

Overview of Restraining Order June 2020

What is a Restraining Order?

- A type of injunction where a no contact order can be ordered by a Justice of the Court of Queen's Bench.
- Can only be obtained during court hours.
- Possible option if you are not eligible for an Emergency Protection Order (EPO) or Queen's Bench Protection Order (QBPO), especially if you need protection right away.

Will require someone to:

- Stay away from your home, place of employment, or possible other places you attend frequently.
- Stop harassing, watching, following, telephoning, or interfering with you directly or indirectly.
- Note: A Restraining Order cannot be used to remove a roommate or an abusive party from a residence where they have a legal right to live (only an EPO or QBPO can do this).
- Note: It is important to make sure the court includes police enforcement provision, which will allow police to arrest a party if the police feels there is an appropriate breach of the order.

When can I apply for a Restraining Order?

You can apply for a Restraining Order against a person who has, by their action or words, made you have a reasonable subjective fear for your safety. These can include:

- Personal injury, property damage, or intimidation
- Threats that cause reasonable fear of injury or property damage
- Forced confinement (example: locked in a room with no way out)
- Forced sexual contact
- Stalking or harassment (example: non-stop calls, emails or text messages)

Unsure if a Restraining order is right for you?

Here are some resources which may be helpful!
Connect, Family Violence and Abuse Helpline: 403-234-7233
Distress Center: 403-266-4357
Family Violence Information Line: 310- 1810
Legal Aid Alberta: 1-866-845-3425
Calgary Legal Guidance: 403-234-9266
Resolution and Court Administration Services: 1-855-738-4747

Applying for a Restraining Order (Without Notice)

Application for a Restraining Order can be made without notifying the other party when the situation is an absolute emergency and you or your child's safety is at risk. Such determination of it being an absolute emergency is at the discretion of the presiding Justice.

Applicant

(person requesting the Restraining Order)

The other party is the Respondent.

1 Fill out the Form

Fill out the "Application for a Restraining Order or a Restraining Order without Notice in Family Law Situation".¹

2 Take an Oath

Prior to the court date, go to the 7th floor, Court of Queen's Bench (601 5 St SW)

Take an oath in front of a Commissioner for Oaths and swear or affirm your application to be true. You must give all the details and attach any documents you want the Justice to see in your affidavit.

3 File your Application

Make 2 copies of your Application (with all attachments) using the photocopier in the library in the court house and file your Application.²

4 Attend Court

On the court date, bring a copy of your Application with you.

Go to Courtroom 1001 in the Family Law Chambers.

If you have a lawyer, discuss with your lawyer briefly before the hearing.

Mute your phone before going into the courtroom.

In the hearing, the Justice will decide whether a restraining order is appropriate. Be prepared to answer questions from the Justice.

If an Ex Parte Restraining Order is granted, a date for a review of the Restraining Order will be set within 4 to 6 weeks.

Wait in the courtroom until Court is done to get a copy of the order from the court clerk.⁴

5 Serve the Respondent

Get an adult to serve the Restraining Order and do not do it yourself.³ The Restraining Order is in effect once personal service of the order is completed.

This person who served the Restraining Order must then swear an Affidavit of Service before a Commissioner for Oaths, which is a court form that proves to the Justice that the Respondent was personally notified of your application. It will include who delivered the documents, the date they were delivered and the address where the Respondent was served.

6 Deliver the Order to the Police

Take a certified copy of the interim Restraining Order, a filed copy of the Affidavit of Service and the Statement of Description to any local police district (station).

7 Keep a Copy with You

Always keep a copy of the Affidavit of Service and a certified copy of your Restraining Order with you. You could also save a copy of the documents on your phone for easy access.

8 Attend the Review Date

You must attend to court for the review. The Justice will hear arguments from both you and the Respondent and decide whether the Restraining Order should be confirmed for a maximum of one year. It is imperative that you bring all of your paperwork to court.

1. You don't have to use your own address and phone number if you think it will put you in danger. You can use a friend's address or a work address or email, but you should let the other person know if you're using their address.
2. There is no filing fee for Restraining Order.
3. Serve the documents through a lawyer, a process server (such as SERV-IT), or a trusted friend or family member who is over 18.
4. Call Resolution and Court Administration Services at 1-855-738-4747 if you haven't received a copy of the order after a hearing.

Disclaimer: This map is for general information purposes and professional consultation is recommended.