

Supreme Court of Texas

Misc. Docket No. 22-9074

Preliminary Approval of a Form Sworn Application and Petition to Stop Cyberbullying

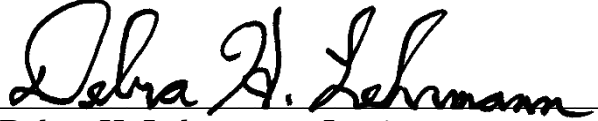
ORDERED that:

1. In accordance with the Act of May 28, 2017, 85th Leg., R.S., ch. 522 (S.B. 179), the Court preliminarily approves the following form Sworn Application and Petition to Stop Cyberbullying Under Texas Civil Practice and Remedies Code Chapter 129A.
2. The Court invites public comments on the form. Comments should be submitted in writing to rulescomments@txcourts.gov by December 1, 2022.
3. The Court will issue an order finalizing the form after the close of the comment period. The Court may change the form in response to public comments. The finalized form will be translated into Spanish.
4. The Clerk is directed to:
 - a. file a copy of this Order with the Secretary of State;
 - b. cause a copy of this Order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this Order to each elected member of the Legislature; and
 - d. submit a copy of this Order for publication in the *Texas Register*.

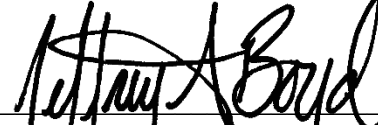
Dated: September 2, 2022.



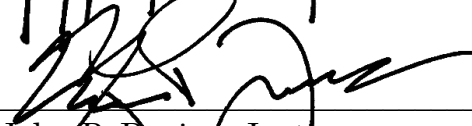
Nathan L. Hecht, Chief Justice



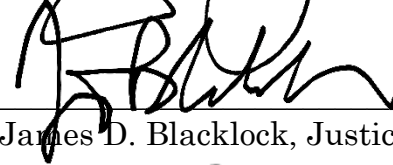
Debra H. Lehrmann, Justice



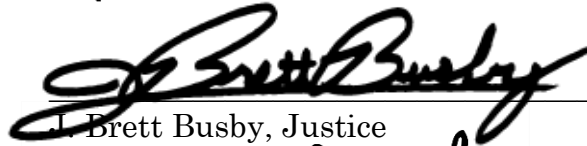
Jeffrey S. Boyd, Justice



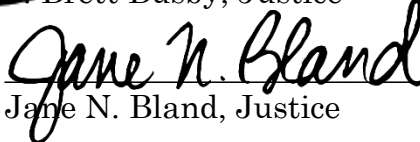
John P. Devine, Justice



James D. Blacklock, Justice



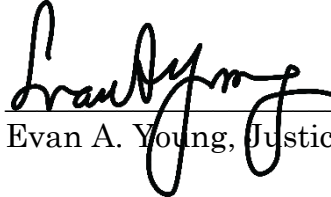
Brett Busby, Justice



Jane N. Bland, Justice



Rebeca A. Huddle, Justice



Evan A. Young, Justice



Sworn Application and Petition to Stop Cyberbullying Under Texas Civil Practice and Remedies Code Chapter 129A

What is this form for?

You may be able to stop cyberbullying by filling out this form and turning in a copy to the court.

What is “cyberbullying”?

“Cyberbullying” is a single significant act or a pattern of acts by one or more students against another student that is done through technology (like email, instant message, text message, or social media). It must either:

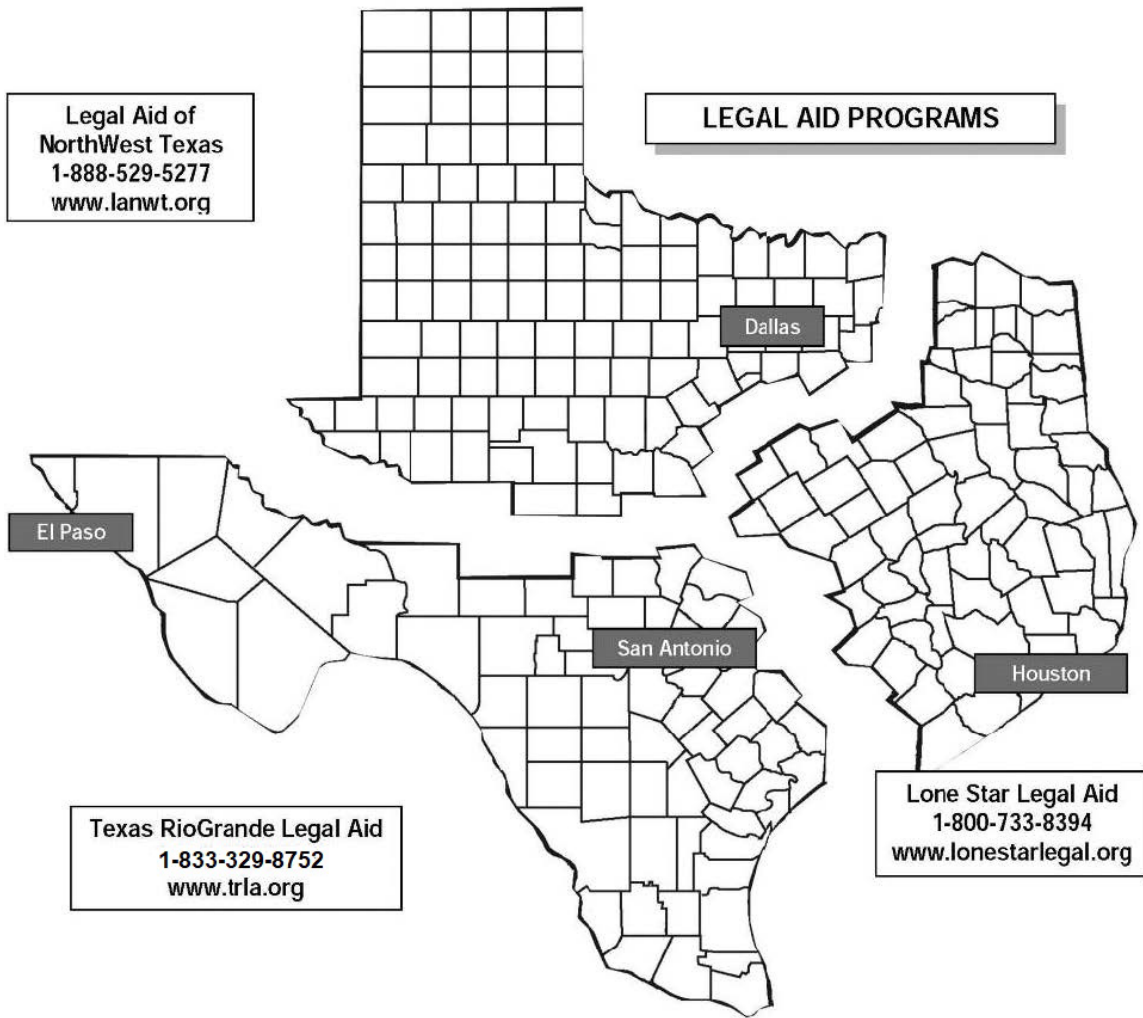
- physically harm the student or the student’s property;
- make the student fear harm;
- create an intimidating, threatening, or abusive learning environment for the student; **or**
- disrupt the learning process, classroom, or school.



Before you file a lawsuit, consider if the cyberbullying can be resolved outside the courtroom by, for example, talking to the bully’s parents.



You can fill out this form yourself, but you are encouraged to get a lawyer to help you. **This form is not a substitute for legal advice. For information on free and low-cost legal services**, visit <http://www.txcourts.gov/programs-services/legal-aid> or call the Legal Aid office that serves your area. Contact information is shown in the map below. You can also call the State Bar of Texas lawyer referral service at 1-800-252-9690.



NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA



Cause Number: _____
(The court clerk will fill in this blank when you turn in this Application.)

Applicant: _____ In the _____ Court
(The court clerk will fill in this blank when you turn in this Application.)

(You are the "Applicant." You must be the parent or guardian of a student who is younger than 18 and who is being cyberbullied.)

On behalf of: _____
(Write the **initials** of the student who is younger than 18 and is being cyberbullied.)

v.

Respondent(s): _____ _____ County, Texas

(The court clerk will fill in this blank when you turn in this Application.)

("Respondent" means the person or people you are suing.

- If the bully is younger than 18, write the name of the bully's parent(s) or guardian(s).
- If the bully is 18 or older, write the name of the bully.)

**Sworn Application and Petition to Stop Cyberbullying
Under Texas Civil Practice and Remedies Code Chapter 129A**

1. My Information

1.1 My full name (first, middle, last) is: _____
_____.

1.2 My address is: _____
_____.

1.3 My phone number is: _____.

1.4 My email address is: _____.

1.5 I am the parent or guardian of a student at _____
_____.

school. The student's full name (first, middle, last) is _____
_____.

The student is currently _____ years old. The student was
_____ years old at the time of the cyberbullying.

1.6 (Check **one** box and fill in any related blanks.)

<input type="checkbox"/>	I have a driver's license. The last three digits of my driver's license are ____ _ ____.
<input type="checkbox"/>	I do not have a driver's license.

1.7 (Check **one** box and fill in any related blanks.)

<input type="checkbox"/>	I have a social security number. The last three digits of my social security number are ____ _ ____.
<input type="checkbox"/>	I do not have a social security number.

2. Respondent Information



The "Respondent" is the person or people you are suing. If the bully is younger than 18, the Respondent is the bully's parent(s) or guardian(s). If the bully is 18 or older, the Respondent is the bully.

2.1 The full name (first, middle, last) of the Respondent(s) is: _____

_____.

2.2 (Check **one** box and fill in the related blanks.)

<input type="checkbox"/>	The Respondent is the parent or guardian of the bully. The bully's full name (first, middle, last) is _____ _____. The bully is currently _____ years old. The bully is a student at _____ school.
<input type="checkbox"/>	The Respondent is the bully. The Respondent is _____ years old. The Respondent is a student at _____ school.

2.3 The Respondent(s) lives in _____, County.

2.4 The home or work address of the Respondent(s) is: _____

_____.

3. Jurisdiction and Venue



You do not need to fill in this section. This section is needed for legal reasons. A court can only hear a lawsuit if the court has the power (called "jurisdiction") to do so and if the court is in the right place (called "venue").

Jurisdiction and venue are proper under Texas Civil Practice and Remedies Code §§ 65.021(a) and 65.023.

4. Facts



Fill in all the blanks below.

4.1 When did the cyberbullying happen? _____.

4.2 What technology was used to cyberbully? (Check **all** that apply.)

- Phone call
- Camera
- Email
- Instant message
- Text message
- Social media
- Website
- Other _____

4.3 Describe the cyberbullying: _____

4.4 Imbalance of Power



Under Texas law, to show cyberbullying, you must show an “imbalance of power.” An example of an “imbalance of power” might be an older kid bullying a younger kid.

Describe the “imbalance of power”: _____

_____.

4.5 How has the cyberbullying been harmful? _____

_____.

5. Request



You do not need to fill in this section. This section asks the court to stop the cyberbullying and is needed for legal reasons. A “Temporary Restraining Order” and an “Injunction” are both court orders that tell someone to stop doing something. To “enjoin” means to stop.

- 5.1** I ask the Court for a Temporary Restraining Order and an Injunction under Texas Civil Practice and Remedies Code (“CPRC”) Chapter 129A.
- 5.2** My Sworn Application and Petition to Stop Cyberbullying is authorized by CPRC Section 129.002(a).
- 5.3** Under CPRC Section 129.002(c), I am entitled to a Temporary Restraining Order because I am likely to succeed in showing cyberbullying occurred. Under CPRC Section 129.002(c), I do not need to show that that immediate and irreparable injury will occur before notice can be served.
- 5.4** Under CPRC Section 129.002(d), I am entitled to an Injunction—either temporary or permanent—because I have shown that cyberbullying occurred.
- 5.5** As provided in CPRC Section 129.002(b), I ask the Court to enjoin cyberbullying, as defined in Section 37.0832 of the Texas Education Code, and to order the bully’s parent(s) or guardian(s) to take reasonable actions to stop the cyberbullying.
- 5.6** As provided in CPRC Section 129.002(e), I also ask the Court to order, as is appropriate under the circumstances, the preservation of any relevant electronic communication or device, unless the Court determines that preservation is not in the best interest of the student being bullied.

6. Court Costs

I ask the Court to order Respondent(s) to pay all court costs and to reimburse me for any costs I have already paid.

7. Verification



Fill in the blanks below. In this section, you must swear to the truth of everything in your Application. You must swear to the truth under “penalty of perjury.” That means, if you are not truthful, you can be prosecuted for the crime of lying.

7.1 My full name (first, middle, last) is: _____
_____.

7.2 My date of birth is: _____.

7.3 My address is: _____
_____.

7.4 I declare under penalty of perjury that my Sworn Application and Petition to Stop Cyberbullying (“Application”) is true and correct.

7.5 I am signing my Application in _____ County,
State of _____.

7.6 I am signing my Application on _____ date.

(Sign your name here.)

Next Steps

After you are done filling in your Application, follow these steps:

1. Make a copy of your Application.
2. Store **the original** in a safe place. Keep it for at least 6 months after the lawsuit is over.
3. Redact the names of children and some home addresses from **the copy**. “Redact” means to remove information. Most people redact by drawing a black box over the information they want to remove. **Redact all children’s names in Sections 1.5, 2.2, 4.3, 4.4, and 4.5 above. If you listed the Respondent’s home address in Section 2.4, redact it too.** Do not redact your address.
4. If you are unable to afford court costs (sometimes more than \$200), you should fill out the “Statement of Inability to Afford Payment of Court Costs” by visiting <https://www.txcourts.gov/rules-forms/forms/> or by asking for it at the courthouse. If you are able to afford court costs, you can skip this step.
5. Turn in (or “file”) **the redacted copy** of your Application to a **“district court” or “county court at law” in the county where the Respondent lives**. If you are unable to afford court costs, you should turn in your Statement of Inability to Afford Payment of Court Costs at the same time. You may turn in your Application (and Statement) in person, by mail, or by using the eFile system. If you use the eFile system, be sure to mark that your Application (and Statement) has sensitive data.
6. Ask the clerk of the court when you can present your Application to a judge. Often, you can present your Application right away. You should also ask the clerk if there are any local rules you should know about. If you are not at the courthouse, you can call the clerk for this information.
7. Present your Application to the judge at what’s called a “hearing.” Show the judge the paperwork you turned in and answer any questions the judge has. At the hearing, the judge will decide if you get a “Temporary Restraining Order,” which is an emergency court order that orders the cyberbullying to stop immediately until the judge can have a hearing with both you and the Respondent. If the judge doesn’t give you a Temporary Restraining Order, the judge will still schedule a hearing with both you and the Respondent.

8. If the judge gives you a Temporary Restraining Order, the judge may order you to pay a “bond.” **Immediately ask the clerk how to do that.** If the judge doesn’t give you a Temporary Restraining Order, you can skip this step.
9. No matter what the judge decides about giving you a Temporary Restraining Order, **immediately ask the clerk for help arranging “service”** of your Application and, if the judge gives you one, the Temporary Restraining Order. “Service” is when a constable, sheriff, private process server, or the clerk—not you—officially gives the Respondent a copy of your Application and, if the court gave you one, the Temporary Restraining Order. There is usually a fee for this service, but, if you turned in a Statement of Inability to Afford Court Costs, the clerk can arrange this service for free.
10. Attend your hearing with the judge and the Respondent. **You must attend the hearing even if you get a Temporary Restraining Order.** It should be in about two weeks after you first talk to the judge, but the court clerk will be able to tell you the exact time and date. At the hearing, the judge will decide if you get an “Injunction” and for how long. An “Injunction” is a court order that orders the cyberbullying to stop for whatever time period the judge decides is appropriate. At the hearing, the judge will give you an opportunity to explain what has happened and why you believe it is cyberbullying. The judge or the Respondent may ask you questions. Tell the truth and give complete answers. Bring any evidence you have, like screenshots of the cyberbullying, to the hearing. **If you do not attend the hearing, you will have to restart from the beginning.**
11. If the judge gives you an Injunction, the judge may order you to pay a “bond.” **Immediately ask the clerk how to do that.** If the judge doesn’t give you an Injunction, you can skip this step.

Need help?

Learn more about cyberbullying and the court process at www.texaslawhelp.org or by scanning this QR code with your camera phone:



For information on free and low-cost legal services, visit <http://www.txcourts.gov/programs-services/legal-aid> or call the Legal Aid office that serves your area. Contact information is shown in the map on page 2. You can also call the State Bar of Texas lawyer referral service at 1-800-252-9690.

What happens if I don't speak English?

Tell the court clerk as soon as possible that you will need an interpreter. Ask the clerk for free interpretation services.

What if I am deaf or living with a disability?

Tell the court clerk as soon as possible that you will need an interpreter or other accommodation.