

Legal Options for Protection from Domestic Violence and Stalking

Protection Orders

Room 408

12:00

Getting protection from domestic violence and stalking is a complex issue, but there is legislation to protect those who qualify. If you are in immediate need of protection for yourself and/or your children, you may apply for a Protection Order.

This fact sheet provides information to help you apply for a Protection Order.

Definitions

Applicant – person applying for the order

Respondent – person you want to be protected from

Judicial Justice of the Peace – the special justice who will hear your case and make a decision

Protection Order Designate – a person specially trained to help people apply for Protection Orders (See contact number at the end of this sheet.)

What is a Protection Order?

A Protection Order is a court order, granted on an urgent basis, forbidding the respondent from having contact with the applicant. These orders are granted by a judicial justice of the peace (JJP) and can contain all or some of these specific conditions:

- The respondent may not communicate with you or contact you directly or indirectly.
- The respondent may not come near any place that you or a specified person happen to be or regularly attend, such as your home, job, school, or place of worship.
- The respondent may not follow you or any specified person.

- The respondent must turn over any weapons to the police and the police can search for and seize weapons.
- The respondent must give you temporary possession of your necessary personal belongings.
- You may have the help of a police officer to get your personal belongings.
- You may get the help of a police officer to remove the respondent from your home.

Who can get a Protection Order?

You can get a Protection Order if someone has stalked you or subjected you to domestic violence and you believe the behaviour will continue. You do not have to wait until you have actually been injured to seek help.

As the applicant, you must explain to a judicial justice of the peace why you need the order and supply facts, times, dates and locations of incidents that show why you urgently need protection. If your application is based on domestic violence, you must also show that:

- you are currently living with or dating the respondent or have done so in the past; or
- you have a child or children with the respondent; or
- you and the respondent are family members

How much does it cost?

There is no charge for getting a Protection Order. However, there is a fee if you apply to have the Protection Order cancelled.

Ces renseignements sont également offerts en français.

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Legal Options for Protection from Domestic Violence and Stalking

Protection Orders, Prevention Orders and Peace Bonds

Getting protection from domestic violence and stalking is a complex issue, but there is legislation to protect those who qualify. If you need protection for yourself and/or your children, there are three different types of legal protection available through the courts:

- 1. Protection Order**
- 2. Prevention Order**
- 3. Peace Bond**

Each order provides a different kind of protection over a different period of time. This fact sheet provides an overview of protection options, to help you get the right one for your circumstances.

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1 What is a Protection Order?

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How does a Protection Order work?

If domestic violence or stalking has happened and the applicant needs protection right away, a JJP can grant a Protection Order, without notifying the respondent. However, the police or Sheriff's Office serve the respondent notice as soon they are able and the respondent has 20 days to apply to have it set aside (cancelled). Protection Orders granted after October 31, 2005 last for three years. A JJP can grant a longer order if there is reason to believe the applicant needs protection for a longer time. There is no fee for getting a Protection Order and you do not need a lawyer. Protection Order designates can be very helpful to applicants when applying for these orders.

Ces renseignements sont également offerts en français.

2 What is a Prevention Order?

A Prevention Order is a court order that also addresses domestic violence or stalking. It can forbid the respondent from having contact with the applicant but may contain more conditions than a Protection Order. Prevention Orders take longer to get because they must meet the more complex requirements of the Court of Queen's Bench. The orders can contain more conditions than a Protection Order, including:

- The applicant is allowed sole occupation of the family home.
- The applicant can be allowed temporary possession of specified personal property, such as household goods, furniture or vehicles.
- The respondent can be ordered to get counselling.
- The respondent can be prohibited from damaging or dealing with property the applicant has an interest in.
- The respondent can be ordered to pay compensation for monetary losses caused by his/her actions, such as expenses for counselling, moving or lost income.
- Items used by the respondent to further the domestic violence or stalking, such as weapons or vehicles, can be seized by police.

The court can also have the respondent's driver's licence suspended if a vehicle has been used to further domestic violence or stalking.

How does a Prevention Order work?

Applicants are advised to get a lawyer to help them get a Prevention Order, to make sure the right steps are followed and conditions of the order best meet their needs. Court of Queen's Bench judges hear applications for these orders. Respondents are usually advised in advance of the hearing and have an opportunity to give evidence. Prevention Orders can remain in effect indefinitely unless the judge includes an expiry date. It can take anywhere from a few days to several weeks for the court to make a Prevention Order. Applicants for Prevention Orders must pay court filing fees and lawyer's fees.

3 What is a Peace Bond?

A Peace Bond is a court order that can be issued when an applicant reasonably fears personal injury to themselves or their children or damage to their property. It forbids the respondent from having contact with the applicant, the children and the property. The process to get these orders is also complex. A Peace Bond can contain conditions similar to Protection Orders plus other conditions such as:

- The respondent must keep the peace and be of good behaviour.
- The respondent cannot communicate with the applicant or the children.

How does a Peace Bond work?

Applicants can apply to their local Provincial Court office for a Peace Bond. Provincial Court judges hear applications for Peace Bonds. The respondent is advised of the application and both the applicant and respondent have to appear in court. It can take several weeks to get an initial court date. It can take up to several months for a judge to grant a Peace Bond. Bonds are issued for a specific period of time, up to a maximum of one year. There is no fee to apply for a Peace Bond.

Remember

- Any court order is not a guarantee of safety – a safety plan is your best defence. No matter what court orders you get, you still need a safety plan.
- You need to get the order that best fits your situation.
- Just because you ask for a court order does not mean you will automatically get one.
- Judges, magistrates and judicial justices of the peace issue court orders based on case law, facts and evidence. You must be specific about the facts of your situation – dates, times, places.

Information

For more information on court orders, Protection Order designates or safety plans, call the provincial crisis/information line toll free at 1-877-977-0007.