

# Court Orders for Your Protection

## Table of Contents

### Criminal Law Orders for Your Protection

Undertakings

Probation Orders

Peace Bonds

### Family Law Orders for Your Protection

Restraining Orders

Emergency Protection Orders

Victim Assistance Orders

## Introduction

This booklet will explain some court orders and the process to apply.

Even if you have a court order for your protection, you should still have a safety plan to help keep you and your family safe. This is important because the person who harmed you may disobey the order.

If you are in immediate danger, call 911.

The information in this guide is not legal advice, and does not replace guidance from a lawyer.

## What is a Court Order?

A **court order** is a legally binding requirement made by the court. For example, a court order can require that you not contact another person.

A court order can help protect you from someone you are afraid of, or from someone who harmed you.

Court orders are available through the criminal law system in Provincial Court and Supreme Court, and the family law system in Supreme Court. You can apply to the court for some court orders on your own. For other orders, you need to have a lawyer or a police officer act on your behalf.

## Criminal Law Orders for Your Protection

There are three kinds of orders available through the criminal law system that may contain conditions for your protection:

1. Undertakings (issued by a police officer or Justice of the Peace)
2. Probation Orders
3. Peace Bonds (also called Recognizances)

## Undertakings

The person who harmed you may be arrested or charged with an offence against you. If so, they may be released by the police or court official on an undertaking. An **undertaking** is an agreement signed by the person who caused harm if criminal charges have been laid. It lists conditions they must follow when they are released from custody. The undertaking may include conditions to protect you.

Conditions listed in an undertaking may include:

- No contact or communication with you, directly or indirectly. An example of communicating indirectly is asking a friend to give you a note. An example of communicating directly is sending you an email or trying to talk to you in person.
- The person must stay away from your home and/or work.

If the undertaking is put in place by police, make sure you explain your fears and concerns to the police. If the police know what your fears and concerns are, the order will be more likely to include the conditions you need to be safe.

Conditions stay in place for as long as the court is dealing with the charges, or until the conditions are changed or removed from the undertaking. As the victim of violence, you cannot apply to have the conditions changed. Only the Crown Attorney or the accused person can apply for changes.

If the person who harmed you disobeys the conditions, tell the police immediately. The person may be arrested for disobeying the undertaking. A person who disobeys an undertaking may have to stay in custody until their charges are dealt with by the criminal courts.

If conditions include no contact with you, you are also not allowed to contact the person who harmed you. You may be charged with a criminal offence if you contact the person who harmed you or encourage them to contact you.

## Probation Orders

If a person has been found guilty of a crime against you, the court may put them on a Probation Order. In the Probation Order, the court may impose conditions for a period of time. If the person who harmed you is given probation, you have a right to speak to the probation officer if you wish. You can make reasonable suggestions to the Crown Attorney or the police.

Conditions in a Probation Order may include:

- The person must attend assessment, counselling, and/or treatment for drug use, alcohol use, or anger management;
- No contact with you, your children or family members; and
- The person must stay away from your home and/or work.

In some cases, the Judge will order that the probation officer can allow contact between you, your children or family members and the person who harmed you.

You cannot apply to have probation conditions changed. Only the Crown Attorney, the probation officer, or the offender can apply for changes. A court can make probation conditions last for up to three years, unless the offender gets a jail sentence that is more than two years.

If the person who harmed you disobeys the conditions, tell the police immediately. You may also wish to call Victim Services and Probation Services.

**Victim Services** assists victims of crime throughout the criminal justice process. They can keep you updated on the status of your case, help you to understand the criminal justice system and your rights, assist you in preparing a victim impact statement, and help you prepare for court if you are called as a witness.

**Victim Services in Charlottetown 902-368-4582 or [victimservicescharlottetown@gov.pe.ca](mailto:victimservicescharlottetown@gov.pe.ca)**

**Victim Services in Summerside 902-888-8218 or [victimservicessummerside@gov.pe.ca](mailto:victimservicessummerside@gov.pe.ca).**

If conditions include no contact with you, you are also not allowed to contact the person who harmed you. You may be charged with a criminal offence if you contact the person who harmed you or encourage them to contact you.

## Peace Bonds

If you fear that the person who harmed you will injure you or your children or damage your property, you can ask for a peace bond. A peace bond is a legal promise signed by the person who caused you harm. It includes requirements that they have no contact with you, keep the peace, behave well, and obey other requirements the Judge makes. A Peace Bond is also called a **Recognizance Order**.

## How do I get a peace bond?

You can apply for a peace bond against any person causing you to fear for your personal safety or for your property. The court will only order a peace bond if it is convinced that you have a good reason to be afraid.

To get a peace bond, either you, or a police officer on your behalf, must apply through the Provincial Court. Provincial courts are in Georgetown, Charlottetown and Summerside.

## What happens after I apply?

- Either you or the police officer will be asked to sign a document called an information. An **information** is a sworn statement about why you fear for your safety. Usually, a police officer signs the information.

- The Provincial Court will set a date for a court hearing. The person who harmed you is required to appear in court on that date.
- If you signed the information, you must be in court for the first hearing or your application will be dismissed. If a police officer signed the information, you do not have to be in court on the first date. A police officer will go to court instead.
- When the application first comes before the court, the person harmed you will be asked if they agree to sign the peace bond.
  - a. If they agree, the peace bond will be issued.
  - b. If they disagree, the court will order that a hearing be held. The police will give you a subpoena. A **subpoena** is a piece of paper telling you when you must be in court.

Until the hearing is held, you will not have a peace bond. The police officer or a Justice of the Peace may issue an undertaking signed by the person who harmed you which says that they will not come near you.

At the hearing, you will have to give evidence to convince the Judge that you need the peace bond. Tell the Judge examples of things that happened that made you feel afraid. If you have any witnesses to what happened, ask them to testify in court for you. **Testifying** is giving evidence. You should also tell the Judge if you want certain conditions in the peace bond. For example, you may want the person to stay away from your home and/or workplace. If you appear at the court hearing and the other person does not, the hearing may still go ahead.

Based on the evidence, the Judge may order that the person who harmed you sign a peace bond.

### **Why is it important for me to have a certified copy of the peace bond?**

If the court orders a peace bond, you should get a certified copy of it from the court clerk. Keep the certified copy of the peace bond in a safe place. If call the police later, it will make it easier to prove that you do have a peace bond against the person who harmed you.

### **How long will my peace bond last?**

The Judge will set the length of time the peace bond stays in effect. In most cases, the peace bond will be in effect for a period of up to one year. However, in some circumstances, if the person has been convicted of a sexual offence against someone under the age of 16 or convicted of a violent offence, the Judge may order a peace bond of up to two years. The peace bond cannot be renewed, but you can apply for a new one if you still have reason to fear this person. You can also apply to Provincial Court to change it.

### **What do I do if I suspect the person has breached a peace bond?**

If the person who is bound by the peace bond breaches (disobeys) any of the conditions of the peace bond, call the police immediately. The person can be charged and punished for breaching the court order.

It is important to remember that on PEI, chance encounters can happen. Common sense and good judgment are required. You might, for example, meet someone who is not allowed to have contact with you in a public place. Do not try to speak to the person or approach them. Both you and the person should move on to another area or activity. It is a good idea to note the time and place of the situation. However, you do not need to report it to the police unless a pattern develops, or intentional contact is made.

Remember that you may be charged with a criminal offence if you contact the person who harmed you or encourage them to contact you.

## Family Law Orders for Your Protection

There are three kinds of court orders available in the family law system that may contain conditions for your protection:

1. Restraining Orders
2. Emergency Protection Orders (EPOs)
3. Victim Assistance Orders (VAOs)

### Restraining Orders

A Restraining Order is a court order under the *Family Law Act* that requires your partner or ex-partner to stop “molesting, annoying or harassing” you or your children. You can only apply for a Restraining Order if you are already living apart with no plans to live together again. These orders apply to common law couples as well as to those who are legally married.

Restraining orders can be used in harassment or annoyance situations. For example, you can apply for a Restraining Order if your ex constantly telephones you or goes to your house, even if they are not threatening to harm you.

### How do I get a restraining order?

To get a Restraining Order, you need a lawyer. You can go to a private lawyer.

Family Legal Aid may provide you with free legal representation for some family law issues. To qualify for legal aid, you must meet certain criteria. Call Legal Aid to see if you qualify for this service or not.

Charlottetown: 902-368-6656

Summerside: 902-888-8066

### Emergency Protection Orders (EPO)

An emergency protection order (EPO) can immediately protect victims of family violence in an emergency. An EPO is:

- Available 24 hours a day;
- Ordered by a Justice of the Peace;
- Effective as soon as the person who harmed you is served a copy of the order;
- Remains in effect for as long as directed by the Justice of the Peace (up to 90 days).

If the person who harmed you seems to be avoiding receiving the EPO, a Justice of the Peace may decide that service of the order is not required. In these cases, the EPO is still active even though the person who harmed you has not received a copy of it.

### **How do I get an Emergency Protection Order?**

A police officer or a Victim Services worker may apply for an EPO on your behalf. An EPO is made only if a Justice of the Peace is sure that family violence has happened, and your situation is serious and urgent.

The Justice of the Peace forwards one copy of the EPO and all supporting documents to the court. The EPO and documents are reviewed within five working days by a Judge of the Supreme Court. The Judge decides whether to confirm or change the EPO, or if there will be a hearing for all or part of the application.

You and the person who harmed you will get notice of any hearing. During the court process, the person who harmed you is called the **Respondent**. Both of you may attend the hearing and tell the Judge why the EPO should be changed or remain the same.

If the Judge does not ask for a hearing, the respondent may apply to the court to have the conditions changed. You will then get notice of the hearing so that you can tell the Judge why you think the EPO should not be changed.

### **What happens when the order is granted?**

An Emergency Protection Order can:

- Direct a police officer to remove the person who harmed you from the home;
- Order the person who harmed you not to contact you or your family, or another specified person;
- Order the person who harmed you to stay away from any place identified in the order;
- Order the person who harmed you not to take, sell, or damage property;
- Order the person who harmed you not to commit any further acts of violence against you;
- Give you temporary possession of specified personal property (such as a car);
- Give you exclusive occupation of the home (for a stated period of time);
- Give you or another specified person temporary decision-making responsibility or day-to-day care of a child;
- Direct a police officer to supervise removal of personal belongings from the home;
- Prohibit the publishing of your name and address;
- Restrain the person who harmed you from terminating the basic services of utilities (telephone, electrical, water and sewage);

- Require the person who harmed you to make rent or mortgage payments on the residence;
- Extend protection to your family members in some circumstances.

If the person who harmed you encourages someone else to commit violence against you, the person who harmed you will be held responsible for the violence.

### Victim Assistance Orders (VAOs)

Victim Assistance Orders (VAOs) are longer-term tools to help victims of family violence. They can be used for non-emergency situations. They can also be used when an emergency protection order is about to expire.

A Victim Assistance Order may include the same requirements as an emergency protection order. They may also include parenting requirements and any other requirements the Judge thinks are appropriate.

A Victim Assistance Order can:

- Give you exclusive occupation of the home for a defined period of time;
- Remove the person who harmed you from the home immediately or within a specified time;
- Grant police supervision of the removal of personal belongings from the home;
- Direct the person who harmed you to stay away from specific places like your workplace or school;
- Give you temporary decision-making responsibility or day to day care of children;
- Remove personal property from the person who harmed you;
- Direct the person who harmed you to make rent or mortgage payments on the residence;
- Direct the person who harmed you to not terminate basic services of utilities;
- Prevent publication of your name and address;
- Grant supervised parenting time to the person who harmed you while ensuring the safety and well-being of you and your children;
- Include any other requirement the Judge thinks is appropriate.

The person who harmed you may be ordered not to:

- Communicate directly or indirectly with you. An example of communicating indirectly is asking a friend to give you a note. An example of communicating directly is sending you an email or trying to talk to you in person.
- Take, sell, or damage property.
- Commit more acts of violence against you.

### **What is the Victim Assistance Orders Information Kit?**

The Department of Justice and Public Safety has published a Victim Assistance Orders Information Kit. You can use the kit to make an application for a Victim Assistance Order.

These kits are available from:

**Victim Services in Charlottetown 902-368-4582 or [victimservicescharlottetown@gov.pe.ca](mailto:victimservicescharlottetown@gov.pe.ca)**

**Victim Services in Summerside 902-888-8218 or [victimservicessummerside@gov.pe.ca](mailto:victimservicessummerside@gov.pe.ca).**

### **How do I get a Victim Assistance Order?**

Applying for a Victim Assistance Order is a legal process. It is a good idea to talk with a lawyer for advice and help.

If you do not have a lawyer, the Lawyer Referral Service may be helpful. The Lawyer Referral Service is administered by Community Legal Information. You may access up to 45 minutes of consultation with a lawyer for \$25 + tax. **Call 902-892-0853 or toll-free 1-800-240-9798.**

Family Legal Aid may provide you with free legal representation for some family law issues. To qualify for legal aid, you must meet certain criteria. Call Legal Aid to see if you qualify for this service or not.

Charlottetown: 902-368-6656

Summerside: 902-888-8066

### **What happens after I apply for a Victim Assistance Order?**

An application for a Victim Assistance Order is made to a Judge of the Supreme Court. The Judge will decide to grant the order or not.

A Judge who orders a Victim Assistance Order may include all the conditions that can be ordered when an Emergency Protection Order is granted. The Judge may also include conditions to protect your children and any other condition the Judge considers appropriate.

At your request, your address will be kept confidential when an application for a Victim Assistance Order or an Emergency Protection Order is made. At your request, other information may also be protected.

## **Important Contacts**

**Emergencies 911**

### **Victim Services**

Charlottetown 902-368-4582 or [victimservicescharlottetown@gov.pe.ca](mailto:victimservicescharlottetown@gov.pe.ca)

Summerside 902-888-8218 or [victimservicessummerside@gov.pe.ca](mailto:victimservicessummerside@gov.pe.ca)

### **Municipal Police**

Charlottetown 902-629-4172

Summerside 902-432-1201

Kensington 902-836-4499

**RCMP**

Queens 902-368-9300

East Prince 902-436-9300

West Prince 902-853-9300

Montague 902-838-9300

Souris 902-687-9300

**Family Violence Prevention Services**

Anderson House (24-hour crisis line) 1-800-240-9894 or 902-892-0960

Outreach Services:

West Prince 902-859-8849

East Prince 902-436-0517

Eastern PEI 902-838-0795

Queens 902-566-1480

**Chief Mary Bernard Memorial Women's Shelter**

(24-hour crisis line) 902-831-2332

**PEI Rape and Sexual Assault Centre**

Toll-free 1-866-566-1864

Therapy line 902-368-8055

**Child Protection – to report child neglect or abuse**

During business hours 1-877-341-3101

After business hours 1-800-341-6868

**Adult Protection Program (Home Care)** for vulnerable adults who are unable to protect themselves from abuse or neglect.

Charlottetown 902-368-4790

Montague 902-838-0786

O'Leary 902-859-8730

Souris 902-687-7096

Summerside 902-888-8440

**Island Help Line** 1-800-218-2885

**Community Legal Information and Lawyer Referral Service**

1-800-240-9798 or 902-892-0853

info@legalinfopei.ca

**Family Legal Aid**

Charlottetown 902-368-6540

Summerside 902-888-8066

**Criminal Legal Aid**

Charlottetown 902-368-6043

Summerside 902-888-8219

**MCPEI Indigenous Justice Program** 902-367-3681

**Salvation Army** (Emergency Shelter, Food, and/or Clothing)

Charlottetown 902-892-8870

Summerside 902-888-3870

**Blooming House** (Women's Shelter)

902-213-9969

## Back Page

Community Legal Information is a registered charity that receives funding from Justice Canada, the Law Foundation of PEI, the Law Society of PEI, the PEI Department of Justice and Public Safety, and other sources. Community Legal Information provides understandable and useful information about the law and the justice system in Prince Edward Island.

For more information on other legal topics, visit [www.legalinfopei.ca](http://www.legalinfopei.ca), email us at [info@legalinfopei.ca](mailto:info@legalinfopei.ca), or call us at 902-892-0853 or 1-800-240-9798. You can also find us on social media.

Support us by making a donation at [www.legalinfopei.ca/donate/](http://www.legalinfopei.ca/donate/).

Non-commercial reproduction of this document is encouraged.

Charitable registration number: 118870757RR0001

ISBN 978-1-894267-91-5

December 2006; Revised March 2021