

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.

Definitions

Applicant - person applying for the order

Respondent - person you want to be protected from

Judicial Justice of the Peace (JJP) - the special justice who will hear your case and make a decision

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

1. What is a Protection Order?

A Protection Order is a court order, granted on an urgent basis in cases of domestic violence or stalking, forbidding the respondent from having contact with the applicant. These orders are granted by a 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 have the help of a police officer to remove the respondent from your home.

How does a Protection Order work?

If domestic violence or stalking has happened, there is reason to believe that it will continue and the applicant needs protection right away, a JJP can grant a Protection Order without notifying the respondent. If a Protection Order is granted, the police or Sheriff's Office serve the respondent as soon as they are able. The respondent then has 20 days, or a longer period if a judge allows it, to apply to have the order set aside (cancelled). Protection Orders granted after October 31, 2005 usually 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. PODs can be very helpful to applicants when applying for these orders.

2. What is a Prevention Order?

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

- 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 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 applicants reasonably fear personal injury to

themselves, their spouse/common-law partner or their children or damage to their property. It is not limited to domestic violence or stalking situations. It forbids the respondent from having contact with the applicant, the children and 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. The respondent has the right to question the applicant. It can take several weeks to get an initial court date. It can take months before a judge will hear the Peace Bond application. 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 and JJPs 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 domestic violence or safety plans, call the provincial crisis/information line toll free at **1-877-977-0007**.

For more information about legal protection available through the courts, call Manitoba Justice Victim Services, toll free at **1-866-484-2846**.