

Restraining Orders, Protective Orders and Peace Bonds

The following information is not offered as legal advice, but is procedural information only. The Lee County Justice of the Peace, Pct 2 Office and its employees cannot give legal advice. The information herein is not exhaustive. You should seek legal counsel from a licensed attorney if you have questions.

Restraining Orders, Protective Orders and Peace Bonds are different instruments that seek to prevent future criminal or harmful actions. They are intended to prevent, not punish. The penalties for violating these orders include fines or sanctions, confinement in jail and/or criminal charges. There is little these orders can do that the laws of Texas do not already prevent. Laws are already in place to prohibit murder, assault, stalking, terroristic threats, theft and vandalism.

Restraining Orders A Restraining Order can prevent an individual from nearly any activity that might harm you, including emptying bank accounts, selling property, canceling credit cards, harassing telephone calls, diverting mail and other similar activities. Restraining orders are **only** issued in conjunction with some type of civil suit. They are intended to keep the *status quo* until the civil suit is heard or settled by the Court. Restraining orders are most commonly sought in connection with a suit for divorce. **You should seek private legal counsel for assistance.**

Protective Orders A protective order is intended to prevent family violence by a member of a family or household (or former member of the household) by another member of the household that is intended to result in: * Physical harm, bodily injury or assault **OR** *A threat that reasonably places the member in fear of imminent physical harm, bodily injury or assault, excluding reasonable discipline of a child by a person having that duty **OR** * Abuse towards a child of the family or household.

Call the Lee County District Attorney's Office at 979-542-3233 to make an appointment. Their office is located on the 3rd floor of the Lee County Courthouse, 200 South Main Room , Giddings, Texas 76201.

You might also seek advice and/or assistance from the Lee County Family crisis center at 888-311-7755

Peace Bonds A Peace Bond is issued by a Magistrate and requires an individual (who is not a household or family member) to post a bond conditioned that the individual will not commit a specific act of harm for a period of one year. The individual must post either a surety bond or a cash bond for one year (in the amount set by the judge after a hearing), or go to jail for one year or until adequate bond is posted. You must prove there is a just reason to believe that the offense was intended to be committed or that the threat was seriously made. A rash statement about a third person made during a quarrel, or bragging about not being afraid of someone are not considered serious threats. Abusive language and bragging by a drunk are not considered serious threats. A rash threat resulting from an outburst of temper in the heat of passion or rash statements provoked during an angry altercation are not considered serious threats.

To obtain a Peace Bond, go to Judge Michael York, Justice of the Peace, Pct 2, located at 200 S Main Room 114, Giddings, Texas, M-F 8:00 a.m. – 5:00 p.m., phone number 979-542-3030.

You will need to take any identifying information on the offending individual, such as name, address, work address, date of birth, social security number, or driver's license number. You will complete an affidavit and need to be very specific with the information. Make reference to dates, locations, and specific language used in the threats. Do not be afraid to write a curse word in its entirety in the affidavit. Include in the affidavit your personal fears for yourself, your family or your property. Be sure to list names, addresses and phone numbers of witnesses who will testify. Sign the affidavit before the Court Clerk or a Notary Public.

DO NOT ask to speak to the Judge. The Judge is unable to hear the case if you have spoken to him prior to the hearing. Based only on your affidavit the Judge may issue a warrant for the immediate arrest of the offending individual. Most likely the individual will be summoned to the Court within a few days. You will not need to be there at that time. At the first court date the offending individual will be advised of the complaint against them, the possible penalties involved and their right to counsel. An appearance bond may be set to insure their appearance at a subsequent court date, conditioned that they not accost you or your property pending the hearing. You will receive notice of a priority court date usually within ten days. The accused is not entitled to a jury trial. Call your witness and advise them of the court date and bring them to court with you. You may bring your own attorney or an Assistant District Attorney will appear. You and your witnesses will be asked to testify under oath and will be subject to cross-examination by the alleged offender or their attorney. There are no guarantees that the Court will find a bond should be set or that the accused will be jailed. Be aware that the possibility exists that even if an individual is jailed for failing to post adequate bond, they may be freed by a higher court.

These orders, while legal documents, are only pieces of paper; they are not walls, locks or bodyguards.