

## Question

The associate judge did not consider the merits of the emergency TRO or make any findings on the record, but instead deferred action based on a procedural development (anticipated consolidation motion). Judges are required to exercise their discretion and consider requests for emergency relief when properly presented, especially where irreparable harm is alleged. Arbitrarily refusing to hear such requests may constitute an abuse of discretion and a denial of due process (see, e.g., *In re L.R.*, 324 S.W.3d 231, 235 (Tex. App.—Waco 2010, no pet.)). By failing to exercise judicial discretion and refusing to consider the emergency TRO, the associate judge denied the litigant due process of law.

## Answer (Texas)

### Short response

An associate judge who declines to consider the merits of an emergency temporary restraining order (TRO) and makes no findings on the record, instead deferring action solely due to a procedural development, fails to exercise the judicial discretion required by Texas law. Such inaction may constitute an abuse of discretion and a denial of due process, particularly where irreparable harm is alleged and emergency relief is properly requested.

### Summary

Texas statutes and case law make clear that associate judges are empowered and expected to exercise discretion on requests for emergency relief, such as TROs, when those requests are properly presented. When an associate judge refuses to consider the merits of an emergency TRO and fails to make findings, instead deferring action for procedural reasons, this conduct is inconsistent with statutory duties and established appellate guidance, and may amount to an abuse of discretion and a violation of due process.

The legislative framework grants associate judges the authority and responsibility to conduct hearings, hear evidence, make findings, and issue temporary orders, including emergency relief. Appellate case law further underscores that courts must make specific findings and exercise discretion when emergency injunctive relief is sought, and that failure to do so—especially where irreparable harm is alleged—can be grounds for reversal or mandamus. Deferring action without considering the merits of the request undermines the statutory and constitutional protections afforded to litigants.

# Background and Relevant Law

## Legislative Framework

The Texas Family Code and Government Code set out the powers and duties of associate judges in family law and related proceedings. Under Texas Family Code section 201.007, associate judges are authorized to conduct hearings, hear evidence, make findings of fact, formulate conclusions of law, recommend orders, and render and sign temporary orders, including those for emergency relief, unless limited by an order of referral. The statute also empowers associate judges to take any action necessary and proper for the efficient performance of their duties, which includes acting on requests for emergency relief when presented. This statutory scheme presumes that associate judges will exercise their discretion and act on such matters, rather than deferring or declining to consider them without good cause ([Tex. Fam. Code § 201.007](#)).

Similarly, Texas Government Code section 54A.209 grants associate judges the authority to conduct hearings, hear evidence, make findings, rule on pretrial motions, and render and sign temporary orders, again subject only to the limitations of the order of referral. The statute specifically contemplates that associate judges will rule on pretrial motions and issue temporary orders, which includes emergency TROs ([Tex. Gov't. Code § 54A.209](#)).

Texas Family Code section 105.001 further authorizes courts to issue a wide range of temporary orders—including TROs and temporary injunctions—to protect the safety and welfare of children in suits affecting the parent-child relationship (SAPCRs). The statute restricts postponement of hearings on temporary orders and facilitates prompt issuance of TROs by dispensing with the need for affidavits or verified pleadings in certain circumstances. The legislative intent is to ensure that requests for emergency relief are considered and acted upon expeditiously, not delayed for procedural reasons ([Tex. Fam. Code § 105.001](#)).

## Case Law

Texas appellate courts have consistently held that when emergency injunctive relief is sought, the trial court must exercise its discretion and make specific findings on the record identifying the injury and explaining why it is irreparable. The requirements for issuing a TRO or temporary injunction are mandatory and must be strictly followed; substantial compliance is insufficient. A trial court abuses its discretion when it fails to comply with these requirements or issues a void order ([In re Children's Med. Ctr. of Dall.](#), 05-22-00459-CV (Tex. App. May 18, 2022)).

The appellate guidance is clear that the court must consider the merits of the emergency request, make findings, and articulate the reasons for granting or denying relief. Failure to do so—such as by deferring action without considering the request—constitutes a failure to exercise judicial discretion and may be grounds for reversal or mandamus. This principle is

particularly important where the applicant alleges imminent and irreparable harm, as the right to be heard and to have the court exercise its discretion is a fundamental aspect of due process.

## Analysis

### Statutory Duties of Associate Judges

The legislative framework governing associate judges in Texas family law and related proceedings is unambiguous: associate judges are empowered and expected to conduct hearings, hear evidence, make findings, and issue temporary orders, including emergency relief. Both the Family Code and Government Code enumerate these powers and duties, and neither statute contemplates that an associate judge may simply defer action on a properly presented emergency request for relief without considering its merits.

Section 201.007 of the Family Code and section 54A.209 of the Government Code both provide that associate judges may conduct hearings, hear evidence, make findings of fact, rule on pretrial motions, and render and sign temporary orders. These provisions are not merely permissive; they reflect a legislative expectation that associate judges will exercise their discretion and act on matters within their authority, particularly where emergency relief is sought and irreparable harm is alleged ([Tex. Fam. Code § 201.007](#); [Tex. Gov't. Code § 54A.209](#)).

Section 105.001 of the Family Code further reinforces this expectation by authorizing courts to issue temporary orders—including TROs and temporary injunctions—for the safety and welfare of children. The statute restricts the ability of courts to postpone hearings on temporary orders and facilitates prompt action on emergency requests. The legislative intent is clear: courts must act promptly and exercise their discretion when emergency relief is requested, not defer action for procedural reasons ([Tex. Fam. Code § 105.001](#)).

### Judicial Discretion and Due Process

Texas appellate case law underscores the importance of judicial discretion and due process in the context of emergency relief. When a party seeks a TRO or temporary injunction, the court is required to consider the request, make specific findings on the record, and articulate the reasons for granting or denying relief. These requirements are mandatory and must be strictly followed; failure to do so constitutes an abuse of discretion ([In re Children's Med. Ctr. of Dall.](#), 05-22-00459-CV (Tex. App. May 18, 2022)).

The appellate court in [In re Children's Med. Ctr. of Dall.](#) emphasized that the trial court must set out in the order the reasons it deems it proper to issue the injunction, including the reasons why the applicant will suffer injury if relief is not granted. The court further held that the requirements for issuing a TRO or temporary injunction are mandatory and must be strictly followed; substantial or effective compliance is insufficient. A trial court

abuses its discretion when it fails to comply with these requirements or issues a void order.

This appellate guidance is directly relevant to the scenario presented. When an associate judge declines to consider the merits of an emergency TRO and makes no findings on the record, instead deferring action for procedural reasons (such as an anticipated consolidation motion), the judge fails to exercise the discretion required by law. This conduct is inconsistent with both the statutory duties of associate judges and the due process rights of litigants.

## **Abuse of Discretion and Denial of Due Process**

The failure to consider the merits of an emergency TRO and to make findings on the record is not a mere procedural irregularity; it is a substantive failure to exercise judicial discretion. Texas law is clear that when a request for emergency relief is properly presented and irreparable harm is alleged, the court must consider the request and make findings. Arbitrarily refusing to hear such requests, or deferring action without considering the merits, constitutes an abuse of discretion and may amount to a denial of due process.

The statutory framework and appellate case law both support the proposition that courts—and by extension, associate judges—must act on emergency requests for relief and cannot simply defer action for procedural reasons. The right to be heard and to have the court exercise its discretion is a fundamental aspect of due process, particularly where the applicant alleges imminent and irreparable harm.

## **Application to the Scenario**

In the scenario presented, the associate judge did not consider the merits of the emergency TRO, made no findings on the record, and instead deferred action based on an anticipated consolidation motion. This conduct is inconsistent with the statutory duties of associate judges under the Family Code and Government Code, which require the exercise of discretion on requests for emergency relief. It is also inconsistent with appellate guidance, which mandates that courts make specific findings and articulate the reasons for granting or denying emergency relief.

By failing to consider the merits of the emergency TRO and to make findings on the record, the associate judge failed to exercise the discretion required by law. This failure constitutes an abuse of discretion and may amount to a denial of due process, particularly where the applicant alleges imminent and irreparable harm.

## **Exceptions and Caveats**

There are limited circumstances in which an associate judge may be justified in deferring action on a request for emergency relief. For example, if the order of referral specifically limits the associate judge's authority to act on

certain matters, or if there are jurisdictional or procedural defects in the request, the associate judge may be justified in declining to act. However, absent such limitations, the statutory framework and appellate guidance require the associate judge to consider the merits of the request and to make findings on the record.

It is also important to note that the right to a de novo hearing before the referring court does not relieve the associate judge of the duty to exercise discretion and act on emergency requests for relief. The statutory scheme contemplates that associate judges will act on such matters, subject to the right of de novo review, not that they will defer action and leave the matter unresolved.

## **Conclusion**

Texas law requires associate judges to exercise their discretion and act on requests for emergency relief, such as TROs, when those requests are properly presented and irreparable harm is alleged. The statutory framework grants associate judges the authority and responsibility to conduct hearings, hear evidence, make findings, and issue temporary orders, and appellate case law mandates that courts make specific findings and articulate the reasons for granting or denying emergency relief. When an associate judge declines to consider the merits of an emergency TRO and makes no findings on the record, instead deferring action for procedural reasons, this conduct constitutes a failure to exercise judicial discretion and may amount to an abuse of discretion and a denial of due process. The right to be heard and to have the court exercise its discretion is a fundamental aspect of due process, and courts must act promptly and decisively on requests for emergency relief.

## **Legal Authorities**

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

### **Texas Court of Appeals**

#### **Extract**

Texas Rule of Civil Procedure 683 states that a temporary restraining order 'shall set forth the reasons for its issuance' and 'shall be specific in its terms.' ... 'A trial court's order stating its reasons for granting a temporary injunction must be specific and legally sufficient on its face and not merely conclusory. To comply with rule 683, a trial court must set out in the temporary injunction order the reasons the court deems it proper to issue the injunction, including the reasons why the applicant will suffer injury if the injunctive relief is not granted.' ... 'The requirements of rule of civil procedure 683 are mandatory and must be strictly followed' and that substantial or effective compliance is insufficient. ... 'Under Texas law, one of the requirements for obtaining a temporary restraining order is that the

applicant prove that he or she faces "imminent" and "irreparable" harm ... [the order] must specifically identify what the alleged harm is [and] the reasons why that alleged harm is "irreparable." ... 'A trial court abuses its discretion when it issues a void order.'

## **Summary**

The case emphasizes that when emergency injunctive relief is sought, the court must exercise discretion and make specific findings identifying the injury and why it is irreparable; Rule 683's requirements are mandatory and must appear in the order itself. The opinion also ties noncompliance to abuse of discretion and mandamus. This supports the proposition that a judge must consider and articulate the merits of an emergency TRO request; failure to do so (e.g., deferring without findings) is an abuse of discretion and raises due process concerns.

[Tex. Gov't. Code § 54A.209 Tex. Gov't. Code § 54A.209 Powers of Associate Judge](#)

## **Extract**

Except as limited by an order of referral, an associate judge may: conduct a hearing; hear evidence; ... make findings of fact on evidence; formulate conclusions of law; rule on pretrial motions; ... regulate all proceedings in a hearing before the associate judge; take action as necessary and proper for the efficient performance of the duties required by the order of referral; ... [and] render and sign: ... (C) a temporary order;

## **Summary**

- The statute affirmatively grants associate judges authority to conduct hearings, hear evidence, make findings, rule on pretrial motions, regulate proceedings, and render temporary orders.
- When an emergency TRO or request for temporary relief is properly presented, these provisions show the associate judge has both the power and duty to exercise judicial discretion on such matters unless limited by the referral order.
- Deferring action without considering the merits, findings, or ruling—particularly on emergency relief—suggests a failure to exercise the granted discretion and functions (hearing, evidence, findings, rulings, temporary orders), supporting an argument that the refusal to consider the request was an abdication of statutory authority and consistent with abuse-of-discretion/due-process concerns.

[Tex. Fam. Code § 201.007 Tex. Fam. Code § 201.007 Powers of Associate Judge](#)

## **Extract**

Except as limited by an order of referral, an associate judge may: conduct a hearing; hear evidence; ... make findings of fact on evidence; formulate conclusions of law; recommend an order to be rendered in a case; regulate all proceedings in a hearing before the associate judge; ... without prejudice to the right to a de novo hearing before the referring court under Section FAMILY CODE 201.015 and subject to Subsection (c), render and sign: ... (C) a temporary order; ... take action as necessary and proper for the efficient performance of the associate judge's duties

## **Summary**

Section 201.007 enumerates the powers and duties of associate judges, including conducting hearings, hearing evidence, making findings of fact and conclusions of law, regulating proceedings, and rendering and signing temporary orders. These provisions reflect that associate judges are expected to exercise judicial discretion on matters presented, including requests for temporary relief, rather than deferring action without consideration. The authority to "render and sign" temporary orders and to "take action as necessary and proper" supports the argument that when an emergency TRO is properly presented and irreparable harm is alleged, an associate judge should entertain the request, hear evidence as necessary, and make findings or otherwise act, rather than delaying solely due to anticipated procedural developments.

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

## **Extract**

In a suit, the court may make a temporary order, including the modification of a prior temporary order, for the safety and welfare of the child, including an order: for the temporary conservatorship of the child; for the temporary support of the child; restraining a party from disturbing the peace of the child or another party; prohibiting a person from removing the child beyond a geographical area identified by the court; or for payment of reasonable and necessary attorney's fees, court costs, and expenses. (a-1) If the court on its own motion refers to mediation a suit in which an initial hearing regarding the rendition of a temporary order described by Subsection (a) has not yet occurred, the court may not postpone the hearing to a date that is later than the 30th day after the date set for the hearing. (b) Except as provided by Subsection (c), temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading... Except as provided by Subsection (h), an order may not be rendered under Subsection (a) ... except after notice and a hearing.



## Summary

Section 105.001 authorizes courts to issue a broad range of temporary orders—including restraining orders—in SAPCRs to protect a child’s safety and welfare. Subsection (a-1) restricts postponements when the court itself diverts a case to mediation, evidencing a legislative expectation that temporary-order hearings proceed without undue delay. Subsection (b) facilitates prompt issuance of TROs/injunctions by dispensing with typical affidavit requirements and contemplates prompt notice-and-hearing practice for other temporary orders. Together, these provisions reflect a statutory framework requiring courts to timely exercise discretion on emergency temporary relief for child safety/welfare rather than deferring action for procedural developments. This supports the argument that refusing to consider an emergency TRO—without reaching the merits—fails to exercise the discretion the statute presumes and can amount to abuse of discretion and due process concerns in line with *In re L.R.*

### [Section 54A.209. Powers of Associate Judge](#)

## Extract

Except as limited by an order of referral, an associate judge may: conduct a hearing; hear evidence; ... make findings of fact on evidence; formulate conclusions of law; rule on pretrial motions; ... without prejudice to the right to a de novo hearing under Section 54A.216, render and sign: ... (C) a temporary order; ... and sign a final order that includes a waiver of the right to a de novo hearing in accordance with Section 54A.216.

## Summary

Section 54A.209 enumerates the powers of associate judges to conduct hearings, take evidence, make findings, rule on pretrial motions, and issue temporary orders. An emergency TRO request is a pretrial request for temporary relief. These provisions confirm that, unless limited by the order of referral, an associate judge is empowered—and thus expected—to exercise judicial discretion by hearing and deciding such emergency matters, making findings, and issuing temporary orders. Deferring action without considering the request’s merits, when empowered to act, suggests a failure to exercise discretion.

This memo was compiled by Vincent AI based on vLex materials available as of December 13, 2025. [View full answer on vLex](#)