



For Your Protection: Peace Bonds and Restraining Orders

Information for women in relationships who need protection from violence or the threat of violence

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THIS BOOKLET

People seek protection orders for a variety of reasons, in a variety of situations – to prevent violence or damage to property by a co-worker or neighbour, for example, or a relative other than a spouse. But by far the greatest number of protection orders are issued by the courts to women looking for protection from their male partners or ex-partners.

This booklet is written for women in this situation, living in B.C., who need protection from a man they are – or have been – in an intimate relationship with. However, the information contained here also applies to people in same-sex relationships and to men who need protection from their female partners or ex-partners.

This booklet does not contain legal advice. It provides information only about peace bonds issued under section 810 of the Criminal Code of Canada, and restraining orders issued under section 37 of the British Columbia Family Relations Act.

Help Is Available

If you have experienced violence or been threatened with violence by your live-in or married partner, ex-partner or boyfriend, remember that you are not alone — help is available.

If you are in immediate danger

It is a criminal offence (a crime) for anyone to assault you or your children, to harass or stalk you, to threaten you with bodily harm or to damage your property.

If you are afraid and think you or your children are in immediate danger, call the police **right away**. After the police talk to you, they will decide if there is enough evidence to prove that your partner or ex-partner has committed a criminal offence.

- If there is enough evidence, the police will probably arrest your partner or ex-partner and ask Crown counsel (a lawyer employed by the government) to lay a criminal charge against him. If the Crown approves the charge, your partner or ex-partner will have to go to court.
- If there is not enough evidence, the police may apply for a peace bond - also known as an "810 recognizance" — to protect you from your partner or ex-partner, or they may recommend that you apply for a civil restraining order.

If you are **not** in immediate danger, but still fear for your safety

If you have been threatened or experienced violence in the past, or you fear for your safety or the safety of your children in the future, but you are **not** in immediate danger, you can:

- go to the police to ask for a peace bond, or
- go to court to apply for a civil restraining order.

(The differences between peace bonds and restraining orders are explained in the pages that follow.)

You can also hire a lawyer, or talk to legal aid to find out if you are eligible for a free legal aid lawyer. A lawyer can help you get a protection order and advise you about other options to protect your safety and the safety of your children.

In addition, under B.C. law, anyone who suspects that a child may be in danger or knows that a child is being abused or neglected must report this to a child protection social worker with the Ministry of Children and Family Development. If a child protection worker has been assigned to your family, you can ask the worker to apply to court for an intervention order. This order would require your partner or ex-partner to stay away from the children for up to six months. You can also go, at the same time, to the police for a peace bond or to court for a restraining order, and/or talk to a lawyer or legal aid.

Whichever route you choose, you should also talk to a victim services worker in your community.

Victim Services in British Columbia

Victim services serve most communities across the province. Victim services workers have been specially trained to provide:

- emotional support
- practical assistance, such as going with you to talk to the police or to court, or helping you to fill out forms
- information about the criminal justice system, the court process and the status of your case, and
- referrals to other community resources if you need them.

Remember:

You have the right to feel safe and to expect help from the police. It is their job.

If there is a Transition House or safe home in your area, you can ask the police to take you there, or to another safe place — such as a relative's or friend's house.

The police can also refer you to a local victim services office where staff will support you and work with you to develop a personal safety plan.

All victim services are free. To find the victim services office nearest you, call:

Victim Information Line (toll-free)
8:30 a.m. to 7:30 p.m., Monday to Friday
1-800-563-0808

If you have a hearing or speech impairment, call the 24-hour:

Telus Message Relay Centre
711 (if you have a TTY/VCO telephone)
or **1-800-855-0511** (if you have a regular telephone)

Peace Bonds and Restraining Orders

What are peace bonds and restraining orders?

- Peace bonds and restraining orders are both protection orders – orders made by a judge in court (criminal court for peace bonds, civil court for restraining orders) to help protect one person from another.
- Both list certain conditions, based on your individual needs, that your partner or ex-partner must follow. Usually, the order will state that your partner or ex-partner can have no direct or indirect contact with you or your children – no visits to your home or workplace, no phone calls or letters, and no messages through a friend or relative.
- Both must be obeyed or your partner or ex-partner will face significant consequences, which may include a fine and/or jail.
- Both can be enforced anywhere in British Columbia. That means the police can arrest the person named in the order if you are in danger.
- Both are entered in the Protection Order Registry after they are signed by a judge.

They sound like they do the same thing. How are they different? Which one should I choose?

Except where you are in immediate danger (when you should call the police), it is up to you to decide which protection order will best meet your need for protection. There are several important differences:

Peace Bonds

You can apply for a peace bond for protection from anyone, including someone you've had only a dating relationship with - a boyfriend or ex-boyfriend.

You should go to the police for a peace bond if you fear for your safety or the safety of your children.

Remember, however, that in this province, if you go to the police because your partner or ex-partner has hurt or threatened you, the

Restraining Orders

For a restraining order, you must have a family connection - you are (or were) married or living together, or you have children together.

You can apply for a restraining order if you are afraid for your safety, or for less serious problems - to get your partner or ex-partner to stop calling you every day, for example, or to stop him from showing up uninvited at your home or your child's school.

The Protection Order Registry

The Protection Order Registry is a computer database of protection orders issued by B.C. courts. If you call the police to say that your partner or ex-partner has not obeyed a protection order, the police can phone a central number at any time of the day or night to get up-to-date information about the content and status of your order, and they can then act to enforce the order right away.

- Confirmation – You can make sure your protection order is registered on the database by calling the Victim Information Line toll-free at 1-800-563-0808, any time. If you call the line after hours, a voice message will ask you to press “1” to be connected to the Protection Order Registry.
- Notification – If the person named in your order is in a provincial jail, you can file a confidential Contact Information Form through a victim services office (call the Victim Information Line to find the office nearest you) or your local court house. Victim Notification staff will contact you when he is about to be released.

Peace Bonds continued...

police **have to** recommend a criminal charge if there is enough evidence of a criminal offence. That means your partner or ex-partner may be arrested, even if you only wanted a peace bond to keep him away from you.

The police must do this under B.C.'s Violence Against Women in Relationships policy. It is the best way we know to protect women from violence.

You do not need a lawyer to apply for a peace bond. The police will apply for you, and Crown counsel (a lawyer employed by the government) will handle your case in court.

There is no fee to apply for a peace bond.

A peace bond lasts up to one year.

While both peace bonds and restraining orders from B.C. can be enforced anywhere in B.C., only a peace bond is guaranteed to be enforceable elsewhere in Canada.

Restraining Orders continued...

You may apply for a restraining order with or without a lawyer (it is your choice) but a lawyer is recommended. You will be responsible for paying the lawyer's fees, unless you qualify for Legal Aid.

There is no fee to apply for a restraining order in Provincial Court. In Supreme Court, you will be required to pay a filing fee of approximately \$200, unless you qualify for Legal Aid. (See page 7 for more on the courts.)

A restraining order has no time limit, unless the judge in your case includes a specific expiry date.

A restraining order from B.C. will most likely not be considered valid in another province. If you move out of B.C., you may have to apply for another restraining order in your new location.

Peace Bonds

How do I get a peace bond?

Call your local police and tell them that you need a peace bond (the formal, legal name is an "810 recognizance"). A police officer will ask you to describe what has happened to make you feel afraid or in danger.

Tell the officer if you have kept any notes about past incidents, if you have received any threatening letters, e-mails or answering machine messages, or if there is anyone who saw your partner or ex-partner being violent or threatening you.

What happens next?

If the police officer agrees that you have good reason to be afraid, the officer will send a report to Crown counsel outlining your situation and why you feel you need the protection of a peace bond.

The officer's report will include what you would like to have specified in the peace bond — for example, if you have children, you might want the peace bond to specify no contact with you or your children.

Make sure you write down the police case or file number and the officer's name.

If you have any questions or concerns, it's easiest if you talk to the same officer — she or he will be familiar with you and the case.

Crown counsel will review the report to determine if there is enough evidence to apply for the peace bond. If Crown counsel agrees there is enough evidence, he or she will ask the court for either an arrest warrant or a summons.

What's the difference between an arrest warrant and a summons?

An arrest warrant:

Crown counsel will ask for an arrest warrant if you need immediate protection. This means the police may choose to arrest your partner or ex-partner as soon as they find him.

Once he is under arrest, one of two things will happen:

- he will be released from police custody on certain specific conditions, or
- he will be kept in police custody until he can be brought to court for a bail hearing (you do not have to be there), where the court will specify the conditions he must follow to be released.

The release conditions in either case will most likely include no contact with you or your children either directly or indirectly — that means no face-to-face contact, no phone calls or letters, and no messages through a friend or relative. The conditions may also require him to stay away from certain places, such as your home or work, and may say that he cannot use drugs or alcohol or own guns.

If your partner or ex-partner does not obey the conditions, he can be arrested again and charged with a criminal offence.

The conditions will stay in place until a judge makes a final decision on the peace bond application.

A summons:

Crown counsel will ask for a summons only if you do not need conditions in place to protect you while you are waiting for a peace bond hearing.

The summons will require your partner or ex-partner to appear in court on a particular date (you do not have to be there).

In court, he will be asked by the judge if he agrees you have good reasons to be afraid. If he agrees, the judge will order him to "enter into" the peace bond (that means he must do what it says). If he does not agree, the judge will order him to appear at a court hearing on the peace bond application.

Will I have to go to court for the court hearing?

Yes, you will. The Crown office will let you know the date and will schedule a short interview with you before you go to court. At that interview, you will be able to tell Crown Counsel what conditions you would like in the order. For example, you may ask that the peace bond allow for no contact at all between you, or that he may contact you indirectly, through a friend or relative.

At the court hearing, Crown counsel presents the argument for why a peace bond is needed, and will call you as the primary witness. Crown counsel will ask you to explain to the judge why you are afraid of this person and what has happened to make you feel this way. He or she may also call other witnesses to support your testimony.

Your partner or ex-partner (or his lawyer) is allowed to ask you and your witnesses questions during the hearing. He may also tell his own version of the same events and call his own witnesses.

If the judge decides you have reasons to be afraid, the judge will order your partner or ex-partner to sign the peace bond. The peace bond will contain a list of conditions the person must obey and the date the peace bond will expire (up to a maximum of one year). He may also be asked to deposit a certain amount of money to make sure he keeps his promise to obey the conditions.

Make sure the police have your current phone number and/or address, or the number of a contact person who can reach you. The police will try to notify you when your partner or ex-partner is released from custody.

Ask a victim services worker or court staff to help you get a copy of the release conditions, and keep the copy with you at all times.

If your partner or ex-partner breaks any of the conditions, **call the police immediately.**

Once the peace bond is in place, ask court staff, Crown counsel, or a victims services worker for a copy and read it carefully to make sure you understand the conditions.

Although court staff will send the peace bond to the Protection Order Registry, it is still a good idea to keep it on hand to show the police if you need to call them.

If the peace bond includes your children, you should also give a copy to anyone who is responsible for them when they are out of your care, such as their teachers, child care providers, coaches or other instructors. Tell them to call the police if your partner or ex-partner does not follow the conditions in the peace bond.

What should I do if he shows up at my home after he's signed the peace bond?

Call the police. Explain that you have a peace bond and that the person named in the bond has not obeyed its conditions.

In most cases, particularly if you are in danger, the police will arrest the person and ask Crown counsel to lay a criminal charge. If the person is convicted of disobeying the terms of the peace bond, he will have a criminal record and may also be:

- placed on probation for up to three years
- fined up to \$2,000, and/or
- sent to jail for up to six months.

The judge will choose the punishment based on the particular circumstances of the case. Unless the circumstances are very serious or he has a history of disobeying court orders, the judge will usually not choose the maximum fine or sentence.

What if I want to see him or talk to him after the peace bond is in place?

Once the peace bond is signed, the person named in it must follow its conditions — it is a criminal offence for him to disobey the bond. That means even if you want him to meet with you, he can't, unless the peace bond is changed by a judge.

What if I want the peace bond changed or cancelled?

Remember that the peace bond was put in place to protect you. Before you make any changes, you may want to talk to a victim services worker about how this may affect your personal safety.

If you still want to change or cancel the peace bond, please contact Crown counsel for advice.

What if I move to another province?

A peace bond is enforceable anywhere in Canada. Visit the police in your new province, show them a copy of the peace bond and tell them about your situation.

Through a Canada-wide computer system, the police in any province or territory can contact the British Columbia Protection Order Registry to confirm the terms of the peace bond, and act to enforce it.

What happens if he follows everything the peace bond says?

If he follows everything the peace bond says, the peace bond will expire and nothing more will happen. He will not get a criminal record, he will not have to pay a fine, and he will not go to jail.

What can I do if the peace bond expires, and I'm still afraid for my safety?

A peace bond lasts for one year. If you're still afraid for your safety after the peace bond expires, go to the police.

Restraining Orders

How do I apply for a restraining order?

First of all, you will need to decide if you should apply for a restraining order in Provincial or Supreme Court. The court you apply to will depend on whether:

- you have children
- you want the restraining order just for yourself
- you already have a child custody, guardianship or access order, or you plan to apply for one as part of a separation or divorce (in which case, your application for a restraining order will usually be dealt with at the same time).

You should apply in **Provincial Court** if:

- you have children, and
- you have, or are intending to apply for, a child custody, guardianship or access order from Provincial Court.

You should apply in **Supreme Court** if:

- you do not have children, or
- you have children
- but you want the restraining order just for yourself (not for your children as well), or
- you have, or are intending to apply for, a child custody or access order from Supreme Court as part of your divorce.

Will I need a lawyer?

You can apply for a restraining order in either Provincial or Supreme Court without the help of a lawyer, but you should hire one if you can. The forms you will need to fill out and the court process — particularly in Supreme Court — can be complicated and difficult. A lawyer may also be able to present your case more effectively than you can on your own.

Restraining order application forms are available at the Provincial or Supreme Court in your area. (The address will be in the British Columbia Government section of your local phone book under Ministry of Attorney General.)

If you have a lawyer, your lawyer will handle the application and work with court registry staff to schedule a court hearing. If you are applying without a lawyer, ask court staff for information about the application process and how to arrange for a court hearing.

Court staff will let you know when you will need to appear in court.

How much will it cost?

If you choose to go to either Provincial or Supreme Court with the help of a lawyer, you will need to pay the lawyer's fees, unless you qualify for Legal Aid. (Legal Aid provides legal advice and representation for people whose income is below a certain level.)

There are no other fees to apply for a restraining order in Provincial Court. In Supreme Court, you will be required to pay a filing fee of approximately \$200, unless you qualify for Legal Aid.

If you need a lawyer, but cannot afford one, try Legal Aid. The number is in the white pages of your local phone book.

If you need a lawyer, but do not qualify for Legal Aid, call the Lawyer Referral Service. They will help you find a lawyer in your local community. (See page 9 of this booklet for phone number.)

What happens at the court hearing?

What happens at the hearing will depend on whether you are in Provincial or Supreme Court, and whether you have a lawyer or not.

In Provincial Court:

- If you have a lawyer, your lawyer will present the case on your behalf, including the conditions you want in the restraining order, but you will be expected to give evidence. From the witness box, your lawyer will ask you to explain to the judge, under oath, why you need a restraining order.
- If you do not have a lawyer, the judge will ask you directly to explain your situation and what conditions you want to be included in the restraining order.

You or your lawyer may also call witnesses to support your testimony. Your partner or ex-partner (or his lawyer if he has one) is allowed to ask you and your witnesses questions during the hearing. He may also tell his own version of the same events and call his own witnesses.

In Supreme Court:

- If you have a lawyer, your lawyer will present the case on your behalf, using affidavits from you and any other witnesses to support your case. You will usually not be called on to testify.
- If you do not have a lawyer, the judge will ask you to explain your situation to the court and to present your own affidavit and affidavits from any other witnesses.

Your partner or ex-partner (or his lawyer if he has one) will also present affidavits to support his version of events.

In both courts:

The judge will make a decision based on the evidence presented at the hearing. If the judge grants the order, the order will list the exact conditions the person must follow.

What if I think I need protection right away?

If you are in immediate danger, call the police.

If you are not in immediate danger, but feel that the period between submitting your application for a restraining order and the hearing date is too long for your safety, ask to see a judge as soon as possible for an "ex-parte" order. This is an interim restraining order that sets certain specific conditions — such as no contact with you or your children — without any advance notice to the person named in the order.

Court staff will send your partner or ex-partner a copy of the ex-parte order. If he does not follow its conditions, he can be arrested and charged with an offence. The conditions in the ex-parte order will remain in place until it expires or the court makes another restraining order.

What do I do if he shows up at my home after I've got a restraining order?

Call the police (and your lawyer if you have one). Explain that you have a restraining order and that the person named in the order has not obeyed its conditions.

In most cases, particularly if you are in danger, the police will arrest the person and ask Crown counsel to lay a charge. If the person is convicted of disobeying the terms of the restraining order, he may be:

- fined up to \$2,000 and/or
- sent to jail (this may be up to six months or up to two years, depending on the charge).

The judge will choose the punishment based on the particular circumstances of the case. Unless the circumstances are very serious or he has a history of disobeying court orders, the judge will usually not choose the maximum fine or sentence.

It is important to have your restraining order entered on the Protection Order Registry database as soon as possible.

If you have a lawyer, remind the lawyer to bring a draft order to court, outlining the conditions you want the order to contain. If the judge orders different conditions, your lawyer can change the draft on the spot. Court staff will then send the order on to the registry as soon as it is signed by the judge. (In Provincial Court, if you do not have a lawyer, court staff will prepare the order for you.)

Remember to ask your lawyer or court staff for a copy of the restraining order and read it carefully to make sure you understand the conditions. It is also a good idea to keep this copy on hand to show the police if you need to call them.

If the order includes your children, you should also give a copy to anyone who is responsible for them when they are out of your care — such as their teachers, child care providers, coaches or other instructors.

What if I want to see him or talk to him after the order is in place?

Once you have a restraining order, the person named in it must follow its conditions — it is an offence for him to disobey the order. That means even if you want him to contact you, he can't, unless the order is changed by a judge.

What if I want the restraining order changed or cancelled?

Remember that the restraining order was put in place to protect you. Before you make any changes, you may want to talk to a victim services worker or a lawyer about how this may affect your personal safety.

If you still want to change or cancel the restraining order, please contact the court that issued the restraining order or your lawyer.

What if I move to another province?

Your restraining order [may](#) be enforceable in your new province. Check with the nearest court registry. Court staff will tell you if there are steps you can take to have your British Columbia restraining order recognized in your new province or whether you will have to apply for a new restraining order, and if you should take a copy of your British Columbia restraining order to the local police.

What happens if he follows everything the restraining order says?

If he follows everything the restraining order says nothing more will happen. He will not get a criminal record, he will not have to pay a fine, and he will not go to jail.

Resources

Police

If it's an emergency, call 911 or look for the emergency police number inside the front cover of your local telephone book. For all other calls, use the non-emergency police number, also located inside the front cover of your local telephone book.

Victim Information Line

Call the Victim Information Line to find out about local victim services, or to check that your peace bond or restraining order is registered in the Protection Order Registry. Call toll-free, 1-800-563-0808, from 8:30 a.m. to 7:30 p.m., Monday to Friday.

If you have a speech or hearing impairment:

To contact police, Victim Information Line or any other agency listed here, call the 24-hour BC Telus Message Relay Centre.

TTY/VCO telephone: 711

Regular telephone, toll-free: 1 800-855-0511

Community Advocates

An advocate can be anyone in your community whom you trust and who is willing to help you deal with the police or the court system. An advocate can be a victim services worker, a friend or relative, a volunteer or staff member at your local women's centre or transition house, or someone from a multicultural or aboriginal service agency.

If you would like an advocate, but cannot find one in your community, call the Victims Information Line (see above). They will help you find an advocate, or refer you to other community agencies if you need them.

Legal Aid

Free legal aid services to obtain emergency protection orders are available to eligible low income applicants. The number is in the white pages of your local phone book under "legal aid".

Lawyer Referral Service

The Lawyer Referral Service will give you the name of a lawyer in your community who can provide you with a 30-minute consultation for \$10.00, and further legal help as needed for a fee:

Lower Mainland: 604-687-3221

Elsewhere in British Columbia: 1-800-663-1919

Family Justice Counsellors

Family Justice Counsellors are located at Family Justice Centres throughout the province. They can provide you with information about the Provincial Court process and family law issues, including child custody, access and support, as well as referrals to other community resources. Their services are provided at no cost, but priority is given to people of modest means.

Call Enquiry British Columbia and ask the operator to transfer you to the Family Justice Centre nearest you:

Greater Victoria: 250-387-6121

Greater Vancouver: 604-660-2421

Elsewhere in British Columbia: 1-800-663-7867

Prideline

For information, referral and peer support to the lesbian, gay, transgendered and bisexual community (LGTB), call:
1-800-566-1170 (toll free)

7:00 p.m. to 10:00 p.m., seven days a week

For additional copies of this booklet, please write or fax:

Ministry of Public Safety and Solicitor General
Policing and Community Safety Branch
Victim Services Division
Phone: 604 660-5199
Fax: 604 660-5340
Web: www.pssg.gov.bc.ca



Ministry of Public Safety
and Solicitor General



Legal
Services
Society

British Columbia
<http://www.lss.bc.ca>