



LAW OFFICE OF  
BRYAN FAGAN  
— PLLC —

**DOMESTIC  
VIOLENCE  
LAW**

# DOMESTIC VIOLENCE IN HOUSTON, TX

WORK WITH A HOUSTON ATTORNEY

CALL US FOR ALL YOUR FAMILY LAW NEEDS (281) 810-9760

## INTRODUCTION

Thank you for downloading our special report: about Domestic Violence, with information that will help you protect your assets and secure your future. For more insider divorce tips, please download our other special reports about Dirty Divorce Tricks, How to Plan and Prepare for Divorce, and Divorce after 50. We understand that you have a lot of questions and concerns about your divorce and we want to help you feel as comfortable with the process as we can. If you would like to speak to one of our highly skilled Law Office of Bryan Fagan, PLLC attorneys, we encourage you to contact us to schedule a free confidential consultation. We're here for you, always. Sincerely, Bryan Fagan, Law Office of Bryan Fagan

## TOP-NOTCH DIVORCE REPRESENTATION IN HOUSTON, TX

### CONTACT AN AGGRESSIVE HOUSTON ATTORNEY TODAY

When a divorce procedure involves accusations or charges of domestic violence, careful navigation is needed to ensure that these matters receive the consideration they deserve and that all parties are kept safe from harm. If you are facing a divorce that involves a domestic violence issue, then your choice in legal representation is critical to the outcome of your case.

At the Law Office of Bryan Fagan, PLLC, Founding Attorney Bryan Fagan knows what the stakes are in these particular divorces and what challenges and concerns both sides of the table face. Whether you are seeking a legal remedy to protect yourself and your family from further violence or are on the receiving end of these accusations, Attorney Fagan's firm is ready to assess your options and take proactive steps towards resolving these issues.

**It is possible to have a dedicated advocate on your side. Contact the firm today to learn more.**

### HOW CAN WE HELP PREVENT DOMESTIC VIOLENCE?

The state of Texas takes domestic violence seriously and our courts are prepared to provide a number of different remedies to punish those who perpetrate this type of violence and protect families and children. Note that these measures can be in addition to any criminal charges the accused may or may not be facing involving any domestic violence claims.

#### Divorces that involve domestic violence issues can result in:

- ☑ Protective orders ("restraining orders")
- ☑ Supervised visitation for any children
- ☑ Termination of parental rights
- ☑ Unfavorable custody rulings for the accused
- ☑ 5 Things You Need to Know About Family Violence in Texas
- ☑ Removing Yourself from a Marriage affected by Domestic Violence
- ☑ Divorcing from an Abusive Spouse in Texas: What you Need to Know

In these cases, the courts will consider the best interests of any involved children and will act accordingly if there is any evidence that either parent has perpetrated violence in the household. If domestic violence is a factor in your upcoming divorce, it is absolutely crucial that you speak to proven counsel today.

Attorney Bryan Fagan not only has years of experience in the family law practice area, but is a member of the College of the State Bar of Texas. His firm knows what it takes to protect the rights, safety, and interests of his clients.

### 5 THINGS YOU NEED TO KNOW ABOUT FAMILY VIOLENCE IN TEXAS

Domestic or family violence allegations often arise from underlying family law situations, such as divorce or child custody disputes. Occasionally, these accusations are false or were not made intentionally. Family violence situations are taken seriously and typically thoroughly investigated by law enforcement officers, even if no witnesses were present or there is no other evidence of abuse.

Allegations of family violence can lead to additional legal issues, such as applications for protective orders, violations of protective orders, and child abuse or neglect.



## HOUSTON FAMILY VIOLENCE LAWYER

If you have been accused of family violence or domestic violence or have been a victim of domestic violence in Houston, or any of the surrounding areas in Texas, including Spring, Humble, Tomball, Aldine, Atascocita, Klein, Jersey Village, The Woodlands, Conroe or Oak Ridge North, contact the law offices of The Law Office of Bryan Fagan, PLLC, P.C. The attorneys of The Law Office of Bryan Fagan are experienced Texas family lawyers and will make every effort to defend the allegations against you or represent you if you are a victim of domestic abuse. Call The Law Office of Bryan Fagan at (281) 810-9760 about your domestic violence questions.

## WHAT IS FAMILY VIOLENCE IN HOUSTON

Family Violence in Houston is also commonly known as domestic violence, domestic abuse or spousal abuse, and is an intentional act by an individual that cause physical harm, bodily injury, assault or sexual assault to a family or household member. A family or household member can be anyone who is:

- ☑ Related through blood or marriage,
- ☑ Husband and wife,
- ☑ An ex-wife,
- ☑ An ex-husband,
- ☑ Former spouses,
- ☑ Parents of the same child,
- ☑ Step-parents,
- ☑ Roommates,
- ☑ Presently or previously residing in the same home, and
- ☑ Foster parents.

An individual can also commit dating violence in Houston, which is defined as an intentional act that causes another person in a dating relationship physical or bodily harm. A dating relationship is a relationship that is current or occurred in the preceding six months that involved a continuous, ongoing physical relationship.

Anyone who is a victim of domestic violence or has been accused of domestic violence may be required to attend a protective order hearing. A protective order is also known as a restraining order, protection order, or order of protection against family violence, and will be issued by the court if the judge finds family violence has occurred and will likely occur in the future.

## COMMON HOUSTON FAMILY VIOLENCE OFFENSES

An individual that has been accused of committing family violence in Houston may be charged with any of the following offenses:

Domestic Assault - Tex. Penal Code § 22.01 – An individual can be charged with domestic assault if they intentionally, recklessly or knowingly:

- ☑ Cause bodily injury to a household or family member,
- ☑ Threaten to cause injury to a family or household member, or
- ☑ Physically contact a family or household member.

This offense is generally punishable as a class C, B or A misdemeanor or a felony of the third degree.

Aggravated Domestic Assault – Tex. Penal Code § 22.02 – An individual can be charged with aggravated domestic assault if they commit an assault offense against a family or household member and use a deadly weapon or cause serious bodily injury. This offense is generally punishable as a felony of the first or second degree.



Protective Order Violation – Tex. Penal Code § 25.07 – An individual can be charged with violating the terms of their protective order if they knowingly or intentionally violate the terms of a protective order issued against them. This offense is punishable as a class A misdemeanor or a felony of the third degree.

Stalking - Tex. Penal Code § 42.072 – An individual can be charged with this offense if they repeatedly and knowingly engage in conduct targeted at a specific person, such as a family or household member or a person in a dating relationship:

- ☑ That the person perceives as threatening;
- ☑ That causes the individual to fear they will be seriously harmed; and
- ☑ That would cause a reasonable person in the same situation to be afraid of injury or death from the conduct.

This offense is generally punishable as a felony of the second or third degree.

Child Abuse - Tex. Penal Code § 22.04 - An individual can be charged with child abuse if they recklessly, knowingly or intentionally cause bodily harm or injury to a child. This offense is generally punishable as a felony of the third, second or first degree.

## HOUSTON PENALTIES FOR COMMITTING FAMILY VIOLENCE

According to Chapter 12 of the Texas Penal Code, the penalties for many domestic violence offenses are as follows:

- ☑ A class C misdemeanor domestic violence conviction can result in a fine up to \$500.
- ☑ A class B misdemeanor domestic violence conviction can result in a jail sentence up to 180 days and/or a fine up to \$2,000.
- ☑ A class A misdemeanor domestic violence conviction can result in a jail sentence up to one year and/or a fine up to \$4,000.
- ☑ A felony of the third degree family violence conviction can result in a prison sentence ranging from two to ten years and/or a fine up to \$10,000.
- ☑ A felony of the second degree family violence conviction can result in a prison sentence ranging from two to 20 years and/or a fine up to \$10,000.
- ☑ A felony of the first degree family violence conviction can result in a prison term ranging from five to 99 years or life imprisonment and/or a fine up to \$10,000.

These basic statutory domestic violence penalties can vary depending on:

- ☑ The type and degree of family violence offense,
- ☑ Whether a weapon was used during the commission of the offense;
- ☑ Whether the alleged offender has a previous criminal record;
- ☑ Whether the victim was elderly, disabled or a child; and
- ☑ Whether death, bodily injury or serious bodily injury occurred.

An individual who commits continuous family violence can also be convicted of a third degree felony offense, according to Tex. Penal Code § 25.11. Contiguous violence is defined as committing any offense considered domestic violence two or more times within a 12 month period.

## DIVORCING FROM AN ABUSIVE SPOUSE IN TEXAS: WHAT YOU NEED TO KNOW

I have recently had several consults with woman who have been the victims of domestic violence. In one consult, she confessed her husband had tried to kill her. In another she and her children had fled the home and were living in a battered woman's shelter. I thought an appropriate blog topic based on these consults would be domestic violence in a divorce case.

Family violence, also called intimate partner violence or domestic violence, can be defined as a pattern of behavior that is:



- ☑ coercive
- ☑ controlling and
- ☑ used to gain or maintain power over another.

It can include:

- ☑ physical abuse
- ☑ emotional or psychological abuse
- ☑ financial abuse and
- ☑ sexual abuse

According AVDA (Aid to Victims of Domestic Abuse) in Texas Harris County led the state in women killed by their intimate partner with 34 women (22%) in 2015. In 2015, Harris County had the highest percentage of calls to the Domestic Violence Hotline.

Special laws in Texas are designed to provide quick and effective relief from domestic violence. The most important thing a victim of this kind of abuse can do, is find the courage to take action.

### **DON'T BECOME ANOTHER STATISTIC**

Some people I consult with feel as if they are not prepared handle dealing with the legal system on top of the abuse they have suffered. Often when people finally find the courage to step into my office they have been putting up with abuse for years.

In some cases, the women I meet with have found the courage to leave but do not take any other legal action until something traumatic happens. In one case one of our clients moved away with her children into a new apartment. She told me "I was afraid I did not on to court. I just wanted it to be over with" Her husband's response was to track her down and hit her again. That was the last straw that brought her to our office.

### **IF YOUR SPOUSE IS VIOLENT, TAKE IMMEDIATE ACTION**

Should your spouse become violent you should take whatever steps are necessary to protect yourself and your children including:

- ☑ Leave the house
- ☑ Take your children
- ☑ Call the police

Only after you are safe is it time to focus on legal issues.

### **FILE CRIMINAL CHARGES IF WARRANTED**

Texas law should be on your side. If you were attacked, there are several crimes your abuser may be charged with:

- ☑ Rape and Sexual Offense
- ☑ Assault,
- ☑ Domestic Criminal Trespass
- ☑ Communicating Threats
- ☑ Stalking or Harassing Phone Calls

It is a good idea to contact the police as soon as possible.

### **TALK TO A LAWYER WHEN YOU ARE SAFE**

When you are safe, contact a family law attorney in your area. They can give you advice on what your next steps should be. Some the things that I discuss are the steps necessary to get a:



- ☑ Divorce and
- ☑ A protective Order

I explain what a protective order would mean for the woman and her husband and how a protective order would affect the divorce. If my consult is interested in obtaining a protective order I will usually encourage her to go through a government agency because they will handle it for free and then once the paperwork is filed to come back and we will help with the divorce.

Below is information on government office that can help obtain protective orders:

### **MAGISTRATES ORDER**

A Magistrate's Order of Emergency Protection (MEPO) is the only type of protective order that is not obtained through a civil, district, or county court. It allows for immediate, temporary protection for a victim of:

- ☑ family violence,
- ☑ stalking, or
- ☑ sexual assault

A justice of the peace or municipal judge may issue a Magistrates Order at an arraignment after a family violence, stalking, or sexual assault arrest on the magistrate's own motion or on the request of:

- ☑ the victim of the offense;
- ☑ the guardian of the victim;
- ☑ a peace officer; or
- ☑ the attorney representing the state

A Magistrates Order may remain in effect for:

- ☑ 31 to 91 days following the date of issuance, based upon the magistrate's discretion.
- ☑ 61 to 91 days following the date of issuance if a deadly weapon was used or exhibited during the commission of an assault.

A MEPO may prohibit an offender from:

- ☑ committing family violence or assault against the person protected in the MEPO;
- ☑ communication directly with the protected person or through a third-party in a threatening or harassing manner;
- ☑ going to or near the protected person's residence or place of employment or business;
- ☑ going to or near a protected child's residence, child care facility, or school; and
- ☑ possessing a firearm.
- ☑ Additionally, a magistrate may order a defendant to participate in a global positioning monitoring system (GPS monitoring) and may allow the protected person to also participate in the system.

### **CIVIL COURT PROTECTIVE ORDERS USE THEM TO YOUR ADVANTAGE**

In many cases, it is possible to get a civil court protective order without the typical notice requirements, so you can:

- ☑ keep possession of the house and car, and
- ☑ temporary custody of your children
- ☑ the order may also provide that your spouse must stay away from you and the children.
- ☑ If your spouse violates such an order, he or she will be arrested.

A victim may obtain a civil protective order within a short period of time and at no cost. The follow are types of civil protective orders that are available:

- ☑ Temporary Ex Parte Protective Order and
- ☑ Family Violence Protective Order
- ☑ Sexual Assault/Stalking/Trafficking Protective Orders





### Temporary Ex Parte Protective Order

Many victims who apply for a civil protective order do not have a Magistrates Order, and therefore do not have any type of protection.

When they file their application for a civil protective order they can request a Temporary Ex Parte Protective order so that they have immediate protection prior to the hearing on her protective order.

### Family Violence Protective Order

A victim of family violence may apply for a family violence protective order (FVPO) as long as the victim has a current or former familial relationship with their Ex, such as:

- a current or former spouse,
- dating partner,
- child (including step-children and foster children), or
- household member

Dating violence victims of any age may apply for a Family Violence Protective Order and any adult may apply for a FVPO in order to protect a child from family violence.

A prosecuting attorney or the Department of Family and Protective Services may also file an application for the protection of an alleged victim of family violence.

Only two prongs must be proved for a court to issue a FVPO:

- that family violence has occurred in the past, and
- that family violence is likely to occur in the future.

A Family Violence Protective Order is good for two years after the date issued.

### Sexual Assault/Stalking/Trafficking Protective Orders

A victim of:

- child sexual abuse,
- indecency with a child,
- sexual assault,
- human trafficking, or
- stalking

may apply for a sexual assault/stalking/trafficking protective order (SAPO).

A parent or guardian acting on behalf of a person younger than 18 years of age who is a victim of the above offenses or a prosecuting attorney acting on behalf of the victim may also apply for a SAPO.

A court may issue a SAPO if there are reasonable grounds to believe that: the applicant is the victim of sexual assault or abuse, stalking, or trafficking. SAPO may remain effective for any duration up to the lifetime of the victim or the offender.





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## **WE'RE HERE FOR YOU**

When it comes to your financial future, your peace of mind matters. No matter where you are in the divorce process, we are always available to help you protect your assets and safeguard your future. As a Texas law firm exclusively devoted to divorce and family law, our experienced divorce attorneys will explain your options and support you throughout the process. Please contact us at (281) 810-9760 if you would like to schedule a free confidential consultation

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