

NAVIGATING CHANGE



YOUR FAMILY LAW GUIDE

DEVELOPED BY PBSC STUDENTS AT THE
UNIVERSITY OF MANITOBA



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CHAPTER

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This document does not contain legal advice.

This document was prepared with the assistance of PBSC University of Manitoba Chapter law student volunteers. PBSC volunteers are not lawyers, and they are not authorized to provide legal advice. This document contains general discussion of certain legal and related issues only. If you require legal advice, please consult with a lawyer.

I AM LEAVING A DANGEROUS RELATIONSHIP... NOW WHAT?

What does the process look like?

Every situation is different. If you are leaving a dangerous relationship and seeking a protection order, the process may follow similar steps.

2. Applying for a Protection Order

You may apply for a protection order through the court.

A Judicial Justice of the Peace reviews the application and decides whether the order should be granted.

4. Possible Challenges

The respondent has 20 days to apply to have the order set aside.

If this happens, the court may hold a hearing.

1. Immediate Safety Concerns

If you are in immediate danger, call 911 or contact the police.

Safety planning and emergency support may happen before any court process begins.

3. Order Comes Into Effect

If granted, the order becomes enforceable once the respondent is served with the order.

5. Ongoing Legal Processes

You may also go through other family law processes such as separation, parenting arrangements, or property division.

Protection orders can later be varied, revoked, or renewed if needed.

IMMEDIATE PERSONAL SAFETY CONCERNS

How do I keep myself safe when seeking divorce or separation?

There are a number of different types of legal protection available through the courts:

PROTECTION ORDERS

PREVENTION ORDERS

PEACE BONDS

Each order serves a different purpose.

Protection Orders

Protection Orders are granted on an urgent basis in cases of domestic violence or stalking. It forbids the respondent from having contact with the applicant and is designed to provide immediate protection.

You can apply for a Protection Order if:

- You have been subjected to domestic/intimate partner violence or stalking.
- The situation is serious or urgent

Note: You do **NOT** need to wait until you are physically injured to apply.

Protection Orders may:

- Prohibit contact or communication (direct or indirect)
- Prohibit attending places you regularly go (home, work, school, etc)
- Prohibit following you
- Require the respondent to surrender weapons and firearms
- Allow police assistance to:
 - Remove the respondent from the home
 - Help you retrieve your personal belongings

IMMEDIATE PERSONAL SAFETY CONCERNS

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Peace Bonds

A Peace Bond is a court order that can be issued when a person reasonably fears personal injury to themselves, their spouse or partner, children, or damage to their property. Peace Bonds are NOT limited to domestic violence or stalking situations.

Peace Bonds can:

- Prohibit the respondent from having contact with the applicant, children, or property
- Require the respondent to keep the peace
- Prohibit communication with the applicant or children.

It can take several weeks to get an initial court date, and possibly months before the application is decided. Peace Bonds are issued for a specific period, up to one year.

Prevention Orders

A prevention order also addresses domestic violence or stalking. Prevention orders usually take longer to obtain than Protection Orders. In addition to similar restrictions as protection orders, prevention orders can include broader protections, like:

- Granting the applicant sole occupation of the family home
- Giving temporary possession of specified personal property
- Ordering the respondent to pay compensation for financial losses caused by violence or stalking
- And more

These orders can take days or weeks to obtain, and remain in effect indefinitely, unless the judge sets an expiry date.

CHILD SEXUAL EXPLOITATION AND HUMAN TRAFFICKING ACT

Protection Orders for Human Trafficking and Child Sexual Exploitation

What is This Law?

The **Child Sexual Exploitation and Human Trafficking Act** allows courts to grant protection orders for victims of human trafficking or child sexual exploitation.

These orders require the respondent to **stay away from the victim and stop all contact**.

Protection orders under this act can help provide **immediate safety for victims**.

Who Can Apply?

A protection order may be requested by:

- an **adult victim** of human trafficking,
- a **parent or guardian** of a **child victim**,
- a **Child and Family Services agency**, if the child is in care.

How Do I Get This Protection Order?

The application process is the **same** as applying for a **regular Protection Order**.

- Applications can be made **in person or by phone**,
- Evidence must be provided under oath,
- A Judicial Justice of the Peace decides whether to grant the order.

If granted:

- The order takes effect once the respondent is served,
- The respondent may challenge the order within **20 days**,
- Orders normally last 3 years.

Note:

The Act also allows victims of human trafficking to bring a **civil claim for compensation** against the trafficker.

APPLICATION PROCESS

How do I actually get a Protection Order?

STEP 1: Go to Court

Go to the Law Courts building and ask for a Protection Order hearing.

STEP 2: Complete the Forms

You will fill out:

- an application form,
- an affidavit describing what happened

Include dates, times, locations, and why protection is urgent.

Step 3: Get Help if Needed

Court staff may connect you with a Protection Order Designate (POD).

PODs are trained to help you:

- complete the forms,
- understand the process,
- plan for safety.

Step 4: Attend the Hearing

A Judicial Justice of the Peace (JJP) will review:

- your application,
- your affidavit,
- any evidence you provide.

you may speak to the Justice in person or by phone/video.

Step 5: The Decision

The Justice will decide whether to grant the Protection Order.

If granted:

- the order takes effect quickly,
- the respondent will be served the order.

By phone and online applications:

If you cannot go to the courthouse, a POD, police officer, or lawyer can help you apply by phone or online. The hearing may take place virtually with a Justice.

WHAT HAPPENS WHEN THE ORDER COMES INTO EFFECT

After the Order is Made:

- The respondent is **notified** and provided a hardcopy of the order in person (served).
- The order becomes **enforceable once the respondent receives it**.
- Protection orders are automatically registered with the Canadian Police Information Center (CPIC). Police can assess the order through a **provincial registry** and enforce it as needed.

What Happens if it is Violated?

If the respondent does not follow the conditions of the Protection Order, **report the breach** to the authorities.

To report a violation:

- **Emergency:**
 - Call **911** if your safety is immediately threatened.
- **Non-Emergency:**
 - Rural: **431-489-8000** (General Inquiries).
 - Winnipeg: **204-986-6222**.
 - Report through **Crime Stoppers**.

What Can The Authorities do?

If a Protection Order is **breached**, police may:

- **Arrest** the respondent,
- **Lay charges** for breaching a court order.

If convicted, consequences may include:

- **Fines,**
- **Probation,**
- **Imprisonment.**

What if the Order is Challenged?

After a Protection Order is issued, the respondent has **20 days** to ask the court to cancel it.

If the order is **challenged**, you will be notified, and the court will hold a hearing where both sides can present evidence.

If **no challenge** is made, the order will usually remain in effect for 3 years.

RENEWALS AND VARIATIONS

Renewing a Protection Order

Protection Orders usually last 3 years. If the order is about to expire and you still need protection, you can apply for a new Protection Order.

You may need to explain:
why protection is **still needed**,
any **recent incidents** or concerns about safety.

A Judicial Justice of the Peace will review the application and decide whether to grant a new order.

Changing or Varying a Court Order

Sometimes, circumstances change after a court order is made. In these situations, you may apply to the court to **vary/change** the order.

A variation may be requested if there has been a **material change in circumstances** since the order was made.

Examples may include changes to:
parenting arrangements
child support
spousal support
safety conditions

How to Apply for Variation

To request a change to an order, you must **apply** to the **Court of King's Bench**.

This usually involves:
filing a **Notice of Motion to Vary (Form 70H)** or
filing a **Notice of Application to Vary (Form 70G)**

The other party will be served with the application and may respond before a judge makes a decision.

PARENTING AND PROTECTION ORDERS

What if I have children with the person I have a protection order against?

If You Share Children with the Respondent

A protection or prevention order can still exist even if you share children with the respondent.

If the order **limits contact**, parenting time, or child exchanges **must follow the conditions in the court order**.

Safety orders always take priority over parenting schedules.

How Are Children Exchanged?

If the order says **no contact**, parents usually **cannot exchange the child directly**.

Instead, the court order may require:

- **Supervised parenting time**
- **Child exchanges through a third party**
- **Transfers through an agency or service provider**
- **Police-assisted exchanges**

Only the arrangements written in the order are allowed.

Important:

If there is **no exception written into the order**, direct contact or direct child exchanges **are not permitted**.

If you are unsure how exchanges should happen, you should **review the court order carefully or speak with a lawyer or legal service provider**.

GETTING A DIVORCE:

COMMON LAW SEPARATION

If you are not married, you will be considered common-law under the *Family Law Act* if:

- You have been in a relationship and **lived together for at least 3 years**
- You have been in a relationship and have **lived together for 1 year, and have a child** together
- You have **registered your relationship** as common-law under *The Vital Statistics Act*

If you have registered your relationship as common-law, you will need to **register the end of the relationship.**

If it is not a registered relationship, it is **terminated after 3 years of living apart.**

GETTING A DIVORCE:

THE DIVORCE PROCESS

STEP 1: APPLY TO THE COURT

You or your lawyer will submit a **petition for divorce** to the court – this is a form that includes information about why you are seeking divorce and what support you are asking for.

Divorces may be granted for different reasons, but the most common way is to show that **the couple has been separated for at least one year.**

If your claim involves property or support issues (including child support), you will need to complete a **financial statement** and provide it to the court. This includes your income, monthly expenses, and other expenses.

You will also need to provide your **marriage certificate** to the court. You must provide the original certificate provided by the government where you were married. If it is in a language other than English or French, you will need an official translated version.

STEP 2: FILING

Once your lawyer has filed all the necessary documents with the court, you will **receive a copy with the filing date** attached.

STEP 3: OTHER SPOUSE IS SERVED

Your **former spouse (called “the respondent”)** will be notified of your divorce proceedings, and will be provided with all the relevant documents. This means they have been “served.”

They will have the opportunity to provide their own info and documents to the court. If they don't cooperate, your lawyer can ask the court to intervene and order them to comply with the process.

SPOUSAL SUPPORT

In Manitoba, “spouse” includes married and common-law partners.

Step 1: Apply to the Court

Your lawyer can do this at the same time they help you apply for a divorce.

Step 2: Court assesses

NOTE: Spousal support payments received are taxable.

The court will consider:

- The **length of the marriage** or relationship
- The **length of time the spouses lived together**
- The **roles** that each spouse had during living together
- Any other **order, agreement or arrangement** relating to support

NOTE: Courts do **NOT** consider misconduct during the relationship.

Step 3: Variation

If necessary, support orders that have been granted **can be changed later** by the court if unexpected circumstances arise. (For example, an unexpected illness).

DIVIDING PROPERTY & ASSETS

Claims for property can be filed by your lawyer at the same time as filing for divorce. The court will decide who gets what.

Your lawyer will determine all the **shareable assets and debts** between you and your former spouse. Most assets between you (including commercial and business assets) will generally be considered shareable. **Shareable means both of you are entitled to share the value of the asset or debt.**

Exceptions:

- Assets acquired on your own prior to the marriage/common-law relationship (Note that any increase in value of these assets is shareable)
- Gifts, trust benefits, and inheritances from third parties that are meant only for one spouse

Generally, each spouse has the right to equalization of the total shareable assets and debts. **“Equalization”** means things are split equally between the spouses.

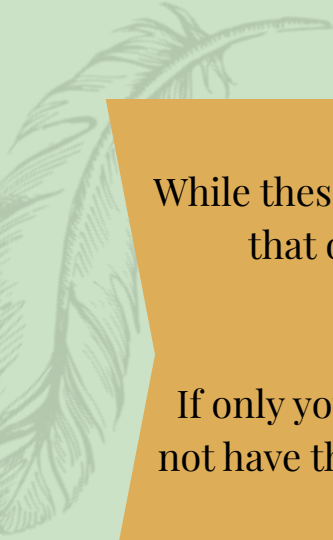
However, the court may order otherwise if it believes equalization would be unfair.



The court will consider many factors, including:

- How long the spouses have lived together/apart
- The nature of the assets
- The earning abilities of each spouse based on other circumstances of the marriage/relationship

NOTE: The court does **not** consider conduct of the spouses in dividing assets



While these claims are ongoing, the court can order that one spouse has the right to use the family home or other assets in the meantime.

If only your spouse owns the family house, they do not have the right to sell it without your permission or a court order.

CUSTODY*

***In Manitoba, the term “custody” is no longer used to describe the parenting of children. See below for updated terminology.**



Important Terms

“Parenting time” = time that a child spends in the care of a person under a parenting order

“Parental responsibilities” = responsibilities associated with the care of a child including parenting time and decision-making responsibility

“Decision-making responsibilities” = decisions for the children surrounding health, education, culture/language/religion/spirituality, extra-curricular activities

Parenting arrangements are determined based only on the **best interests of the child** – primarily physical, emotional, and psychological safety. Parenting orders are made by the court to determine who the child will live with and what parenting time and responsibilities each parent will get.



The Court may order an

Assessment of the Family

- This is an important step in determining parenting arrangements, and resisting an ordered assessment hurts your case
- May be done by a social worker, psychologist, etc.
- Courts tend to follow their assessment/recommendations
- The person doing the assessment will interview the child and parents, and potentially extended family or other relevant people (like teachers or daycare providers)
- The assessment focuses on parenting skills/ability, needs of the child, and the child's relationship with each parent
- Sometimes includes developmental assessments
- Where child abuse becomes a concern during the assessment, CFS will do an investigation



If you plan on moving with your children, it is important to note:

- **“Change of residence”** = a move that does not have significant impact on current parenting arrangements
- **“Relocation”** = a move that is likely to have a significant impact on the child’s relationship with another person who has parenting time and/or decision-making responsibility (i.e. a far move)
- If you plan to move with your child and someone else has parenting time, you may be required to give them 60 days notice. They will have the opportunity to object to the move. Your lawyer can help you file the notice properly.



CHILD SUPPORT

Each parent has a **duty to provide** reasonably for a child's support **regardless of parenting time** or decision-making responsibility.

You can get a child support order from the court, or apply for an initial child support decision from the Child Support Service (through Family Resolution Services).

The Manitoba Child Support Guidelines Regulation applies to orders for child support. The guidelines prioritize:

- Making a fair standard of support for the child so that they benefit from the financial means of both parents
- Reducing conflict and tension between parents

The amount of support owed is based on **the paying parent's income** and **the number of children** being supported. This is determined by the Federal Child Support Guidelines for Manitoba.

Example:

Federal Child Support Tables
Tableau fédéral de soutien financier pour enfants

Province: **Manitoba**

No. of Children/N^{bre} d'enfants: **Two/Deux**

No.	No.	No.	Monthly Award/ Paiement mensuel			No. of Children/N ^{bre} d'enfants	Province/Province		
			Basic Amount/Montant de base	Plus (%)	Of Income Over/Du revenu dépassant		Basic Amount/Montant de base	Plus (%)	Of Income Over/Du revenu dépassant
16000	16000	16999	0	8.4	16000	16000	16000	16000	
17000	17000	17999	84	4.14	17000	17000	17000	17000	
18000	18000	18999	125	3.7	18000	18000	18000	18000	
19000	19000	19999	162	3.68	19000	19000	19000	19000	
20000	20000	20999	199	3.7	20000	20000	20000	20000	
21000	21000	21999	236	3.68	21000	21000	21000	21000	
22000	22000	22999	273	3.76	22000	22000	22000	22000	
23000	23000	23999	311	3.94	23000	23000	23000	23000	
24000	24000	24999	350	4.06	24000	24000	24000	24000	
25000	25000	25999	391	2.92	25000	25000	25000	25000	

Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)		
From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	Of Income Over/ Du revenu dépassant
16000	16999	0	8.4	16000
17000	17999	84	4.14	17000
18000	18999	125	3.7	18000
19000	19999	162	3.68	19000
20000	20999	199	3.7	20000
21000	21999	236	3.68	21000
22000	22999	273	3.76	22000
23000	23999	311	3.94	23000
24000	24999	350	4.06	24000
25000	25999	391	2.92	25000

If the paying parent (supporting two children) makes \$22,500 per year, they will pay \$291.80 per month in support.

They will pay the basic amount: \$273.
Plus, an additional 3.76% on any income above \$22,000. In this case, they make \$500 more than \$22,000.

$$\$500 \times 3.76\% = \$18.80$$

$$\text{So, } \$273 + \$18.80 = \$291.80 \text{ per month.}$$

**For the full range of
Manitoba tables, go to
[https://laws-
lois.justice.gc.ca/PDF/
SOR-97-175.pdf](https://laws-
lois.justice.gc.ca/PDF/
SOR-97-175.pdf)
and scroll to pages 52-
59.**

Other Resources

Legal Help Centre

- Provides free legal information on a drop-in basis, and is available by phone
- <https://legalthelpcentre.ca/>

Family Resolution Service – Government of MB

- Provides information, assists with the legal steps of a family law matter, and provides dispute resolution services
- Can refer you to the correct services for your case
- May make decisions for child support payments
- Contact GetGuidance@gov.mb.ca

Legal Aid Manitoba

- Provides eligible Manitobans with a lawyer for free
- Eligibility is based on financial situation and whether the case has merit
- <https://www.legalaid.mb.ca/>

Maintenance Enforcement Program

- Helps with enforcing existing child and spousal support orders and agreements
- Email ManitobaMEPIquiries@gov.mb.ca