

A close-up photograph of a person's hands signing a document with a black pen. The person is wearing a ring on their left hand. The document is white with some text and a signature. The background is blurred, showing a wooden desk and a person's arm in a grey sleeve.

Court Orders for Your Protection



**Community Legal
Information**
Empowerment Through Knowledge

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Introduction



This publication gives information about court orders that can protect you on Prince Edward Island. A **court order** is a document from the court that states a judge's decision and rules that must be followed. You may need a court order to protect you if you:

- Have been recently harmed by someone, or
- Are afraid that someone will harm you.

If you have a court order in place to protect you, you should have a safety plan. The person who harmed you may disobey the order. A safety plan helps keep you and your family safe.

For more information about safety plans, see our publications *Making a Safety Plan* or *Health and Safety Plan for Indigenous Families*. Victim Services, Family Violence Prevention Services, and the RISE Program can help you make a safety plan. See *Support Services* on page 31 for more information.

If you are in immediate danger, call 911.



The information in this publication is not legal advice and does not replace guidance from a lawyer.




About Us



Community Legal Information is a registered charity. We provide plain-language legal information and low-cost lawyer referrals.

This resource was funded by Justice Canada.

Community Legal Information

-  www.legalinfopei.ca
-  info@legalinfopei.ca
-  902-892-0853; 1-800-240-9798 (toll-free)

Canada 

Getting Support



If you experience family violence or other forms of violence, you are not alone. There are services available for you. You can access services if you report family violence to the police or not. You can find more support in the *Support Services* section on page 29.

Court Orders



What is a court order?

A **court order** is a document from the court that states a judge's decision and outlines rules someone must follow. For example, a court order can require you to not contact another person.

A court order can help protect you from a person who has:

- Harmed you, or
- You are afraid of.

How can I get a court order?

You can apply to the court for some court orders on your own. For other orders, you need a lawyer or a police officer to apply for you.

Court orders are available through the:

- Criminal law system (Provincial Court and Supreme Court), and
- Family law system (Supreme Court).

Criminal Law Orders for Your Protection



There are three kinds of orders in the criminal law system that can have conditions to protect you:

- Undertakings (issued by a police officer or Justice of the Peace)
- Probation orders
- Peace bonds (also called Recognizances)

Undertakings

An **undertaking** is a court order that gives conditions (rules) a person charged with a crime must follow until the court process is done.

The **accused** is a person charged with a crime. If the person who harmed you is charged with a crime, they are called the accused.

Until court proceedings are finished, the accused will:

- Be released back into the community, or
- Remain in custody (jail).

If the accused is released back into the community, the court will give them an undertaking.

What can an undertaking include?

The undertaking may include conditions to protect you. These could be that the accused:

- Can't contact you directly or indirectly. For example, send you an email or ask a friend to give you a note.
- Must stay away from your home and/or workplace.

Make sure you explain your fears and concerns to the police. If the police know what your fears and concerns are, the undertaking will be more likely to include the conditions you need to be safe.

How long does an undertaking last?

The undertaking stays in place until the:

- Court proceedings are done, or
- Conditions are changed or removed.

Can I change the conditions of an undertaking?

A victim of crime can't apply to have the conditions changed. Only the Crown Attorney or the accused can apply for changes. Contact the Crown Attorney about changes to the undertaking.

The **Crown Attorney** is the lawyer who represents the public interest. They represent the province's legal case against the accused. The Crown Attorney does not represent you.

What if the accused disobeys the undertaking?

Tell the police immediately if the accused disobeys the conditions stated in the undertaking. The accused may be:

- Charged with disobeying the undertaking.
- Have to stay in custody (jail) until the court proceedings are done.

If conditions include no contact with you, you must not contact the accused. You may be charged with a criminal offence if you:

- Contact the accused, or
- Encourage the accused to contact you.

Probation Orders

A **probation order** is a court order with conditions (rules) that the offender must follow when they are on probation.

An **offender** is a person found guilty of a crime by the court. If the person who harmed you is found guilty of a crime, they are called the offender. The court may give them a probation order with conditions that they must follow while they are on probation.

What can a probation order include?

Conditions in a probation order may include that the offender:

- Must attend an assessment, counselling, and/or treatment for drug use, alcohol use, or anger management.
- Can't contact you, your children or family members.
- Must stay away from your home and/or workplace.

Can I contact the offender?

If conditions include no contact with you, you must not contact the offender. You may be charged with a criminal offence if you contact the offender or encourage them to contact you.

What can I do if the offender disobeys the probation order?

Tell the police immediately. You may also wish to call Victim Services and Probation Services.

Victim Services is a free and confidential provincial program.

Victim Services can help you:

- Understand the criminal justice system.
- Write a victim impact statement.
- Prepare for court if you are a witness.
- Stay updated about your case.

In some cases, the judge will order that the probation officer allow contact between you, your children or family members, and the person who harmed you.

Do I have a say in what the offender's probation conditions should be?

Yes. If the offender gets probation, you have a right to speak to the probation officer. You can make reasonable suggestions about what conditions the order should include. Tell the Crown Attorney or the police if you have any concerns about your safety.

How long does a probation order last?

Probation conditions can last for up to three years. If an offender gets a sentence for more than two years, they are not given probation.

Can I change the probation order's conditions?

A victim of a crime can't apply to change probation conditions. The only people who can apply for changes are:

- The Crown Attorney,
- The probation officer, or
- The offender.

Only a judge can approve changes to the conditions.

A **probation officer** is an officer of the court who prepares reports about the offender, helps the judge in passing a sentence, and supervises people on probation.

Peace Bonds




A **peace bond** is a legal promise signed by a person you fear. It usually requires that they have no contact with you, behave well, and follow other conditions the judge orders. It is also called a recognizance order.

You can apply for a peace bond against any person causing you to fear for your personal safety or your property. The court will only order a peace bond if it is convinced that there is a good reason for it.

How do I get a peace bond?

To get a peace bond, you, or a police officer on your behalf, must apply through the Provincial Court of PEI. Provincial courts are in Charlottetown, Summerside, and Georgetown.

Provincial Court of PEI

-  Charlottetown: 902-368-6030
-  Summerside: 902-888-8190
-  Georgetown: 902-652-8990

What happens after I apply for a peace bond?

You or the police officer will be asked to sign a document called an information. An **information** is a sworn statement that explains why you fear for your safety. Usually, a police officer signs the information.

The Provincial Court will set a date for a hearing. The person you fear must appear in court on that date.

If you signed the information, you must be in court for the first hearing. If you aren't there, your application will be dismissed. If a police officer signed the information, you don't have to be in court on the first date. A police officer will go to court instead.

When the application first appears before the court, the person you fear will be asked if they agree to sign the peace bond. If they agree to sign, the court will issue the peace bond.



What if the person won't sign the peace bond?

The court will order a hearing. The police will give you a subpoena. A **subpoena** is a court order that gives the date and time you must appear in court.

Until the hearing happens, there is no peace bond in place. The police officer or a Justice of the Peace may issue an undertaking, and the person who harmed you must sign it. An undertaking usually states that the person who harmed you will not come near you. See *Undertakings* on page 6.

At the hearing, you will have to give evidence to convince the judge that you need the peace bond. You can tell the judge the things that happened that made you feel afraid. If you have any witnesses, you can ask them to testify in court for you. A **witness** is someone who can share first-hand information about a case. **Testifying** is giving spoken evidence in court.

You should tell the judge if you want certain conditions included in the peace bond. For example, you may want the person to stay away from your home and/or workplace. If you go to the court hearing and the person who harmed you does not show up, the hearing may still go ahead.

Based on the evidence, the judge may order the person you fear to sign a peace bond.

Why is it important for me to have a certified copy of the peace bond?

The court clerk should give you a certified copy of the peace bond. Keep this copy in a safe place. If you call the police later, this copy will make it easier to show that you have a peace bond against the person who harmed you.

How long does a peace bond last?




The judge will set how long a peace bond lasts. In most cases, the peace bond will last for up to one year. The judge may order a peace bond for up to two years in some cases. For example, if the person was convicted of a sexual offence against someone under the age of 16 or convicted of a violent offence.

A peace bond can't be renewed, but you can apply for a new one if you still have reasons to fear this person.

Can I change the conditions of a peace bond?

You can apply to Provincial Court to change the conditions of the peace bond.

Provincial Court of PEI

-  Charlottetown: 902-368-6030
-  Summerside: 902-888-8190
-  Georgetown: 902-652-8990

What if the person disobeys the peace bond?

Call the police immediately. The person can be charged and punished for disobeying the court order.

What if we aren't allowed to contact each other, but we see each other accidentally?

Chance encounters happen. For example, you may meet someone who is not allowed to have contact with you in a public place. If this happens:

- Use common sense and good judgment.
- Don't try to speak to the person or approach them.
- Move on to another area or activity.

It is a good idea to note the time and place when you saw them. You don't need to report it to the police unless a pattern develops or they contact you intentionally.

Can I contact the person I have a peace bond against?

If conditions include no contact with you, you must not contact that person. You may be charged with a criminal offence if you:

- Contact them, or
- Encourage them to contact you.

Family Law Orders for Your Protection



There are three kinds of court orders in the family law system that may contain conditions for your protection:

- Restraining orders
- Emergency Protection Orders (EPOs)
- Victim Assistance Orders (VAOs)

Restraining Orders

A **restraining order** is a court order under the *Family Law Act* that requires your spouse or ex-spouse to stop harassing you and/or your children. You can only apply for a restraining order if you are already living apart with no plans to live together again. These orders apply to married and unmarried spouses.

Married spouses are spouses who had a recognized marriage ceremony.

Unmarried spouses are spouses who have not had a recognized marriage ceremony. Unmarried spouses are also called common-law spouses.

On PEI, unmarried spouses must:

- Have lived together in a sexual relationship for three years or more, or
- Be the natural or adoptive parents of one or more children.

Some federal government programs define unmarried spouses differently than PEI's *Family Law Act*. For more information, read our publication *Family Law Essentials*.

Restraining orders can be used in harassment situations. For example, you can apply for a restraining order if your ex constantly phones you or goes to your house, even if they are not threatening to harm you.


How do I get a restraining order?

To get a restraining order, you need a lawyer. You can hire a private lawyer to help you get a restraining order.

Legal Aid also provides free legal representation for some family law issues. You must meet certain criteria to qualify for this service. Call Legal Aid to see if you qualify or not.

Family Legal Aid

 Charlottetown: 902-368-6656

 Summerside: 902-888-8066

Emergency Protection Orders (EPO)

An **Emergency Protection Order (EPO)** is a court order that can give immediate legal protection to victims of family violence. An EPO is:

- Available 24 hours a day.
- Ordered by a Justice of the Peace.
- Effective as soon as the person who harmed you is served a copy of the order.
- In effect for as long as directed by the Justice of the Peace (up to 90 days).

If the person who harmed you avoids receiving the EPO, a Justice of the Peace may decide that service of the order is not required. **Service** means delivering a legal document to someone. This is usually to their home or to their lawyer. In these cases, the EPO is still active even though the person who harmed you has not received a copy of it.

How do I get an Emergency Protection Order?

Ask a police officer or a Victim Service worker if they can apply for an EPO for you. After they apply, a Justice of the Peace will order the EPO if they are sure:

- Family violence happened, and
- Your situation is serious and urgent.

The Justice of the Peace forwards one copy of the EPO and all supporting documents to the court. A judge of the Supreme Court reviews the EPO and documents within five working days. The judge can decide to:

- Confirm the EPO,
- Change the EPO, or
- Order a hearing for all or part of the application.

What if the judge orders a hearing?

If a judge orders a hearing, you and the person who harmed you will be notified. You and the person who harmed you must attend the hearing and tell the judge why the EPO should be changed or stay the same.

What if the person who harmed me applies to change the conditions?

If the judge does not ask for a hearing, the person who harmed you may apply to the court to change the conditions. There may be a hearing and you will be notified. At the hearing, you can tell the judge why you think the EPO should not be changed.



If the person who harmed you encourages someone else to commit violence against you, the person who harmed you will be held responsible.

How can an EPO protect me?

An EPO can order the person who harmed you to:

- Not contact you or your family, or another person.
- Stay away from any place identified in the order.
- Not take, sell, or damage property.
- Not commit any other acts of violence against you.
- Not end the basic services of utilities (heat, telephone, electrical, water and sewage).
- Make rent or mortgage payments on the home.

An EPO can also:

- Give you temporary control of specific personal property (such as a car).
- Give you exclusive access to the family home.
- Give you or another person temporary decision-making responsibility or day-to-day care of a child.
- Direct a police officer to supervise the removal of personal belongings from the home.
- Direct a police officer to remove the person who harmed you from the home.
- Prohibit the publishing of your name and address.
- Extend protection to your family members.

Victim Assistance Order (VAO)

A Victim Assistance Order (VAO) is a longer-term tool to help victims of family violence. It can be used:

- For non-emergency situations.
- When an Emergency Protection Order (EPO) is about to expire.

How can a VAO protect me?

A VAO may:

- Include similar conditions to an EPO.
- Give you exclusive access to the family home for a set period.
- Remove the person who harmed you from the home immediately or by a specific time.
- Grant police supervision so you can safely remove personal belongings from the home.
- Remove personal property from the person who harmed you.
- Prevent publication of your name and address.
- Temporarily remove decision-making responsibility or parenting time from the person who harmed you.
- Grant supervised parenting time to the person who harmed you.
- Include any other requirement the judge orders.

A VAO can order the person who harmed you to:

- Stay away from specific places like your home, workplace, or school.
- Not communicate directly or indirectly with you. For example, send you an email or ask a friend to give you a note.
- Not take, sell, or damage property.
- Not commit more acts of violence against you.
- Make rent or mortgage payments on the home.
- Not end basic services of utilities.

How do I get a VAO?

Applying for a VAO is a legal process. It is a good idea to talk with a lawyer for advice and help. You can hire a private lawyer. If you are a victim of intimate partner or sexual violence or workplace sexual harassment, you can contact the RISE Program. The RISE Program offers legal information, support, and up to four hours of free legal advice from a lawyer.

RISE Program


-  www.risepei.com
-  rise@legalinfopei.ca
-  902-218-6143 (call/text)

What is a VAO kit?


You can use a VAO kit to make an application for a victim assistance order. The Department of Justice and Public Safety published the kit. You can get a kit from Victim Services.


Charlottetown office

 victimservicescharlottetown@gov.pe.ca

 902-368-4582

Summerside office


 victimservicessummerside@gov.pe.ca

 902-888-8218

Family Legal Aid also provides free legal representation for some family law issues. You must meet certain criteria to qualify for this service. Call Legal Aid to see if you qualify or not.

Family Legal Aid

 Charlottetown: 902-368-6656

 Summerside: 902-888-8066

What happens after I apply for a VAO?

An application for a VAO is made to a judge of the Supreme Court. The judge decides whether to grant the order or not.

A judge who orders a VAO may include all the conditions as an EPO. The judge may also include conditions to protect your children and any other condition the judge orders.

If you ask, your address may be kept confidential when an application for a VAO or an EPO is made. Other information may also be protected.



Glossary



Accused

A person charged with a crime.

Court order

A court document that states a judge's decision and rules that must be followed.

Crown Attorney

The lawyer who represents the public interest. They are employed by the province to represent the legal case against the accused. They do not represent the victim.

Emergency Protection Order (EPO)

A court order that gives immediate legal protections to victims of family violence.

Information

A sworn statement that explains why you fear for your safety.

Married spouses

Spouses who had a recognized marriage ceremony.

Offender

A person found guilty of a crime by the court.

Peace bond

A legal promise signed by a person you fear. It usually requires them to have no contact with you, behave well, and obey other conditions the judge makes.

Probation officer

A court officer who prepares reports about the offender, helps the judge pass a sentence, and supervises people on probation.

Probation order

A court order with conditions that the offender must follow when they are on probation.

Restraining order

A court order that requires your spouse or ex-spouse to stop harassing you or your children.

Service

Delivering a legal document to someone. This is usually to their home or their lawyer.

Subpoena

A court order that gives the date and time you must appear in court.

Testifying

Giving spoken evidence in court.

Undertaking

A court order that gives conditions a person charged with a crime must follow until the court process is done.

Unmarried spouses

Spouses who have not had a recognized marriage ceremony. Unmarried spouses are also called common-law spouses. See page 18 for the conditions unmarried spouses must meet to be considered unmarried spouses.

Victim Assistance Order (VAO)

A longer-term tool to help victims of family violence. It can be used after an Emergency Protection Order expires.

Witness




Someone who can share first-hand information about a case.

Support Services



If you are in an emergency, call 911.



Municipal Police

-  Charlottetown: 902-629-4172
-  Summerside: 902-432-1201
-  Kensington: 902-836-4499

RCMP

-  Queens: 902-368-9300
-  East Prince: 902-463-9300
-  West Prince: 902-853-9300
-  Montague: 902-838-9300
-  Souris: 902-687-9300


PEI Family Legal Aid

-  Charlottetown: 902-368-6656
-  Summerside: 902-888-8066

Provides free legal representation for some family law issues. You must meet certain criteria to qualify for this service.

PEI Criminal Legal Aid


 Charlottetown: 902-368-6034

 Summerside: 902-888-8219

Provides free legal representation and help for some criminal law issues. You must meet certain criteria to qualify for this service.

MCPEI Indigenous Justice Program

 www.mcpei.ca


 902-367-3681

A culturally based program for Indigenous people who come in conflict with the law. It is available to all Indigenous people regardless of status or if they live on or off reserve. The program supplements the mainstream justice system with Restorative Justice options, and supports the healing of offenders, victims, and communities.

Community Legal Information

 www.legalinfopei.ca

 info@legalinfopei.ca

 902-892-0853; 1-800-240-9798 (toll-free)





We provide legal information, publications, public speakers, and presentations. Our services are free and confidential. We also offer the Lawyer Referral Service, which provides short legal consultations for a small fee.

RISE Program

-  www.risepei.com
-  rise@legalinfopei.ca
-  902-218-6143 (call/text)






Provides free and confidential services, legal resources, and support to people who have experienced sexual violence, workplace sexual harassment, or intimate partner violence.

Victim Services

-  902-368-4582 (Queens & Kings County)
-  902-888-8218 (Prince County)
-  victimservicescharlottetown@gov.pe.ca
-  victimservicessummerside@gov.pe.ca


Helps victims of crime on PEI or those who have experienced a crime on PEI navigate the criminal justice system.


Family Violence Prevention Services (FVPS)

-  www.fvps.ca (chat available)
-  West Prince: 902-859-8849
-  East Prince: 902-436-0517
-  Eastern PEI: 902-838-4600 ext. 23
-  Queens: 902-566-1480 ext. 24

Offers safety planning and emergency shelter (the Anderson House) for victims of family violence.

Anderson House


 www.fvps.ca/anderson-house

 902-892-0960 or 1-800-240-9894 (toll-free, text/call)

Emergency shelter for women, trans, and non-binary people and their children. Anderson House can be reached 24 hours a day.


Chief Mary Bernard Memorial Women's Shelter

 www.cmbmws.ca

 1-855-297-2332

Provides safe housing on Lennox Island to Indigenous and non-Indigenous women and their children who are experiencing family violence and/ or homelessness.

Bedford MacDonald House


 902-892-9242

Provides shelter for men who are 18 years old and older.

Blooming House




 www.bloominghouse.ca

 info@bloominghouse.ca

 902-213-9969



Provides shelter for women.

PEI Rape and Sexual Assault Centre




-  www.peirsac.org
-  admin@peirsac.org
-  1-866-566-1864; 902-566-1864 (counselling request)

Provides free and confidential client-led counselling to people who have experienced recent or past sexual assault or childhood sexual abuse.

Child Protection Services

-  1-877-341-3101 (weekdays)
-  1-800-341-6868 (evenings, weekends, and holidays)

General Inquiries:

-  Charlottetown: 902-368-5330
-  Summerside: 902-888-8100
-  Montague: 902-838-0703

Provides child protection services for children experiencing abuse. After-hours calls about child abuse are screened and referred to workers on call. Abuse includes the child being exposed to family violence.



PEI requires mandatory reporting of the abuse or suspected abuse or neglect of children.

Adult Protection Program (Home Care)

- ☎ Charlottetown: 902-368-4790
- ☎ Montague: 902-838-0786
- ☎ O’Leary: 902-859-8730
- ☎ Souris: 902-687-7096
- ☎ Summerside: 902-888-8440

Provides help or intervention to vulnerable adults who are unable to protect themselves from abuse or neglect. For more information, call Home Care and Support.

PEI Provincial Court

- ☎ Charlottetown: 902-368-6030
- ☎ Summerside: 902-888-8190
- ☎ Georgetown: 902-652-8990

More Resources



CLI also offers the following publications:

- *Family Violence and the Law*
- *Making a Safety Plan*
- *How to Go to Family Court Without a Lawyer*

All publications are free and can be found on our website at www.legalinfopei.ca. Call **902-892-0853** or **1-800-240-9798** for print copies.



Community Legal Information is a registered charity that receives funding from Justice Canada, the Law Foundation of PEI, the Law Society of PEI, the PEI Department of Justice and Public Safety, and other sources. Community Legal Information provides understandable and useful information about the law and the justice system in Prince Edward Island.

For more information on other legal topics, visit www.legalinfopei.ca, email us at info@legalinfopei.ca, or call us at **902-892-0853** or **1-800-240-9798**. You can also find us on social media.

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Charitable registration number: 118870757RR0001

ISBN 978-1-989140-31-4

Published December 2006

Updated November 2022



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