

Question

Does a district judge in Texas have subject matter jurisdiction to order a party to vacate their residence at a show cause hearing for a protective order without holding the hearing or receiving evidence?

Answer (Texas)

Short response

A district judge in Texas does not have subject matter jurisdiction to order a party to vacate their residence at a show cause hearing for a protective order without holding the hearing or receiving evidence. Both the Texas Family Code and case law consistently require courts to hold hearings and make specific findings based on evidence before issuing protective orders that exclude individuals from their residences.

Summary

Under Texas law, district courts have subject matter jurisdiction over protective order proceedings, but this jurisdiction must be exercised in compliance with statutory procedural requirements. The Texas Family Code explicitly requires courts to hold hearings before issuing final protective orders and to make specific findings that family violence has occurred and is likely to occur in the future. While temporary ex parte orders may be issued without a hearing in emergency situations, even these require sworn affidavits and testimony when they involve removing someone from their residence.

The case law consistently reinforces these statutory requirements, emphasizing that due process demands notice and an opportunity to be heard before a court can order a party to vacate their residence as part of a protective order. Courts have repeatedly held that findings regarding family violence must be made "at the close of a hearing," indicating that the hearing is a mandatory prerequisite. While courts can issue default orders when a respondent fails to appear after proper notice, they cannot dispense with the requirement of holding the hearing itself or receiving evidence from the applicant.

Background and Relevant Legislation

Texas Family Code Provisions

The Texas Family Code contains several provisions that govern the issuance of protective orders and specifically address when a court may order a party to vacate their residence.

Section 85.001 of the Texas Family Code establishes the requirements for findings and orders in protective order cases: "At the close of a hearing on an application for a protective order, the court shall find whether family violence has occurred." [Tex. Fam. Code § 85.001](#). This language unambiguously requires a hearing to be held before a protective order can be issued, and findings must be made at the conclusion of this hearing.

For temporary ex parte orders, [Tex. Fam. Code § 83.001](#) 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." This provision does permit orders without hearings, but only on a temporary, emergency basis.

However, when it comes specifically to excluding someone from their residence through a temporary ex parte order, [Tex. Fam. Code § 83.006](#) imposes additional requirements: "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, this section requires the court to make specific findings from the "required affidavit and testimony" before rendering a temporary ex parte order excluding a person from their residence.

For default orders, [Tex. Fam. Code § 85.006](#) states: "a court may render a protective order that is binding on a respondent who does not attend a hearing if: the respondent received service of the application and notice of the hearing; and proof of service was filed with the court before the hearing." This section contemplates that a hearing will be held, even if the respondent does not attend.

The Texas Code of Criminal Procedure similarly requires hearings for protective orders. [Tex. Code Crim. Proc. § 7B.003](#) states: "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 applicant is the victim of sexual assault or abuse, indecent assault, stalking, or trafficking." This language also presupposes that a hearing must be held.

For temporary ex parte orders under the Code of Criminal Procedure, [Tex. Code Crim. Proc. § 7B.002](#) 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 sexual assault or abuse, indecent assault, stalking, trafficking, or other harm to the applicant, the court, without further notice to the alleged offender and without a hearing, may issue a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household." Like the Family Code provision, this allows for temporary orders without hearings, but only in emergency situations.

Relevant Case Law

Texas courts have consistently interpreted these statutory provisions to require hearings before protective orders can be issued, particularly when they involve excluding someone from their residence.

In [In re V.K., 607 S.W.3d 471 \(Tex. App. 2020\)](#), the court specifically addressed the requirements for ordering someone to vacate their residence: "Section 83.001 provides that a trial court may render a temporary ex parte protective order 'without a hearing.' Tex. Fam. Code Ann. § 83.001(a). If the applicant seeks a

temporary ex parte protective order in which the trial court excludes a person from the occupancy of the person's residence, section 83.006 requires the applicant to file a sworn affidavit and to 'appear in person to testify at a temporary ex parte hearing.' Tex. Fam. Code Ann. § 83.006(a). Thus, to grant this type of temporary ex parte protective order a trial court must hold a hearing. See id."

The Texas Supreme Court in [Stary v. Ethridge, 23-0067 \(Tex. May 02, 2025\)](#) emphasized that "The Family Code authorizes protective orders to provide expedited, temporary protection upon a finding of family violence. Upon a finding that family violence has occurred, a trial court may limit or prohibit contact with affected family members for up to two years." This language reinforces that a finding of family violence is a prerequisite to issuing a protective order that restricts a party's rights, including their right to occupy their residence.

In [Johnson v. Vernon, 05-24-00179-CV \(Tex. App. Jan 27, 2025\)](#), the court explained: "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. Roper, 493 S.W.3d at 630 (citing Fam. § 84.001(a)). 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. Id. (citing Fam. § 85.001(a)). If the court makes those findings, it must render a protective order applying to the person found to have committed family violence. Id. (citing Fam. §§ 81.001, 85.022)." This emphasizes the mandatory nature of the hearing and the findings that must be made at its conclusion.

The court in [Taylor v. Norton, 06-24-00015-CV \(Tex. App. Sep 13, 2024\)](#) noted an important distinction: "In contrast, a temporary ex parte protective order is entered based on 'the information contained in an application for a protective order... [and] without further notice to the individual alleged to have committed family violence and without a hearing.' Tex. Fam. Code Ann. § 83.001(a)." This highlights that while temporary ex parte orders can be issued without hearings, this is an exception to the general rule requiring hearings for protective orders.

In [Velasquez v. Rayon](#), the court reiterated: "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." Tex. Fam. Code § 81.001. Section 85.001 provides: [Tex. Fam. Code § 85.001](#). 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." This underscores that findings about past and potential future family violence are essential before a protective order can be issued.

[Sharp v. Jimmerson, 01-20-00360-CV \(Tex. App. Aug 17, 2021\)](#) further clarified: "After holding a hearing on the application and before issuing a protective order under either the Family Code or Chapter 7A, the trial court is required to make certain findings. For a family-violence protective order under the Family Code, the trial court is required to find whether family violence has occurred and whether family violence is likely to occur in the future. [TEX. FAM. CODE § 85.001\(a\)](#)." The court's language clearly indicates that a hearing must be held before the required findings can be made.

In [Adimora-Nweke v. Yarbrough, NO. 14-19-00426-CV \(Tex. App. May 13, 2021\)](#), the court explained the notice requirements: "When issuance of a protective order is sought under Chapter 85 of the Family Code, the notice requirements of Chapter 82 apply. The clerk of the court must issue a notice that an application for a protective order has been filed. Tex. Fam. Code § 82.042(a). 'Each respondent to an application for protective order is entitled to service of notice of an application for protective order.' Id. at § 82.043(a). The notice informs the respondent, among other things, that if he does not attend the hearing a protective order may be issued against him. See id. at § 82.041(b). The notice 'must be served in the same manner as citation under the Texas Rules of Civil Procedure, except that service by publication is not authorized.' Id. at § 82.043(c)." This emphasizes that notice of the hearing is required, which presupposes that a hearing will be held.

[Richardson v. Earle, 01-20-00630-CV \(Tex. App. Dec 14, 2021\)](#) addressed default orders: "A trial court may render a protective order that is binding on a respondent who does not attend a hearing if the respondent received service of the application and notice of the hearing, and proof of service was filed with the court before the hearing. [TEX. FAM. CODE § 85.006](#). Notice of the application must be served in the same manner as citation under the Texas Rules of Civil Procedure, excluding publication. Id. § 82.043; see TEX. R. CIV. P. 106. The contents of the notice must include the date, time, and place of the hearing, inter alia, and include the statement: 'If you do not attend the hearing, a default judgment may be taken and a protective order may be issued against you.' TEX. FAM. CODE § 82.041." This clarifies that while a respondent's presence is not required, the hearing itself must still be held.

The importance of holding hearings was highlighted in [In re Nanua, 13-22-00103-CV \(Tex. App. Jun 06, 2022\)](#), where the court noted: "Navneet's counsel informed the court that there had never been a hearing on Navneet's applications for a protective order, repeatedly requested the court to hold a hearing on her applications, advised the court that his witnesses were present to testify regarding her request for protection, noted that a finding of domestic violence would affect other issues in the case such as visitation and spousal maintenance, and repeatedly objected to the trial court's failure to hold a hearing on the request for a protective order." This suggests that the trial court's failure to hold a hearing was considered legally problematic.

Finally, [In re Epperson, 53 S.W.3d 752 \(Tex. App. 2001\)](#) addressed the issue of jurisdiction: "Texas Department of Transportation v. Jones, 8 S.W.3d 636, 637 (Tex. 1999). Our task is to examine the pleadings, to take as true the facts pled, and to determine whether those facts support jurisdiction in the trial court." This case confirms that district courts do have subject matter jurisdiction over protective order proceedings, but this jurisdiction must be exercised in accordance with statutory requirements.

Analysis

Subject Matter Jurisdiction vs. Procedural Requirements

The question presented involves two separate but related concepts: subject matter jurisdiction and procedural requirements. Subject matter jurisdiction refers to a court's power to hear a particular type of case, while procedural requirements govern how that power must be exercised.

District courts in Texas clearly have subject matter jurisdiction over protective order proceedings. As noted in [Dupuy v. Williams, 14-19-00463-CV \(Tex. App. Dec 02, 2021\)](#): "a plain reading of the statute shows that the 280th District Court of Harris County is a proper court to issue the protective order Williams sought. A protective order pursuant to Chapter 7A could be filed in: a district court, juvenile court having the jurisdiction of a district court, statutory county court, or constitutional county court in: (A) the county in which the applicant resides; (B) the county in which the alleged offender resides; or (C) any county in which an element of the alleged offense occurred; or any court with jurisdiction over a protective order under Title 4, Family Code, involving the same parties named in the application. ... The trial court properly exercised jurisdiction over this proceeding, and the order is not void for lack of subject-matter jurisdiction."

However, having subject matter jurisdiction does not mean a court can disregard statutory procedural requirements. The Texas Family Code and Code of Criminal Procedure establish specific procedures that must be followed before a protective order can be issued, particularly when it involves ordering someone to vacate their residence.

Hearings Required for Final Protective Orders

The statutory language is clear that hearings are required before final protective orders can be issued. [Tex. Fam. Code § 85.001](#) states that findings must be made "[a]t the close of a hearing on an application for a protective order," which presupposes that a hearing must be held. The multiple case decisions cited above consistently interpret this provision as requiring a hearing.

The purpose of this requirement is to protect due process rights. Before a person can be ordered to vacate their residence—a significant deprivation of rights—they must be given notice and an opportunity to be heard. As noted in [Adimora-Nweke v. Yarbrough](#), "Each respondent to an application for protective order is entitled to service of notice of an application for protective order."

Temporary Ex Parte Orders: A Limited Exception

The only exception to the hearing requirement is for temporary ex parte orders under [Tex. Fam. Code § 83.001](#) and [Tex. Code Crim. Proc. § 7B.002](#), which permit orders "without further notice to the individual alleged to have committed family violence and without a hearing." However, these are emergency measures that can only be issued upon finding "a clear and present danger" based on the application's information.

Importantly, even this exception has further limitations when it comes to ordering someone to vacate their residence. As clarified in [In re V.K., 607 S.W.3d 471 \(Tex. App. 2020\)](#), "If the applicant seeks a temporary ex parte protective order in which the trial court excludes a person from the occupancy of the person's residence, section 83.006 requires the applicant to file a sworn affidavit and to 'appear in person to testify at a temporary ex parte hearing.' Tex. Fam. Code Ann. § 83.006(a). Thus, to grant this type of temporary ex parte protective order a trial court must hold a hearing. See id."

[Tex. Fam. Code § 83.006](#) further requires that "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." These findings can only be made after reviewing evidence, which includes both a sworn affidavit and testimony.

Default Orders Do Not Eliminate the Hearing Requirement

While [Tex. Fam. Code § 85.006](#) allows a court to "render a protective order that is binding on a respondent who does not attend a hearing if: the respondent received service of the application and notice of the hearing; and proof of service was filed with the court before the hearing," this does not eliminate the requirement to hold the hearing itself. It merely allows the hearing to proceed in the respondent's absence.

As explained in [Richardson v. Earle, 01-20-00630-CV \(Tex. App. Dec 14, 2021\)](#), the notice to the respondent must include "the date, time, and place of the hearing" and a statement that "If you do not attend the hearing, a default judgment may be taken and a protective order may be issued against you." This language clearly contemplates that a hearing will be held, even if the respondent chooses not to attend.

Evidence Requirements

Multiple provisions require courts to make specific findings based on evidence before issuing protective orders. [Tex. Fam. Code § 85.001](#) requires findings on whether family violence has occurred and is likely to occur in the future. [Tex. Code Crim. Proc. § 7B.003](#) requires findings of "reasonable grounds to believe that the applicant is the victim of sexual assault or abuse, indecent assault, stalking, or trafficking." These findings cannot be made without receiving evidence.

As emphasized in [In re Epperson, 53 S.W.3d 752 \(Tex. App. 2001\)](#), "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." These findings must be based on evidence presented at a hearing.

Exceptions and Caveats

Show Cause Hearings

The question specifically references "a show cause hearing for a protective order without holding the hearing." It's important to note that a show cause hearing is itself a type of hearing. As noted in [Joseph v. Jack, 624 S.W.3d 1 \(Tex. App. 2021\)](#), "The trial court issued a temporary ex parte protective order and ordered Joseph to appear on March 7, 2018, and show cause that a protective order should not issue against him." This indicates that after a temporary ex parte order is issued, a show cause hearing is scheduled where the respondent can present their case.

If a show cause hearing is scheduled but the respondent fails to appear after proper notice, the court can proceed with the hearing and issue orders based on the evidence presented by the applicant. However, the court cannot skip the hearing entirely or refuse to receive evidence.

Jurisdiction vs. Error

A distinction should be made between acts that exceed a court's jurisdiction and those that constitute procedural errors. A district court has subject matter jurisdiction over protective order proceedings, but failing to hold a required hearing or receive evidence would likely be considered a procedural error or abuse of discretion rather than a jurisdictional defect.

As stated in [In re Epperson, 53 S.W.3d 752 \(Tex. App. 2001\)](#), the task of determining jurisdiction involves examining "the pleadings, to take as true the facts pled, and to determine whether those facts support jurisdiction in the trial court." The mere fact that a court has jurisdiction over protective order proceedings does not mean it can disregard statutory requirements.

Conclusion

Based on the provided materials, a district judge in Texas does not have subject matter jurisdiction to order a party to vacate their residence at a show cause hearing for a protective order without holding the hearing or receiving evidence. While district courts clearly have jurisdiction over protective order proceedings, this jurisdiction must be exercised in accordance with statutory procedural requirements.

The Texas Family Code and Code of Criminal Procedure explicitly require courts to hold hearings before issuing final protective orders and to make specific findings that family violence has occurred and is likely to occur in the future. Even for temporary ex parte orders that exclude a party from their residence, a hearing is required where the applicant must testify in person.

The case law consistently reinforces these statutory requirements, emphasizing that due process demands notice and an opportunity to be heard before a court can order a party to vacate their residence as part of a protective order. Courts have repeatedly held that findings regarding family violence must be made "at the close of a hearing," indicating that the hearing is a mandatory prerequisite.

While courts can issue default orders when a respondent fails to appear after proper notice, they cannot dispense with the requirement of holding the hearing itself or receiving evidence from the applicant. To do so would violate both the explicit statutory requirements and fundamental principles of due process.

Therefore, a district judge who orders a party to vacate their residence without holding a hearing or receiving evidence would be acting outside the bounds of their lawful authority, even though the court itself has subject matter jurisdiction over the type of case.

Legal Authorities

[Dupuy v. Williams, 14-19-00463-CV \(Tex. App. Dec 02, 2021\)](#)

Texas Court of Appeals

Extract

Additionally, a plain reading of the statute shows that the 280th District Court of Harris County is a proper court to issue the protective order Williams sought. A protective order pursuant to Chapter 7A could be filed in: a district court, juvenile court having the jurisdiction of a district court, statutory county court, or constitutional county court in: (A) the county in which the applicant resides; (B) the county in which the alleged offender resides; or (C) any county in which an element of the alleged offense occurred; or any court with jurisdiction over a protective order under Title 4, Family Code, involving the same parties named in the application. ... The trial court properly exercised jurisdiction over this proceeding, and the order is not void for lack of subject-matter jurisdiction.

Summary

The 280th District Court of Harris County had the proper jurisdiction to issue a protective order under Chapter 7A of the Texas Code of Criminal Procedure. This suggests that district courts in Texas have subject matter jurisdiction to issue protective orders, including potentially ordering a party to vacate their residence, as part of such proceedings. The passage does not specifically address whether a hearing or evidence is required before such an order can be issued, but it confirms the court's jurisdiction over the matter.

[Richardson v. Earle, 01-20-00630-CV \(Tex. App. Dec 14, 2021\)](#)

Texas Court of Appeals

Extract

A trial court may render a protective order that is binding on a respondent who does not attend a hearing if the respondent received service of the application and notice of the hearing, and proof of service was filed with the court before the hearing. TEX. FAM. CODE § 85.006. Notice of the application must be served in the same manner as citation under the Texas Rules of Civil Procedure, excluding publication. Id. § 82.043; see TEX. R. CIV. P. 106. The contents of the notice must include the date, time, and place of the hearing, inter alia, and include the statement: 'If you do not attend the hearing, a default judgment may be taken and a protective order may be issued against you.' TEX. FAM. CODE § 82.041.

Summary

A Texas trial court has the authority to issue a protective order even if the respondent does not attend the hearing, provided that the respondent was served with notice of the application and hearing, and proof of service was filed with the court. This suggests that the court can proceed with issuing orders related to the protective order, such as vacating a residence, without the respondent's presence, as long as due process requirements regarding notice are met.

[Adimora-Nweke v. Yarbrough, NO. 14-19-00426-CV \(Tex. App. May 13, 2021\)](#)

Texas Court of Appeals

Extract

When issuance of a protective order is sought under Chapter 85 of the Family Code, the notice requirements of Chapter 82 apply. The clerk of the court must issue a notice that an application for a protective order has been filed. Tex. Fam. Code § 82.042(a). 'Each respondent to an application for protective order is

entitled to service of notice of an application for protective order.' Id. at § 82.043(a). The notice informs the respondent, among other things, that if he does not attend the hearing a protective order may be issued against him. See id. at § 82.041(b). The notice 'must be served in the same manner as citation under the Texas Rules of Civil Procedure, except that service by publication is not authorized.' Id. at § 82.043(c).

Summary

Procedural requirements for issuing a protective order under Chapter 85 of the Texas Family Code, emphasizing the necessity of notice and the opportunity for a hearing. It indicates that a protective order can be issued if the respondent does not attend the hearing after being properly notified, suggesting that a hearing is a critical component of the process.

[In re Nanua, 13-22-00103-CV \(Tex. App. Jun 06, 2022\)](#)

Texas Court of Appeals

Extract

Navneet's counsel informed the court that there had never been a hearing on Navneet's applications for a protective order, repeatedly requested the court to hold a hearing on her applications, advised the court that his witnesses were present to testify regarding her request for protection, noted that a finding of domestic violence would affect other issues in the case such as visitation and spousal maintenance, and repeatedly objected to the trial court's failure to hold a hearing on the request for a protective order.

Summary

The trial court in this case did not hold a hearing on the applications for a protective order despite repeated requests and the presence of witnesses. This suggests that the court did not follow the procedural requirement to hold a hearing before making decisions related to protective orders. The passage highlights the importance of holding a hearing to consider evidence and testimony before making determinations that could affect visitation and other related issues.

[Joseph v. Jack, 624 S.W.3d 1 \(Tex. App. 2021\)](#)

Texas Court of Appeals

Extract

The trial court issued a temporary ex parte protective order and ordered Joseph to appear on March 7, 2018, and show cause that a protective order should not issue against him.

Summary

A temporary ex parte protective order can be issued without a hearing if there is a clear and present danger of family violence, as per Texas Family Code § 83.001(a). However, it also shows that the court ordered a show cause hearing, which implies that a hearing is necessary for a final protective order. This suggests that while temporary orders can be issued without a hearing, a show cause hearing is required for further actions, such as ordering a party to vacate their residence.

[In re Salgado, 53 S.W.3d 752 \(Tex. App. 2001\)](#)

Texas Court of Appeals

Extract

Salgado first argues that the 394th District Court lacked subject matter jurisdiction because another court has continuing, exclusive jurisdiction of Elizabeth. The absence of subject-matter jurisdiction may be raised by a plea to the jurisdiction. Texas Department of Transportation v. Jones, 8 S.W.3d 636, 637 (Tex. 1999). Our task is to examine the pleadings, to take as true the facts pled, and to determine whether those facts support jurisdiction in the trial court. Texas Association of Business v. Texas Air Control Board, 852 S.W.2d 440, 446 (Tex. 1993). We construe the pleadings in favor of the pleader. Id. If necessary, we may review the entire record to determine if there is jurisdiction. Id. Contrary to Salgado's position, Title 4 plainly contemplates that an application for a protective order may be filed on behalf of a child who is subject to the continuing jurisdiction of a court under Title 5. In such a case, the application must include a copy of each court order affecting the conservatorship, support, and possession of or access to the child, or a statement that the orders affecting the child are unavailable to the applicant and that a copy of the orders will be filed with the court before the hearing on the application. Tex.Fam.Code Ann. §§ 82.007. As further evidence that a court other than the court of continuing jurisdiction may issue a protective order, Section 83.005 provides that a temporary ex parte order prevails over any other court order issued under Title 5 to the extent of any conflict between the orders. Tex.Fam.Code Ann. §§ 83.005.

Summary

Jurisdictional authority of a district court in Texas to issue protective orders, even when another court has continuing, exclusive jurisdiction. It highlights that under Texas Family Code, a protective order can be issued by a court other than the court of continuing jurisdiction, and such orders can prevail over other court orders to the extent of any conflict. This suggests that a district judge may have jurisdiction to issue certain orders related to protective orders, even if another court has

continuing jurisdiction.

[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 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 finding must be made at the close of a hearing on an application for a protective order. Therefore, the court must hold a hearing and receive evidence to make these determinations.

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

Texas Supreme Court

Extract

The Family Code authorizes protective orders to provide expedited, temporary protection upon a finding of family violence. Upon a finding that family violence has occurred, a trial court may limit or prohibit contact with affected family members for up to two years.

Summary

The Texas Family Code allows for protective orders to be issued to provide temporary protection upon a finding of family violence. This implies that a hearing and evidence are necessary to establish that family violence has occurred before such orders can be issued. Therefore, a district judge would not have the jurisdiction to order a party to vacate their residence without holding a hearing or receiving evidence, as the issuance of protective orders requires a finding of family violence.

[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. Roper, 493 S.W.3d at 630 (citing Fam. § 84.001(a)). 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. Id. (citing Fam. § 85.001(a)). If the court makes those findings, it must render a protective order applying to the person found to have committed family violence. Id. (citing Fam. §§ 81.001, 85.022).

Summary

The Texas Family Code requires a hearing to be held within fourteen days of filing an application for a protective order unless a later date is requested by the applicant. During this hearing, the court must determine whether family violence has occurred and is likely to occur in the future before issuing a protective order. This implies that a district judge does not have the jurisdiction to order a party to vacate their residence without holding a hearing and receiving evidence, as the findings of family violence are prerequisites for rendering such an order.

[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." Tex. Fam. Code § 81.001. Section 85.001 provides: Tex. Fam. Code § 85.001. 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" case indicates that for a court to issue a family-violence protective order, it must find that family violence has occurred and is likely to occur in the future. This implies that a hearing and evidence are necessary to make such findings. Therefore, a district judge in Texas would not have the jurisdiction to order a party to vacate their residence at a show cause hearing for a protective order without holding the hearing or receiving evidence, as the required findings cannot be made without such a process.

[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." Tex. Fam. Code § 81.001. Section 85.001 provides: Tex. Fam. Code § 85.001. 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

For a court to issue a family-violence protective order, it must find that family violence has occurred and is likely to occur in the future. This implies that evidence must be presented and evaluated to make such findings. Therefore, a district judge would not have the jurisdiction to order a party to vacate their residence without holding a hearing or receiving evidence, as these findings are prerequisites for issuing a protective order.

[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." Tex. Fam. Code § 81.001. Section 85.001 provides: Tex. Fam. Code § 85.001. 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

For a court to issue a family-violence protective order, it must make specific findings that family violence has occurred and is likely to occur in the future. This implies that a hearing and evidence are necessary to make these findings. Therefore, a district judge would not have the jurisdiction to order a party to vacate their residence without holding a hearing or receiving evidence, as these steps are essential to determine the occurrence and likelihood of family violence.

[Taylor v. Norton, 06-24-00015-CV \(Tex. App. Sep 13, 2024\)](#)

Texas Court of Appeals

Extract

In contrast, a temporary ex parte protective order is entered based on 'the information contained in an application for a protective order... [and] without further notice to the individual alleged to have committed family violence and without a hearing.' Tex. Fam. Code Ann. § 83.001(a).

Summary

The passage from the Texas Family Code, as cited in the "Taylor v. Norton" judgment, indicates that a temporary ex parte protective order can be issued without a hearing, based solely on the information in the application for the protective order. This suggests that a district judge in Texas does have the jurisdiction to issue such an order without holding a hearing or receiving additional evidence, provided the application demonstrates a clear and present danger of family violence.

[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: Id. § 85.001; see also id. §§ 85.021 (governing contents of protective order applying to any party), 85.022 (governing contents of protective order applying to person who committed family violence). 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

A trial court in Texas has the authority to issue a protective order if it finds that family violence has occurred and is likely to occur in the future. The court must make these findings based on evidence. The passage does not explicitly address whether a judge can order a party to vacate their residence without holding a hearing or receiving evidence, but it implies that findings must be made, which typically requires evidence and a hearing.

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

Texas Court of Appeals

Extract

Section 83.001 provides that a trial court may render a temporary ex parte protective order 'without a hearing.' Tex. Fam. Code Ann. § 83.001(a). If the applicant seeks a temporary ex parte protective order in which the trial court excludes a person from the occupancy of the person's residence, section 83.006 requires the applicant to file a sworn affidavit and to 'appear in person to testify at a temporary ex parte hearing.' Tex. Fam. Code Ann. § 83.006(a). Thus, to grant this type of temporary ex parte protective order a trial court must hold a hearing. See id.

Summary

The passage from the Texas Family Code indicates that while a temporary ex parte protective order can be issued without a hearing under section 83.001, if the order involves excluding a person from their residence, section 83.006 mandates a hearing where the applicant must testify in person. This suggests that a district judge does not have the jurisdiction to order a party to vacate their residence without holding a hearing and receiving evidence when it involves a temporary ex parte protective order.

[Sharp v. Jimmerson, 01-20-00360-CV \(Tex. App. Aug 17, 2021\)](#)

Texas Court of Appeals

Extract

After holding a hearing on the application and before issuing a protective order under either the Family Code or Chapter 7A, the trial court is required to make certain findings. For a family-violence protective order under the Family Code, the trial court is required to find whether family violence has occurred and whether family violence is likely to occur in the future. TEX. FAM. CODE § 85.001(a); see also Taylor v. Taylor, 608 S.W.3d 265, 272 (Tex. App.-Houston [1st Dist.] 2020, no pet.).

Summary

Before a protective order can be issued under the Texas Family Code or Chapter 7A, a hearing must be held, and the trial court is required to make specific findings. These findings include determining whether family violence has occurred and whether it is likely to occur in the future. This implies that a district judge does not have the jurisdiction to order a party to vacate their residence without holding a hearing and making the necessary findings.

[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.

Summary

The court is required to hold a hearing and make a finding on whether family violence has occurred before rendering a protective order. This implies that a judge cannot order a party to vacate their residence without holding a hearing and receiving evidence, as the finding of family violence is a prerequisite for issuing such an order.

[Tex. Code Crim. Proc. § 7B.003 Tex. Code Crim. Proc. § 7B.003 Required Findings; Issuance of Protective Order](#)

Extract

(a) 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 applicant is the victim of sexual assault or abuse, indecent assault, stalking, or trafficking.

Summary

The court is required to hold a hearing and make a finding of reasonable grounds to believe that the applicant is a victim before issuing a protective order. This implies that a district judge does not have the jurisdiction to order a party to vacate their residence without holding a hearing or receiving evidence, as the statute

mandates a hearing and a finding of reasonable grounds.

[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.

Summary

The court is required to make specific findings at the close of a hearing on an application for a protective order. The court must determine whether there are reasonable grounds to believe that the child is a victim of abuse or neglect or has a history of such, and whether there is a threat of immediate or continued abuse or neglect. This implies that a hearing and the presentation of evidence are necessary before a protective order can be issued.

[Tex. Fam. Code § 83.001 Tex. Fam. Code § 83.001 Requirements For Temporary Ex Parte Order](#)

Extract

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.

Summary

A district judge in Texas can issue a temporary ex parte order without a hearing if there is a clear and present danger of family violence. This suggests that the judge has the jurisdiction to make such orders without holding a hearing or receiving evidence, provided the application for the protective order demonstrates the necessary danger.

[Tex. Code Crim. Proc. § 7B.002 Tex. Code Crim. Proc. § 7B.002 Temporary Ex Parte Order](#)

Extract

If the court finds from the information contained in an application for a protective order that there is a clear and present danger of sexual assault or abuse, indecent assault, stalking, trafficking, or other harm to the applicant, the court, without further notice to the alleged offender and without a hearing, may issue a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household.

Summary

A court in Texas can issue a temporary ex parte order for protection without holding a hearing or receiving further evidence if it finds a clear and present danger to the applicant based on the information in the application for a protective order. This suggests that a district judge does have the jurisdiction to issue such orders without a hearing under specific circumstances.

[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

A district judge in Texas can issue a temporary ex parte order to exclude a person from their residence. However, this can only be done if the applicant files a sworn affidavit with a detailed description of the facts and circumstances and appears in person to testify at a temporary ex parte hearing. The court must find from the affidavit and testimony that the applicant resides or has resided on the premises within 30 days before the application, the person to be excluded has committed family violence within the last 30 days, and there is a clear and present danger of future family violence. This indicates that a hearing and evidence are

required before such an order can be issued.

[Tex. Fam. Code § 85.006 Tex. Fam. Code § 85.006 Default Order](#)

Extract

a court may render a protective order that is binding on a respondent who does not attend a hearing if: the respondent received service of the application and notice of the hearing; and proof of service was filed with the court before the hearing.

Summary

A Texas court can issue a protective order even if the respondent does not attend the hearing, provided that the respondent was served with the application and notice of the hearing, and proof of service was filed with the court. This suggests that the court has the authority to issue orders related to protective orders, potentially including orders to vacate a residence, without holding a hearing or receiving evidence if these conditions are met.

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