

A person is shown from the waist down, wearing a grey hoodie and dark pants, packing a dark blue suitcase. They are holding a white t-shirt in their right hand, about to place it into the suitcase. The suitcase is open and contains various items of clothing, including a white t-shirt and a dark jacket. The background is a wooden wardrobe or closet. The overall lighting is dim and moody, with a blue and purple color palette.

Family Violence and the Law



**Community Legal
Information**
Empowerment Through Knowledge

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Introduction




This publication explains the laws that may protect you if you have experienced family violence. **Family violence** is any violence by one family member against another family member. This publication also gives information about resources available to you and your family.

If you are in immediate danger, call 911.

About Us

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

Community Legal Information

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



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

Community Legal
Information





Getting Support

If you are experiencing family violence, you are not alone. There are services available for you.

RISE Program

RISE offers free legal support for victims of sexual or intimate partner violence, and workplace sexual harassment. RISE is a program of Community Legal Information.

If you have experienced intimate partner violence, you can get up to four hours of free legal advice with RISE. RISE can also help connect you with other helpful resources.



RISE Program

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

Family Violence Prevention Services

You may wish to contact Anderson House Emergency Shelter or an outreach worker with Family Violence Prevention Services (FVPS). Anderson House can be reached 24 hours a day. FVPS outreach workers can be reached Monday to Friday between 8 am and 4:30 pm. Although men cannot stay in the shelter, FVPS staff can provide outreach services, referrals, and other assistance.

Family Violence Prevention Services

-  www.fvps.ca
-  1-800-240-9894 (toll-free, call/text)

RISE Program



Family Violence Prevention Services



Victim Services

Victim Services is a free and confidential provincial program. It supports you during the criminal justice process. Victim Services can support you at any point, even if charges have not been laid or if you do not want to report your experience to the police. Victim Services can connect you with other parts of the criminal justice system, including the police and the Crown Attorney. Victim Services works with victims of all genders.

Victim Services provides:

- General information about the criminal justice system.
- Information about your case.
- Safety planning.
- Court preparation and court accompaniment.
- Help writing your victim impact statement.
- Referrals to other community organizations and agencies.
- Emotional support and short-term counselling throughout the process.

Victim Services does not provide legal advice.

Charlottetown office

✉ victimservicescharlottetown@gov.pe.ca

☎ 902-368-4582

Summerside office

✉ victimservicessummerside@gov.pe.ca

☎ 902-888-8218

Victim Services



What is Family Violence?


Family violence is any violence by one family member against another family member.

There are legal options to protect yourself from family violence.

On PEI, family violence is addressed by these laws:

- *Victims of Family Violence Act* (provincial)
- *Criminal Code of Canada* (federal)
- *Family Law Act* (provincial)
- *The Divorce Act* (federal)
- *The Children's Law Act* (provincial)

Provincial Statutes and Regulations

 www.princeedwardisland.ca/en/legislation/all/all/a

Federal Consolidated Acts

 www.laws-lois.justice.gc.ca/eng/acts/

Provincial Statutes and Regulations



Federal Consolidated Acts



Safety Plans

In a violent relationship, the violence usually increases over time. Even if you do not want to leave the relationship, it is a good idea to create a safety plan for you and your children.

A **safety plan** is a tool to help you prepare for a crisis and how you and your children will get to safety. See our publication *Making A Safety Plan* for more information.

Victims of Family Violence Act

The *Victims of Family Violence Act* defines a family relationship as the relationship between two people who:

- Are married, or
- Have been married, or
- Live together in a spousal or sexual relationship, or
- Have lived together in a spousal or sexual relationship, or
- Are members of the same family.

Family violence includes violence:

- By one partner against the other,
- By a parent against a child,
- By a child against a parent,
- Between siblings, or
- Involving grandparents.

You could experience violence from someone you are dating who you do not live with.





What is family violence according to the Victims of Family Violence Act?

According to the *Victims of Family Violence Act*, family violence is:

- Any assault on the victim.
- Any reckless act or omission that causes injury to the victim or damage to property.
- Any behaviour or threat that causes a reasonable fear of injury to the victim or damage to property.
- Forced confinement of the victim.
- Actions or threats of sexual abuse, physical abuse, or emotional abuse of the victim.
- Any behaviour that deprives a victim of food, clothing, medical attention, shelter, transportation, or other necessities of life.

What are offences under the Victims of Family Violence Act?

An **offence** is a crime. It is an offence for anyone to:

- Disobey a court order.
- Falsely apply for a court order.
- Obstruct anything that is authorized by an order.
- Publish any information that might identify a victim.

What does the Victims of Family Violence Act do?

The *Victims of Family Violence Act* is meant to be used together with the *Criminal Code of Canada*. In appropriate cases, the police will lay charges under the *Criminal Code of Canada* and will also seek a court order under the *Victims of Family Violence Act* to protect the victim(s).

You may be able to stay in your own home with the help of an order under the *Victims of Family Violence Act*.

Through the *Act*, you may be able to get:

- An Emergency Protection Order (EPO)
- A Victim Assistance Order (VAO)

Who is a victim according to the Victims of Family Violence Act?

A victim is a person who:

- Has lived with the person who harmed them in a family relationship, or
- Is living with the person who harmed them in a family relationship, or
- Has one or more children with the person who harmed them. It does not matter if the victim and the person who harmed them were married or lived together at any time.



If the person who harmed you encourages another to be violent to you, both will be held responsible.

Emergency Protection Orders

An **Emergency Protection Order (EPO)** is a court order that can give immediate legal protections 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 is avoiding 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 it.

How do I get an EPO?

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 has occurred, and
- Your situation is serious and urgent.

Victim Services can update you about your case, help you understand the criminal justice system and your rights, make a victim impact statement, and prepare for court if you are called as a witness.

**Charlottetown
Victim Services**
☎ 902-368-4582

**Summerside
Victim Services**
☎ 902-888-8218

Victim Services



Victim Assistance Order

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.

A VAO may include the same conditions as an EPO. It may also include parenting conditions and any other conditions the judge orders.

A Victim Assistance Order can:

- 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.





**Charlottetown
Victim Services**

☎ 902-368-4582

**Summerside
Victim Services**

☎ 902-888-8218

**Charlottetown
Family Legal Aid**

☎ 902-368-6656

**Summerside
Family Legal Aid**

☎ 902-888-8066

Victim Services



Family Legal Aid



A Victim Assistance Order can order the person who harmed you:

- To stay away from specific places like your home, workplace, or school.
- Not to communicate directly or indirectly with you. An example of communicating indirectly is asking a friend to give you a note. An example of communicating directly is sending you an email or trying to talk to you in person.
- Not to take, sell, or damage property.
- Not to commit more acts of violence against you.
- To make rent or mortgage payments on the home.
- Not to end basic services of utilities.

How do I get a Victim Assistance Order?

Applying for a VAO is a legal process. It is a good idea to talk with a lawyer for advice and help. You may want to hire a private lawyer.

Family Legal Aid may provide you with free legal representation for some family law issues. To qualify for legal aid, you must meet certain criteria. Call Legal Aid to see if you qualify for this service or not.

The RISE Program offers legal information, support, and up to four hours of free legal advice from a lawyer.

You can also request a VAO kit from Victim Services. The kit was created by the Department of Justice and Public Safety.

For more information on Victim Assistance Orders, please see our publication *Court Orders for Your Protection*.

Criminal Code of Canada

The *Criminal Code of Canada* is the federal law that outlines most crimes and their punishments in Canada.

It is a crime for someone to:

- Threaten you.
- Harass you.
- Damage your property.
- Hit you.
- Physically hurt you.

The *Criminal Code of Canada* outlines that family violence can result in the following:

- Criminal charges against the person who caused harm.
- A peace bond.
- An undertaking.

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 obey 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 for 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 acting on your behalf, must apply through the Provincial Court. Provincial Courts are in Charlottetown, Summerside, and Georgetown.

For more information about peace bonds, see our publication *Court Orders for Your Protection*.

PEI Provincial Court

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

Criminal Charges

If the police respond to a family violence situation, they may lay criminal charges against the person who harmed you. **Laying charges** is when the police officially accuse someone of a crime. This is also called pressing charges.

It can be intimidating to report to the police. Police are best able to act on your behalf if they have all the information.

When you make a statement:

- Share any concerns you have about your safety.
- If you are worried that sharing information with the police puts you at risk, tell the police.
- Tell the police all the details of what happened.
- Include information about any past incidents.
- Describe any injuries you and/or others may have and any property damage.

PEI Provincial Court



If you need medical attention, ask the police to take you to the hospital. Tell the doctor how you were hurt. Ask the doctor to write a detailed report. The doctor may charge you a fee to write this report.

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 the court proceedings are finished, the accused will:

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

The police may remove the person that harmed you from your home.

Undertakings

If the accused is released back into the community, the court will give them an undertaking. An **undertaking** is a court order that gives conditions (rules) to follow until the court process is done. It is also called a release order.

The undertaking may include conditions to protect you.

Conditions may state that the accused:

- Cannot contact you, directly or indirectly. An example of direct contact is sending you an email or trying to talk to you in person. An example of indirect contact is asking a friend to give you a note.
- Must stay away from your home and/or work.





If the undertaking is put in place by the police, make sure you explain your fears and concerns to the police. If the police know what your fears and concerns are, the order will be more likely to include the conditions you need to be safe.

The undertaking stays in place until the:

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

Tell the police immediately if the accused disobeys the conditions stated in the undertaking. The accused may be charged with disobeying the undertaking. They may have to stay in custody (jail) until the court proceedings are done.

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

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

What happens after the police lay charges?

The person who harmed you will go to court for their first appearance. If they plead guilty, the next step is sentencing (see page 18). If they plead not guilty, a date will be set for a trial.

The **Crown Attorney** is the lawyer who represents the public interest. The province employs them to represent the legal case against the accused. The Crown Attorney does not represent the victim.

The Trial

In a trial, witnesses testify during examination or cross-examination. **Testifying** is giving spoken evidence in court. **Examination** is asking your witnesses questions so they can share evidence. **Cross-examination** is when the other side asks the witness questions.

During a trial:

- You may have to testify in court. The Crown Attorney asks you questions about what happened and any other relevant information.
- The defence lawyer may cross-examine you. This means the defence lawyer may ask more questions about what happened and any other relevant information.
 - The **defence lawyer** is the lawyer representing the person who harmed you.
- The judge may also ask you questions.
- The Crown Attorney may call other witnesses to testify.
- The defence lawyer may call witnesses to testify.
- The Crown Attorney may cross-examine the defence witnesses.
- The person who harmed you is found guilty if the charge is proven beyond a reasonable doubt.

For more information about testifying, see our publication, *A Guide for Witnesses*.

Sentencing

A **sentence** is a punishment for committing a crime. If the person who harmed you is found guilty, the judge decides what the sentence will be. The judge does not usually give a sentence during the trial. For more information on sentencing, see our publication *Sentencing*.

The judge considers a victim impact statement when sentencing. A **victim impact statement** is a document you write that includes information about your physical and emotional injuries, and any financial loss you experienced because you were a victim of crime. Victim Services can help you write the statement and file it on your behalf.

What if there is a probation order?

The court may put the person who harmed you on a probation order. A **probation order** is a court order with conditions that the offender must follow while on probation.

If the person who harmed you gets probation, you can speak to the probation officer if you wish. You can make reasonable suggestions to the Crown Attorney or the police.

What if the police do not charge the person who harmed me?

Ask the police why they did not lay charges. If you think their reason is not good enough, speak to the officer who is dealing with your case or to the officer in charge. Victim Services can also help you.

Your Safety and the Firearms Act

Sections of the *Firearms Act* are relevant when violence has occurred in families or when there is a fear that violence may occur.




The law requires all firearms owners or users to get a Firearms Possession License. This license allows people to continue to possess the firearms that they already owned on October 1, 1998, and to borrow firearms of a similar class, for example, long guns. People who want to get a new firearm or a crossbow must get a Possession and Acquisition License. These licenses must be renewed every five years.

When someone applies for a license to get a firearm or crossbow, any current or former spouse or common-law partner with whom the applicant has lived in the last two years will be notified.

An application for a firearms license can be refused if the safety of the applicant or any other person is at risk.

Contact the Canadian Firearms Program to learn more.

Canadian Firearms Program

-  www.rcmp-grc.gc.ca/en/firearms/contact-the-canadian-firearms-program
-  cfp-pcaf@rcmp-grc.gc.ca
-  1-800-731-4000



Canadian
Firearms Program





Family Violence and the Family Law Act

The *Family Law Act* regulates how separating partners deal with:

- The division of property between legally married persons,
- Child support, and
- Spousal support.

The *Act* also describes restraining orders.

Restraining Orders

A **restraining order** is a court order that requires your spouse or ex-spouse to stop harassing you 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.

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.

To get a restraining order, you need a lawyer. Family Legal Aid may provide you with free legal representation for some family law issues. To qualify for legal aid, you must meet certain criteria. Call Legal Aid to see if you qualify for this service or not. You may also hire a private lawyer to help you get a restraining order.

Family Violence, the Divorce Act, and the Children's Law Act

The *Divorce Act* defines family violence as behaviour that is:

- Violent.
- Threatening.
- A pattern of coercive and controlling behaviour.
- Causing a family member to fear for their safety.

In the case of a child, family violence also includes direct or indirect exposure to the behaviour listed above. Behaviour that falls within this definition is not necessarily a crime. But the court will consider these behaviours when making decisions about parenting arrangements.

When the court makes decisions about parenting arrangements, its only consideration is the child's best interests. The child's safety and well-being are an important part of determining the best interests of the child. When someone is seeking a parenting order or a support order, the courts are required to consider any:

- Civil protection orders,
- Child protection orders, or
- Orders about criminal matters.

If any of the above orders are pending or in effect, the court must consider them unless it would be clearly inappropriate to do so.

Glossary

Accused

A person charged with a crime.

Crown Attorney

The lawyer who represents the public interest. The province employs them to represent the legal case against the accused. They do not represent the victim.

Cross-examination

Asking the other side's witnesses questions.

Defence lawyer

The lawyer representing the person accused of committing a crime.

Emergency Protection Order (EPO)

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

Examination

Asking your witnesses questions so they can share evidence.

Family violence

Any violence by one family member against another family member.

Laying charges

When the police officially accuse someone of a crime. This is also called pressing charges.

Offence

A crime.

Peace bond

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

Probation order

A court order with conditions that the offender must follow while on probation.

Restraining order

A court order under the *Family Law Act* that requires your spouse or ex-spouse to stop harassing you or your children.

Safety plan

A tool to help you prepare for a crisis and how you and your children will get to safety.

Sentence

The punishment for committing a crime.

Service

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

Testifying

Giving spoken evidence in court.

Undertaking

A court order that gives conditions (rules) that a person charged with a crime must follow until the court process is done. This is also called a release order.





Victim Assistance Order (VAO)

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

Victim impact statement

A document you write that includes information about your physical and emotional injuries, and any financial loss you experienced because you were a victim of crime.

Support Services



**Call 911 if you are
in an emergency.**

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

Island Helpline

- 📍 www.theislandhelpline.com
- 📞 1-800-218-2885



Provides free, confidential emotional support and crisis intervention to Islanders of all ages.

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



FVPS offers safety planning and emergency shelter (the Anderson House) for victims of family violence. They also offer programs, public education, and outreach services.

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. Text is available 7:00 am – 10:00 pm.

Chief Mary Bernard Memorial Women's Shelter

-  www.cmbmws.ca
-  1-855-297-2332


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

Blooming House

-  www.bloominghouse.ca
-  info@bloominghouse.ca
-  902-213-9969



Provides shelter for women.

Bedford MacDonald House

-  902-892-9242



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

Salvation Army

-  Charlottetown: 902-892-8870
-  Summerside: 902-888-3870



Provides emergency shelter, food, and/or clothing.

PEI Rape and Sexual Assault Centre




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

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 being abused. After-hours calls concerning child abuse are screened and, if necessary, referred to workers on call across PEI. PEI requires mandatory reporting of the abuse or suspected abuse or neglect of children. Abuse includes being exposed to family violence.

Victim Services

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

Provides free, confidential emotional support and crisis intervention to Islanders of all ages.





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. Call Home Care and Support to learn more.

PEI Family Legal Aid

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

Legal Aid provides free legal representation for some family law issues. There are criteria that you must meet to qualify for this service.

PEI Criminal Legal Aid

- 📍 Charlottetown: 902-368-6034
- ☎ Summerside: 902-888-8219

Legal Aid provides free legal representation for some criminal law issues. There are criteria that you must meet to qualify for this service.


Canadian Firearms Program

- 📍 www.rcmp-grc.gc.ca/en/firearms/contact-the-canadian-firearms-program
- ✉ cfp-pcaf@rcmp-grc.gc.ca
- ☎ 1-800-731-4000

Manages licensing and registration of firearms in Canada.

Mi'kmaq Confederacy of PEI Indigenous Justice Program

 www.mcpei.ca


 902-367-3681

This program is a culturally based pre- and post-charge diversion program for Indigenous people who come in conflict with the law. It supplements the mainstream justice system with restorative justice options. It provides services to all Indigenous people regardless of status, or if they live on or off reserve. It focuses on the process of supporting the healing of offenders, victims, and communities.

Community Legal Information and Lawyer Referral Service

 www.legalinfopei.ca

 info@legalinfopei.ca


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

We provide legal information, referrals, publications about legal topics in English and French, public speakers, and presentations on legal topics. This is a free, confidential service. We also offer the Lawyer Referral Service, which provides a short consultation with a lawyer for a modest fee.

RISE Program

 www.risepei.com

 rise@legalinfopei.ca

 902-218-6143 (call/text)

The RISE Program provides free legal resources and support to people who have experienced sexual violence, workplace sexual harassment, or intimate partner violence. This is a free, confidential service.

More Resources

Community Legal Information also offers these publications:

- *Court Orders for Your Protection*
- *Making a Safety Plan in Violent or Abusive Relationships*
- *Health & Safety Plan for Indigenous Families*
- *Being Safer: A Guide for Women with Intellectual Challenges*
- *Reporting Sexual Assault to Police: A Guide for Victims*
- *A Guide for Witnesses*
- *Defending Yourself in Criminal Court*
- *Parenting and the Law*
- *What do I Need to Know? A Guide to Child Protection for Youth*

We also have publications on other legal topics. All publications are free and can be found on our website. Contact us for paper copies.

Community Legal Information

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

Community Legal
Information





Community Legal Information is a charitable organization 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 Islanders with 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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Community Legal Information

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**Community Legal
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Empowerment Through Knowledge