



Protection Orders:

How to Protect Yourself - Parts 1 to 5

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Table of Contents

Protection Orders – Part 1: How to Protect Yourself	3
Protection Orders – Part 2: A Basic Guide to Restraining Orders	5
Protection Orders – Part 3: A Basic Guide to Peace Bonds.....	8
Protection Orders – Part 4: A Basic Guide to Terms of Release.....	10
Protection Orders – Part 5: Changes to the Family Law Act in 2009.....	11

Protection Orders – Part 1: How to Protect Yourself

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Are you afraid of someone?

If someone’s actions are making you feel unsafe, even if that person is a friend or a family member, there are both personal and legal strategies that you can use to protect yourself. There are laws to protect you if someone makes you feel threatened because he or she:

- repeatedly follows you or a member of your family from place to place
- threatens or hurts you or a member of your family
- damages your property or the property of a family member
- repeatedly attempts to contact you when that contact is unwanted
- repeatedly shows up at your home, school or place of work

How can the legal system help?

If you are afraid of another person, you can try to get a no contact order to protect yourself. These are also called protection orders. An **order** is a decision by a judge that can put restrictions on someone’s behaviour. Orders are legally binding, which means there are consequences if the order is not followed.

You can get a **protection order** from a judge, or justice of the peace. There are various types of protection orders, which have different functions and legal consequences. Depending on the type of order, a protection order can tell the person who is frightening you that he or she cannot:

- go near or contact you or members of your family
- go to certain places such as your home, workplace, or school
- carry a gun
- contact your children

It is important to remember that protection orders only work if the abuser follows the order. These orders are not criminal charges, but it is a crime to disobey a protection order. A protection order can be an important piece of a safety plan, but it cannot guarantee your safety.

What are the different types of protection orders?

There are three different types of protection orders available:

Restraining Order: A restraining order is a legal order from the family court system that states that a person cannot do certain things, such as contact you or come near you or your children. In Ontario, you can obtain a restraining order against a person that you are or were married to, or against a person that you are or were living with. It does not matter how long you lived with the person. If the person disobeys the restraining order, he or she may face criminal charges or be forced to pay a fine.

Peace Bond: A Peace Bond is a signed promise to be on good behaviour. A peace bond is a criminal law remedy that can help prevent any person who makes you feel threatened from contacting you, coming near you and/or carrying a firearm. Peace bonds can only be issued for up to one (1) year. If the person breaks the peace bond, he or she may face criminal charges or be forced to pay a fine.

Terms of Release: Terms of Release are enforceable conditions that can protect you from an individual who is out of jail either on bail or on probation.

Once I get a Protection Order, how can I stay safe?

One strategy is to make a **safety plan** using both public resources and help from individuals you trust. Here are just a few suggestions:

- Consider telling your employers, family, and friends, as well as your child's teachers and day care supervisors if you are being harassed or have a protection order against someone
- Keep your personal information private. Do not give out your Social Insurance Number unless you need to for banking or income tax purposes. Also, be sure to remove any personal information such as names and addresses from old mail before you throw it away. This information may be used to track you.
- Consider getting an unlisted phone number.
- Ask friends and family members if you can call them for support or if they will take you somewhere safe if you need of help.
- Keep your keys and important documents with you in case you need to leave in a hurry.

Who can I contact for help or for more information?

Women's Organizations

Women's Organizations are staffed by individuals who understand issues related to violence against women. These organizations have useful information on protection orders, how to find a local lawyer, and how to talk to the police or judges.

Police

Consider telling the police your story and that you feel you are in danger. Keep in mind that talking to the police may mean they will lay a criminal charge against the person you are complaining about -- even if you do not want them to.

Justice of the Peace

Not everyone is comfortable talking to the police. You can apply for a **Peace Bond** by meeting with a justice of the peace. The police do not have to be involved. Contact your local criminal courthouse to find a justice of the peace, or if you are comfortable, you can also contact your local police station.

Lawyers

If you can afford a lawyer or if you qualify for legal aid, it can be very helpful to get legal counsel when you are trying to obtain a protection order.

For more general information on when you may need a protection order, how to stay safe, Restraining Orders, Peace Bonds, and Terms of Release, please see the other four parts of this series.

Protection Orders – Part 2: A Basic Guide to Restraining Orders

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Protection orders are decisions by a judge that put restrictions on someone’s behaviour. Orders are legally binding, which means there are consequences if the order is not followed. A **Restraining Order** is a type of protection order that you can get from a family court.

Who can get a restraining order?

If you are afraid that your partner or former partner will hurt you or your children, you can ask the court to make a restraining order. In Ontario, you can obtain a restraining order against a person that you are or were married to, or against a person that you are or were living with. It does not matter how long you lived with the person. This includes intimate partners, but is not limited to intimate relationships. It might also include other family members or individuals you have lived with.

If you feel threatened by someone that you are not living with or have never lived with, you cannot apply for a restraining order, but you may be able to get a **Peace Bond** (see Part 3 of this series).

What kind of protection does a Restraining Order offer?

Restraining orders often say that the person you are afraid of is not allowed to communicate with you or your children, either in person, by telephone, Facebook, notes or through messages from other people.

Another very common term in restraining orders is that the person you are afraid of is not allowed to come within a certain distance of you or your children, or that he or she is not allowed to go within a certain distance of places that you regularly go to, such as your home, your children’s school, your workplace or any other location, like a family member’s home or your place of worship.

The judge can decide to put other kinds of limitations on the person in the restraining order. When applying, you should think about what type of protection you need, and be as clear as possible, so that the judge understands what should be included in the Order to protect you and your family.

There are different types of restraining orders that you can get depending on your needs and circumstances.

Restraining Order:

A Restraining Order is a civil protection order from the Family Court system. A restraining order can be issued permanently or for a set amount of time. If it is issued for a set amount of time, the expiry date will be located on the order. The order can be reviewed or renewed if you feel you are still in danger after it expires.

After you have filed your application, you will need to go to court and so will the person you are seeking the protection order against. The process for getting a restraining order can take a few months because both sides present their version of the story to the judge in court. It is usually a good idea to get the help of a lawyer to get a restraining order.

Temporary Restraining Order:

A temporary order is given when an applicant applies for a permanent restraining order. The purpose of these orders is to provide protection to an individual while the application for a restraining order is still in progress.

Urgent Restraining Order:

If you need help from immediate harm, you can ask the court for an Urgent Restraining Order. It is a good idea to consult with a lawyer before making this type of application, because if the court does not think your application is urgent, it can make you pay the legal costs of the other person. An urgent order will only last a short period of time. This short time frame is meant to provide temporary protection while you apply for a more permanent restraining order.

Ex Parte Restraining Order:

An Ex Parte Order is a temporary order where you do not have to be in court at the same time as the person or partner that you seek protection from. If this person is not available to appear in court because he or she is getting out of jail soon or you are too scared to be in the same room as him or her, the judge will sometimes make an “Ex Parte Order”. A restraining order will be granted until your partner or ex-partner comes to court - at a different time - to respond. The judge will make the final decision about the restraining order once she has heard both sides.

The courtroom is generally a very controlled environment, but in the hallways, or outside the courthouse, you may feel at risk. You should consider going to court with someone for support. In addition to this shelter, there are community groups and clinics that provide assistance to women involved in the court process.

What does the judge consider when deciding to make a restraining order?

The judge has to consider whether you have a reasonable fear for your safety. This means the judge will decide whether a reasonable person in your same situation would be afraid for their physical safety or the safety of their children.

In order to meet this requirement, you must have proof. Here are some strategies for keeping track of any harassing or abusive behaviour that may be used as proof:

- document every time the individual engages in unwanted or threatening contact with you or members of your family (make sure to keep this record safe)
- keep any evidence of abuse such as hospital records or photographs
- keep any records of mistreatment of your children
- document each time the person has damaged your property or has threatened to damage your property
- keep a list of witnesses to any harassing behavior such as neighbours or friends. Have these individuals tell their stories to the police
- save as many gifts, emails, voicemail messages and text messages as possible

What do I do after I get a Restraining Order?

If the judge issues a restraining order, you should ask the court for copies. Keep one copy with you at all times and consider giving other copies to someone where you work, at your school, and at your child’s daycare or school. A restraining order alone cannot guarantee your safety. It should be one tool in your broader safety plan.

If you have a restraining order against someone, it is not a good idea to have any voluntary contact with that person. If you do, this may make the police or the court doubt whether you really needed the order. You cannot be criminally charged for contacting the person against whom the order is issued; however, doing so may affect your credibility in other family court proceedings, particularly if you continue to have problems with this person or the protection of your children is at issue.

If you do need to contact the person against whom the restraining order was issued, for example, to discuss a matter that has to do with the children, it is a good idea to go through a lawyer or some other person who can communicate your message for you.

What happens if a Restraining Order is breached?

If a restraining order is disobeyed (breached), you should consider calling the police immediately and if necessary, arrange to go to a safe place such as to a women’s shelter, or to a friend or family member’s home. Breaching a restraining order is a criminal offence under s.127 of the Criminal Code. Individuals who breach a restraining order may serve up to 2 years in prison.

BE AWARE: Sometimes the police are not helpful in enforcing these orders; they may refuse to press charges or may minimize the complaints. If the officer you speak with does not provide an effective remedy, ask to speak to a supervisor or talk to the Victim Witness Assistance Program (VWAP) staff. You can find your local VWAP office at 1-888-579-2888.

For more information on restraining orders, and for a Self-Help Guide to Making an Application for a Restraining Order see the Ministry of the Attorney General website:

http://www.attorneygeneral.jus.gov.on.ca/english/family/guides/restraining_order/.

Protection Orders – Part 3: A Basic Guide to Peace Bonds

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What is a Peace Bond?

A Peace Bond is another type of court order that puts restrictions on the things that a person can do. Unlike a restraining order, a Peace Bond is an order made under the Criminal Code and can only be issued for a maximum time of **one year**. Some examples of the restrictions a peace bond can include are:

- not contacting you or your children;
- not coming to your home;
- staying away from other places you often go to;
- not owning any firearms or ammunition.

Who can get a Peace Bond?

If you are afraid that someone will hurt you, your children or harm your property, you can apply for a peace bond even if no criminal charges have been laid. Peace Bonds can be obtained to protect you against anybody who makes you feel threatened. You do not need to have lived with the person in order to get a peace bond against someone.

A Peace Bond can be issued for a time period of up to 12 months. Peace Bonds cannot be renewed; each successive Peace Bond requires a new application.

How do I get a Peace Bond?

To get more information about applying for a peace bond, you can contact the police. However, the police do not need to be involved. If you prefer, you can make an appointment with a Justice of the Peace (JP) to explain why you need a peace bond. If the JP agrees with your concern, he or she will issue a summons requiring the other individual to appear in court on a specific date. A justice of the peace can be contacted by calling a local criminal courthouse and speaking with the clerk to make an appointment.

What you will need:

The JP must believe on a “balance of probabilities” that your fear is reasonable. This means that the JP must find that it is more likely than not that an individual in your same situation would be afraid or threatened. In order to show that you are reasonably afraid, you must have **evidence**. Personal threats, violence towards you or your family, and damage or threats of damage to your property are considered evidence. It is important to document (write down details about) any harassing or abusive behavior:

- document every time the individual engages in unwanted or threatening contact with you or members of your family (make sure to keep this record safe)
- keep any evidence of abuse such as hospital records or photographs
- keep any records of mistreatment of your children
- document each time the person has damaged your property or has threatened to damage your property
- keep a list of witnesses to any harassing behavior such as neighbours or friends. Have these individuals tell their stories to the police
- save as many gifts, emails, voicemail messages and text messages as possible.

The person you are seeking the peace bond against will also have the opportunity to present his or her side of the story if he or she does not agree to the terms of the peace bond. It may take several weeks to have a peace bond issued, so you should consider a different option to protect yourself if you feel that you are in immediate danger.

What are Mutual Peace Bonds?

Sometimes, JPs will issue **Mutual Peace Bonds** which are orders that place conditions on your behavior, as well as on the behaviour of the person you are seeking protection from. It will often say that neither of you can contact the other person. It is NOT recommended that women sign mutual peace bonds without speaking with a lawyer first. Some abusers use mutual peace bonds to continue to harass their partners or former partners. For example, an abuser may try to trick a woman into coming into contact with him so that he can call the police and say that she disobeyed the order. Breaking a Peace Bond is a criminal offence and you can be charged.

What happens after a Peace Bond has been granted?

If a peace bond has been ordered, you should make several copies. Keep one copy with you at all times and consider giving other copies to your places of employment, your school, and your child’s daycare or school. If you need to change the terms of your peace bond, you will need to bring a new action before a JP with new information and evidence outlining the details of your current situation.

What happens if a Peace Bond is breached?

If a peace bond is breached, contact the police immediately and consider going to a safe place, such as to a women’s shelter, or to a friend or family member’s home. Breaching a peace bond is a criminal offence and the person who breaches it may be required to serve jail time.

BE AWARE: Sometimes the police are not helpful in enforcing these orders: they may refuse the press charges or may minimize the complaints. If the officer you speak with does not provide an effective remedy, ask to speak to a supervisor or talk to the Victim Witness Assistance Program (VWAP) staff. You can find your local VWAP office at 1-888-579-2888.

Differences between a Restraining Order and Peace Bond

	Restraining Orders	Peace Bonds
Available against:	Someone you are or were married to or living with	Anyone
Duration:	Temporary (up to several years) or permanent	One year maximum
Application Process:	Written	In Person
Length of Time Between Application and Issuance:	Several weeks	Between a few days and several months
Available if Property is as Risk	No	Yes

Protection Orders – Part 4: A Basic Guide to Terms of Release

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What are Terms of Release?

When someone is arrested, charged, and put in jail before trial, they will only be released from jail after a bail hearing. **Bail** is a court order that allows a person accused of a crime to be released from jail until the trial. The bail hearing usually occurs a day or two after the charges are laid.

At the bail hearing, the justice of the peace or judge can impose strict conditions on the accused person. These conditions are called “**Terms of Release.**” In cases where the person is accused of a crime like assault, stalking or sexual assault, one of the terms of release will almost always be that the accused person must stay away from the victim. In most cases, terms of release will last until the criminal proceedings are over.

You can try to get information on a person’s bail conditions by contacting the Crown Attorney (prosecutor), the police, or the **Victim/Witness Assistance Program.**

How do I get special terms of release?

If a person has assaulted you, and has not yet had his or her bail hearing, the Crown Attorney should ask you, before the bail hearing takes place, what you would like to have included in the Terms of Release.

If you say that you do not want the accused to be able to approach you, call you, or contact you and your family, the Crown Attorney should take these conditions and suggest them as terms of release to the court.

A Justice of the Peace will make a decision based on both the Crown’s suggestions and the defense’s arguments.

How do I get the terms of release changed?

The Victim Witness Assistance Program office can help you talk to the Crown Attorney to ask about making the terms of release either more or less strict. You can find your local VWAP office at 1-888-579-2888. At a bail review meeting, the presiding judge will decide whether a change in the terms of release is appropriate or not.

What happens if the terms are breached?

If the terms of release are breached, you can call the police. The individual can be charged with breaching his or her bail conditions. The individual can be arrested, and brought in front of the court for a new hearing where new conditions of release will be negotiated, if necessary.

Protection Orders – Part 5: Changes to the Family Law Act in 2009

June 2009, updated April 2012

Bill 133: The Family Statute Law Amendment Act, 2009

On May 14, 2009, the Family Statute Law Amendment Act, 2009 (formerly known as Bill 133) became law in Ontario, and changed the legal regulations pertaining to Restraining Orders.

Bill 133 introduced some significant changes to the process of obtaining restraining orders, the content of restraining orders, and the penalties for violating restraining orders, hoping to make it easier for women to protect themselves from abusive partners.

Before this change, breaches of restraining orders were Provincial Offences, which carried less severe consequences and were not sufficient enough to stop individuals from disobeying restraining orders. The new penalties for not following restraining orders allow for stricter enforcement and bail conditions. OWJN is hopeful that this will help women who are living in fear of violence. METRAC, OWJN’s parent organization, was actively involved in pursuing these changes to the law.

Who can obtain a restraining order?

Previously, under the Family Law Act, restraining orders could only be obtained against a spouse, parent of a child in your lawful custody, or a common law partner with whom you have cohabitated for over three years. Under the new law, restraining orders can be obtained against a partner you have cohabitated with for any period of time. Furthermore, individuals in a crisis situation can obtain an urgent restraining order from a Family Court judge without the other individual being present.

Evidence

As before, to get a restraining order, you need to demonstrate that you have reasonable grounds to fear for your own safety or the safety of a child who is lawfully in your custody. However, the evidentiary standards are now easier to meet, hopefully making restraining orders easier to obtain. In other words, you need only show that it is more likely than not that you have a good reason to be afraid. Some basic tips for compiling the necessary evidence can be found in parts 2 and 3 of this series, which discuss Restraining Orders and Peace Bonds, respectively.

Content of Restraining Orders

Under the new law, restraining orders are issued as part of a standard form with clear, uniform sections, making them much easier to understand and enforce. Certain sections can be added or removed to suit the particular needs of the particular woman. These parts of the order can restrict an individual from contacting you directly or indirectly and can protect you from being bullied through long and malicious court battles. Further, these sections can restrict an individual from coming within a specified distance of you, your home, and your family.

Enforcement

Bill 133 changed how individuals who violate restraining orders are prosecuted. The breach of a Restraining Order is now a criminal offence under s. 127 of the Canadian Criminal Code.

An individual who breaches a restraining order can be charged, held for a bail hearing, and if they are found guilty may be imprisoned for up to 2 years. This change is designed to provide more protection to women whose abusers do not respect Restraining Orders.

For more general information on when you may need a protection order, how to stay safe, Restraining Orders, Peace Bonds, and Terms of Release, please see the other four parts of this series.