

Do I qualify for a Writ of Retrieval?

A Writ of Retrieval only applies to residential properties, (Not Commercial)

A writ of retrieval is an order from a justice court authorizing a person to enter their residence or former residence, accompanied by a peace officer, to retrieve specific items of personal property **when the current occupant is denying the person entry or there is a clear and present danger of family violence to the applicant or applicant's dependent(s)**. Property Code § 24A.002(a).

Question	Yes	No
<p>Are you being denied access to the residence where your property is located and/or there a clear and present danger of family violence for you or your dependent(s)? If No, then a Writ of Retrieval is not appropriate and you need to seek another remedy.</p>		
<p>Is there a Protective Order or an Emergency Protective Order? If Yes, then a Writ of Retrieval is not appropriate and you need to seek another remedy.</p>		
<p>Is there any other Court Order prohibiting you from entering the property or being in contact with the other party? i.e. Bond Conditions, No Contact Order, etc.? If Yes, then a Writ of Retrieval is not appropriate and you need to seek another remedy.</p>		
<p>Is there a Criminal Trespass Warning? If Yes, then a Writ of Retrieval is not appropriate and you need to seek another remedy.</p>		
<p>Is any of the property you are seeking subject to a divorce or annulment filed with any Court? If Yes, then a Writ of Retrieval is not appropriate and you need to seek another remedy.</p>		
<p>Do you or your dependent(s) have personal property located at this premises that are on the list below? If No, then a Writ of Retrieval is not appropriate and you need to seek another remedy.</p>		
<ul style="list-style-type: none"> ◆ medical records ◆ medicine and medical supplies; ◆ clothing ◆ child-care items ◆ legal or financial documents ◆ checks or bank or credit cards in my name ◆ employment records ◆ personal identification documents 		

When to file an application for a Writ of Retrieval

<ul style="list-style-type: none"> ◆ copies of electronic records containing legal or financial documents ◆ assistance animals or service animals, as defined by Section 121.002, Human Resources Code, used by me or my dependents ◆ wireless communication devices, as defined by Section 545.425(a), Transportation Code, belonging to me or my dependents ◆ tools, equipment, books, or apparatus used by me in my trade or profession. 		
<p>Will you or your dependent(s) suffer personal harm if the items are not retrieved promptly?</p> <p>If No, then a Writ of Retrieval is not appropriate and you need to seek another remedy.</p>		
<p>Do you have evidence/documentation that shows you are currently or were formerly an authorized person to occupy the residence?</p> <p><i>Example: Utility Bill, Rental Agreement/Lease, or a Sworn Statement/Affidavit., etc.</i></p> <p>If No, then a Writ of Retrieval is not appropriate and you need to seek another remedy.</p>		

If the Writ of Retrieval is appropriate, complete the application and file with the Court along with all evidence/documentation.

Application for Writ of Retrieval

Chapter 24A of the Texas Property Code establishes a procedure by which an affected party can petition a justice court to obtain the assistance of a peace officer to gain access to a residence or former residence to retrieve specific items of personal property.

If you are unable to enter your residence or your former residence to retrieve personal property belonging to you or your dependent because the current occupant is denying you entry, you may apply to the justice court for an order authorizing you to enter the residence accompanied by a sheriff, a constable or their deputies to retrieve specific items of personal property. Only items on the following list may be retrieved under this order:

- ◆ medical records
- ◆ medicine and medical supplies;
- ◆ clothing
- ◆ child-care items
- ◆ legal or financial documents
- ◆ checks or bank or credit cards in my name
- ◆ employment records
- ◆ personal identification documents
- ◆ copies of electronic records containing legal or financial documents
- ◆ assistance animals or service animals, as defined by Section 121.002, Human Resources Code, used by me or my dependents
- ◆ wireless communication devices, as defined by Section 545.425(a), Transportation Code, belonging to me or my dependents
- ◆ tools, equipment, books, or apparatus used by me in my trade or profession.

***** Important*****

If the items you are requesting are not listed above, a Writ of Retrieval can NOT be issued. Seek other legal remedies to obtain any items not listed above.

If you are under a Court Order, Restraining Order, Emergency Protective Order, or any other Order prohibiting you from the location of your property or the Occupant (resident) residing at the location of your property, a Writ of Retrieval can NOT be issued.

What you need to file:

- ▶ Complete this application in its entirety and file it and the required evidence/documents with the Court.
- ▶ Cost to file is \$54.00 + \$35.00 for posting of the Hearing Notice = **\$ 89.00 due at filing**
- ▶ A hearing will be set within 2 to 3 business days of the application being filed.
- ▶ At the Hearing you will be required to post a bond if the Order for Retrieval is issued. If you are planning on using Individual Sureties, they will be required to appear at the hearing.
- ▶ If Writ of Retrieval is issued by the Court, you will be required to pay an additional fee of \$35.00 for the execution of the order.

CASE NO. _____

Application for Writ of Retrieval

Applicant Name: _____ DOB: _____ DL No. _____

Applicant's Current Address: _____
Street Address City St Zip

Applicant's Phone No. (_____) _____ - _____ Hm Cell Wk

Applicant's Employer: _____ Ph. No. _____

Applicant's Employer's Address _____

Applicant's Employer's Phone Number: (_____) _____ - _____

Respondent's Name: _____ DOB: _____ DL No. _____

What is your relationship with the Respondent? _____

Respondent's Address: _____
Street Address City St Zip

Respondent's Phone Number: (_____) _____ - _____ Hm Cell Wk

Respondent's Employer: _____

Respondent's Employer's Address: _____

Respondent's Employer's Phone Number: (_____) _____ - _____

Is the Respondent currently available to be notified of the hearing? Yes No

Address where the property you are requesting is located:

Street Address City St Zip

Check items that you are requesting.

- medical records;
- medicine and medical supplies;
- clothing;
- child-care items;
- legal or financial documents;
- checks or bank or credit cards in my name;
- employment records;
- personal identification documents;
- copies of electronic records containing legal or financial documents;
- assistance animals or service animals, as defined by Section 121.002, Human Resources Code, used by me or my dependents;
- wireless communication devices, as defined by Section 545.425(a), Transportation Code, belonging to me or my dependents;
- tools, equipment, books, or apparatus used by me in my trade or profession.

(If any items that you are requesting are not listed above, a Writ of Retrieval can NOT be issued. Seek alternative legal remedies to obtain any property NOT listed above.)

CERTIFICATION/ATTESTATION

I, _____, certify that all of the following statements are true:
Print Name

- I will suffer personal harm and/or the personal health and safety of myself or others within my care will likely be at risk if I am unable to retrieve the items, and I have an urgent need to retrieve the items from the Residence.
- I have attached a lease, sworn statement or other documentary evidence showing that I am, or was previously, authorized to occupy the Residence. I am currently unable to enter the Residence because the current Occupant named above has denied me access to the Residence or poses a clear and present danger of family violence to myself or my dependents.
- I am not the subject of an active protective order under Family Code Title 4, a magistrate's order for emergency protection under Code of Criminal Procedure Article 17.292, or any court order prohibiting my entry into the Residence; or otherwise prohibited by law from entering into the Residence.

- I and the current Occupant are not parties to a pending divorce or annulment case under Title 1, Family Code.
- My right to possession of the items described in this application is not subject to a decree of divorce or annulment to which I and the current Occupant are parties.
- I request that this Writ of Retrieval be issued ex parte (*without notice to the current occupant of the Residence*), because the following facts are true:
 - The current Occupant of this Residence poses a clear and present danger of family violence to me; and
 - My dependent or I will suffer immediate and irreparable personal harm if the application is denied.

APPLICANT:

I, _____, swear that I do or did reside (*had the legal right to occupy*) at:
Print Name

Address where property is located

from _____ / _____ / _____ to _____ / _____ / _____.
Date I began residing Date I stopped residing

Applicants Printed Name:

Applicants Signature Date