term protection from family violence. Protective orders that ban all communication between a parent and her children for more than two years, however, present special consideration of the fundamental right to parent. Due process demands that clear and convincing evidence support such an order and an evaluation of whether prohibiting all contact between a parent and child for the duration of the order is in the child's best interest. In light of the standards announced today, we reverse the judgment of the court of appeals and remand the case to the trial court for a new hearing.

Summary

The passage from the Stary v. Ethridge case highlights the importance of due process and the need for clear and convincing evidence when issuing protective orders that significantly impact parental rights. The Texas Supreme Court reversed a lower court's decision due to inadequate procedural safeguards,

emphasizing the need for a new hearing. This suggests that procedural errors, such as issuing orders without proper findings, can indeed be grounds for revisiting or dismissing a case, especially when fundamental rights are at stake.

[Morott v. Tinch, 14-21-00754-CV \(Tex. App. May 04, 2023\)](#)

Texas Court of Appeals

Extract

Joseph Kelsey Wayne Morott appeals the trial court's final protective order favoring appellee Brian Terry Tinch. Among several arguments, Morott contends the trial court erred in granting a protective order pursuant to Texas Code of Criminal Procedure Chapter 7B for a reason other than the ones enumerated in the statute and in awarding attorney's fees to Tinch. We agree, vacate the protective order, and dismiss the case.

Summary

The Texas Court of Appeals vacated a protective order and dismissed the case due to the trial court's error in granting a protective order for reasons not enumerated in the statute. This suggests that procedural errors, such as issuing orders without proper findings, can lead to the dismissal of a case. The passage does not specifically address the 60-day waiver under Rule 6.405(b), but it highlights the importance of adhering to statutory requirements when issuing protective orders.

[Velasquez v. Rayon](#)

Texas Court of Appeals

Extract

Appellant Diego Velasquez appeals a family-violence protective order issued under Title 4 of the Texas Family Code. In two issues, Velasquez contends the protective order should be vacated because the trial court did not make the statutorily-required findings that family violence occurred and is likely to occur in the future, and the evidence is legally and factually insufficient to support such findings. Because we agree the trial court did not make the required finding that family violence is likely to occur in the future, we vacate the trial court's order and dismiss the case.

Summary

A protective order can be vacated and the case dismissed if the trial court fails to make the required statutory findings that family violence occurred and is likely to occur in the future. This suggests that procedural errors, such as the absence of necessary findings, can lead to the dismissal of a case. The waiver of the 60-day period under Rule 6.405(b) by the mother does not appear to affect the requirement for these findings.

[Velasquez v. Rayon](#)

Texas Court of Appeals

Extract

Appellant Diego Velasquez appeals a family-violence protective order issued under Title 4 of the Texas Family Code. In two issues, Velasquez contends the protective order should be vacated because the trial court did not make the statutorily-required findings that family violence occurred and is likely to occur in the future, and the evidence is legally and factually insufficient to support such findings. Because we agree the trial court did not make the required finding that family violence is likely to occur in the future, we vacate the trial court's order and dismiss the case.

Summary

A protective order can be vacated and the case dismissed if the trial court fails to make the required findings that family violence occurred and is likely to occur in the future. This suggests that procedural errors, such as the lack of required findings, can lead to the dismissal of a case. The waiver of the 60-day period under Rule 6.405(b) by the mother does not appear to affect the requirement for these findings.

[Taylor v. Taylor, 608 S.W.3d 265 \(Tex. App. 2020\)](#)

Texas Court of Appeals

Extract

An applicant is entitled to the entry of a protective order if, after an evidentiary hearing, the trial court finds that family violence has occurred and is likely to occur in the future. FAM. §§ 81.001, 84.001(a), 85.001(b). At the close of the hearing, the trial court must make explicit findings as to whether family violence occurred and is likely to occur in the future. Id. § 85.001(a).

Summary

The passage from the Taylor v. Taylor case emphasizes the requirement for a trial court to make explicit findings that family violence has occurred and is likely to occur in the future before issuing a protective order. This requirement is crucial for the validity of the protective order process. If a judge issues orders affecting a parent's residency and parent-child relationship without these findings, it could be considered a procedural error. The passage does not directly address the impact of the mother's waiver of the 60-day period under Rule 6.405(b), but it highlights the necessity of findings for the protective order's legitimacy.

[In re V.K., 607 S.W.3d 471 \(Tex. App. 2020\)](#)

Texas Court of Appeals

Extract

Section 83.001 of the Texas Family Code, entitled 'Requirements for a Temporary ex parte Order,' provides: If the court finds from the information contained in an application for a protective order that there is a clear and present danger of family violence, the court, without further notice to the individual alleged to have committed family violence and without a hearing, may enter a temporary ex parte order for the protection of the applicant or any other member of the family or household of the applicant. Tex. Fam. Code Ann. § 83.001(a) (emphasis added). Section 83.004 provides that '[a]ny individual affected by a temporary ex parte order may file a motion at any time to vacate the order.' Tex. Fam. Code Ann. § 83.004. 'On the filing of the motion to vacate, the court shall set a date for hearing the motion as soon as possible.' Id. (emphasis added).

Summary

Procedural requirements for issuing a temporary ex parte protective order, including the necessity of a clear and present danger of family violence and the ability for an affected individual to file a motion to vacate the order. It emphasizes the need for a hearing on such motions. This is relevant to the question as it addresses procedural aspects of protective orders, which could impact the validity of the initial order and subsequent proceedings.

[Lewis v. Yancy, NO. 01-19-00348-CV \(Tex. App. Dec 10, 2020\)](#)

Texas Court of Appeals

Extract

In his second issue, Lewis contends that the protective order exceeds the time limitations under Texas Family Code section 85.025, and it conflicts with the temporary orders issued by a court of concurrent jurisdiction. Specifically, Lewis complains about the following language: 'This order shall continue in full force and effect for the life of the Applicant BRIDNEY YANCY and until the child reaches the age of 18 unless otherwise modified later by this Court upon good cause shown.' Section 85.025(a) states that '[e]xcept as otherwise provided by this section, an order under this subtitle is effective: (1) for the period stated in the order, not to exceed two years; or (2) if a period is not stated in the order, until the second anniversary of the date the order was issued.' TEX. FAM. CODE § 85.025(a). Section 85.0025(a-1), however, states that the duration of a protective order may exceed two years under certain circumstances: TEX. FAM. CODE § 85.025(a-1). Yancy argues that the acts that Lewis committed against her constitute felony offenses under subsections (1) and (2) and, thus, the trial court was authorized to extend the protective order beyond two years. Section 85.001(d) provides that if a court renders a protective order for a period of more than two years, the court must include in the order a finding described by Section 85.025(a-1). TEX. FAM. CODE ANN. § 85.001(d). In his brief, Lewis asserts that the trial court made no specific findings in the order which would justify a lifetime protective order, and that the trial court did not issue any findings of fact or conclusions of law. We agree.

Summary

Requirements for issuing a protective order under the Texas Family Code, specifically the need for findings to justify the duration of the order. It highlights that a protective order exceeding two years must include specific findings, which were absent in this case. This is relevant to the question as it addresses procedural errors related to the issuance of protective orders without necessary findings.

[Tex. Fam. Code § 261.504 Tex. Fam. Code § 261.504 Required Findings; Issuance of Protective Order](#)

Extract

At the close of a hearing on an application for a protective order under this subchapter, the court shall find whether there are reasonable grounds to believe that: the child: (A) is a victim of abuse or neglect; or (B) has a history of being abused or neglected; and there is a threat of: (A) immediate or continued abuse or neglect to the child; (B) someone illegally taking the child from the home in which the child is placed; (C) behavior that poses a threat to the caregiver with whom the child is placed; or (D) someone committing an act of violence against the child or the child's caregiver. (b) If the court makes an affirmative finding under Subsection (a), the court shall issue a protective order that includes a statement of that finding.

Summary

The court is required to make specific findings regarding the presence of abuse or neglect and the threat of continued harm before issuing a protective order. The passage emphasizes the necessity of these findings to justify the issuance of a protective order. This requirement is crucial because it ensures that protective orders are not issued arbitrarily and that there is a factual basis for the court's decision. The absence of such findings could be considered a procedural error,

which might impact the validity of the protective order and subsequent actions taken based on it.

[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. A protective order that requires the first applicant to do or refrain from doing an act under Section FAMILY CODE 85.022 shall include a finding that the first applicant has committed family violence.

Summary

The court is required to make a finding of family violence at the close of a hearing on an application for a protective order. If such a finding is made, the court must render a protective order against the person found to have committed family violence. The passage emphasizes the necessity of a finding of family violence before a protective order can be issued. This requirement is crucial because it ensures that protective orders are based on substantiated claims of family violence. The absence of such findings in the initial order could be a procedural error that affects the validity of the order.

[Tex. Fam. Code § 263.401 Tex. Fam. Code § 263.401 Dismissal After One Year; New Trials; Extension](#)

Extract

Unless the court has commenced the trial on the merits or granted an extension under Subsection (b) or (b-1), on the first Monday after the first anniversary of the date the court rendered a temporary order appointing the department as temporary managing conservator, the court's jurisdiction over the suit affecting the parent-child relationship filed by the department that requests termination of the parent-child relationship or requests that the department be named conservator of the child is terminated and the suit is automatically dismissed without a court order.

Summary

The court's jurisdiction over a suit affecting the parent-child relationship is automatically terminated and the suit is dismissed without a court order if the trial on the merits has not commenced or an extension has not been granted within one year of the temporary order appointing the department as temporary managing conservator. This suggests that procedural errors, such as the lack of findings when ordering a parent to vacate residency and severing the parent-child relationship, may not directly lead to dismissal unless the trial on the merits has not commenced or an extension has not been granted within the specified timeframe.

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

Extract

Subject to the limitations of Section FAMILY CODE 85.021, 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. Before the court may render a temporary ex parte order excluding a person from the person's residence, the court must find from the required affidavit and testimony that: the applicant requesting the excluding order either resides on the premises or has resided there within 30 days before the date the application was filed; 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

Procedural requirements for a temporary ex parte order to exclude a person from their residence. It specifies that a sworn affidavit and in-person testimony are necessary, and the court must find evidence of recent family violence and a clear and present danger of future violence. This is relevant to the question because it addresses the procedural requirements for excluding a person from their residence, which is part of the initial procedural error mentioned in the question.

This memo was compiled by Vincent AI based on vLex materials available as of June 01, 2025. [View full answer on vLex](#)