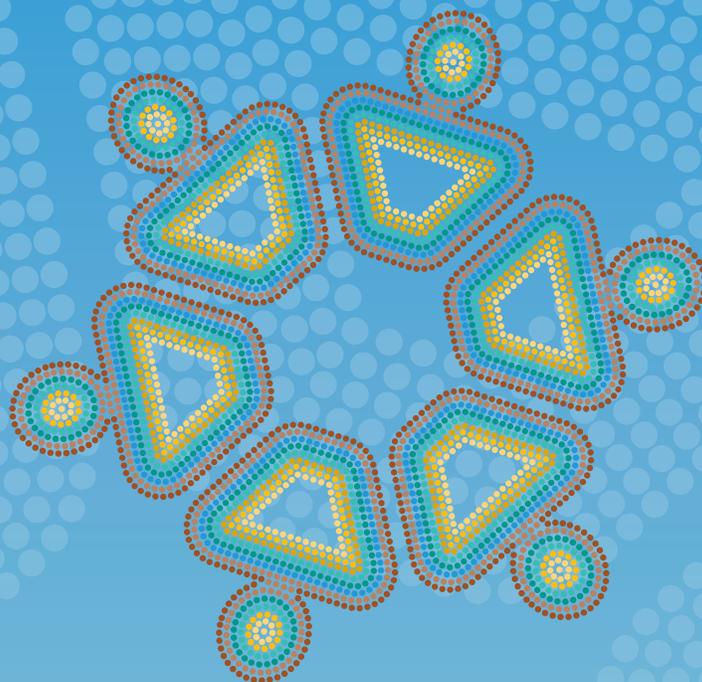


Court Orders for Safety



Every case is different, but a lawyer, victim services worker or counsellor can help you to think about whether a court order would help you. A court order can last for a few days or it can last for a long time.

Court orders can be useful legal tools as part of a safety plan to help you take the other steps you need to protect yourself and your children. It is important to think about what would keep you safe and what would work best for your situation. Your victim services worker can help you to make a safety plan and think about whether it makes sense to apply for a court order. A court order can be very detailed and set out exactly what you and the other person need to do. The more you think about what you need, the more you will be prepared to explain your situation to the judge.

Remember that if you cannot get an order, that does not mean you did anything wrong. Sometimes there isn't the right kind of evidence for the court to be able to make the order you are hoping for. If this happens, take another look at your safety plan and think about what else you can do to stay safe.

Short Term

If you are hoping to get a short-term order, remember that it has an end date. You need to make plans to stay safe after the order ends. It can be a good idea to ask for a short-term order that will deal with the family's immediate safety needs while you apply for a judge to make a longer-term order. This usually means that you will need to go to court to get a short-term order and again to get a longer-term order. If you think that you will need an order that lasts a long time, it is a good idea to start the process of applying for it while your short-term order is still in effect.

An emergency protection order (EPO) can last up to 90 days and can order a violent family member to stay away from you. It can only be granted when you do not have time to go to court because you and your children need protection right now and waiting to get a longer-term order might endanger you and/or your children right now. It can give you a quick order while you wait for your court date for a longer-term order.

Remember to start the process of applying for a longer-term order before the EPO expires. To apply for an emergency protection order, call 1-866-223-7775 or your local RCMP. They will talk to you about what is happening in your house and what you need to be safe. Then you will talk to a specially trained justice of the peace (JP). The JP will hold a court hearing on the phone. It is a serious matter and you will swear to tell the truth. If the JP grants the emergency protection order, it will begin as soon as the police give it to the violent person, and it will last as long as the JP decides (up to 90 days).

Sometimes when a person is charged with a crime, he or she will not go to jail right away, but will be in the community until the trial. In these situations, the court will often place conditions on the person. Every case is different, but it is common for the conditions to say the person needs to stay away from certain people and places. You will usually get to stay in the family home and the violent person will be told to leave and not come near the house for the duration of the order. If you think this would help to keep you safe, talk to the police.

Long Term

A protection order or a restraining order can keep a violent family member away from you. Both types of orders can last as long as the judge decides. Your lawyer can help you decide if this is right for you.

A peace bond usually lasts one year and can order anyone to stay away from you. Talk to your local RCMP or victim services worker if you think this would help you. A judge will make this order in court. Usually the lawyers will do most of the talking, but the judge may want to hear your story.

Remember that these orders protect victims, but don't help with the longer-term legal processes involved in ending a relationship. You may own a house or truck together. You may have kids who need to be in safe homes and maintain a relationship with both parents. These issues need to be settled separately from the immediate safety issues in your house. You may need to go to court several times, so it is a good idea to get legal advice so you can make plans that are right for your situation. The focus in family court is on the best interest of the children.

It is very common for parents to disagree about what that means, so a lawyer can help you to understand your rights and responsibilities. Most of the time, it will take a while to work out all of the details of a separation agreement. In the meantime, everyone needs a safe place to live and usually the kids need to spend time with both parents.

Changing the Order

Changing a court order is sometimes more complicated than getting the order in the first place. This is especially true if the victim applied for an emergency protection order over the phone. It is best to apply for court orders only when you have a clear idea of what will help. That includes things like what you would like the order to say and how long it should last. It can take weeks or months to change a court order.

If you don't want the court order anymore or you want something in the order changed, you need to apply to a judge and explain what has changed. You can't just decide the violent person can be near you again. It is a court order and only a judge can change it or add things to it.

The person who used violence can also ask the judge to change the order. This is most common when the person thinks some of the things in the order aren't practical.

No matter who asks for the change, the judge will call a hearing and ask both people to tell their sides of the story. Both people will get paperwork from the court telling them where and when to go to the hearing. If you can't be there, call the court registry right away to explain the situation. The hearing can go ahead without you if you don't explain why you can't attend. The judge will listen to all of the evidence and make a decision. Both people have to follow the judge's order.

