

Resolution Services

Alberta Government



Court Procedure Booklet

APPLYING FOR A KING'S BENCH PROTECTION ORDER

(On Notice to the Other Party, no court file)

APPLYING FOR A KING'S BENCH PROTECTION ORDER
(On Notice to the other party)

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Resolution Services and Court Staff cannot give you legal advice, or predict the outcome of your case.
This booklet provides general information only. You should speak to a lawyer for legal advice about your own situation.

Classified Public

INTRODUCTION

These instructions have been prepared for you by Resolution Services. Contact us at:

Calgary
Calgary Courts Centre
1st Floor, 601 - 5 Street SW
Calgary, AB T2P5P7
Phone 403-476-4744
CalgaryResolutionSupportCentre@just.gov.ab.ca

Edmonton
John E. Brownlee Building
8124, 8th floor
10365 – 97 Street NW
Edmonton, AB T5J 3W7
Phone 780-415-0404
InfoServices.Edmonton@just.gov.ab.ca

Grande Prairie
Grande Prairie Court House
10260 - 99 Street
Grande Prairie, AB T8V 2H4
Phone: 780-833-4234
GrandePrairieLinc@just.gov.ab.ca

Lethbridge
Lethbridge Court House
320 - 4 St. South
Lethbridge AB T1J 1Z8
Phone: 403-388-3101
RS.Lethbridge@just.gov.ab.ca

Red Deer
Red Deer Justice Centre
Main Floor, 4810-48 Avenue
Red Deer, AB T4N 5L6
Phone: 403-754-3182
RDDRinfoService@just.gov.ab.ca

Medicine Hat
Medicine Hat Law Courts
460 – 1st Street SE
Medicine Hat, AB T1A 0A8
Phone 403-529-8715
ResolutionServices.SouthernAlberta@just.gov.ab.ca

Outside these centres, call the Resolution Services Contact Centre at 1-855-738-4747

If you have been assaulted, or are in a family violence situation, call your local police or RCMP detachment or have a neighbour or friend call for you.
If the threat of danger is immediate, call 911 or your local police emergency number if you do not have 911 service.
If you are in a family violence situation where the threat of danger is immediate, the police can apply for an Emergency Protection Order to provide you with immediate protection.

Options and Resources

Besides a Protection Order, there are other types of applications you can make.

There are community resources that can help you with safety planning, advice and counseling.

More information is provided at the end of this booklet.

When to use this booklet

This booklet tells you what steps to take when:

- You and the other party are "family members", which includes people who have lived together in an intimate relationship and people who have had a child together.
- The other party has committed "family violence" – caused injury or property damage, threatened to cause injury or property damage, forcibly confined you or your child, sexually assaulted you or your child or stalked you or your child.
- You believe that giving the other party advance notice of your court application will not put you or your children in danger; and
- You have chosen not to get a lawyer and will be representing yourself throughout the court process.



Tip:

The *Protection Against Family Violence Act* sets out who is considered to be a family member and what will be considered family violence. If you are not sure whether your case applies, you can look at the definitions in the Act.

The instructions in this booklet are general and apply to most cases. There are cases where different rules apply. The Alberta Rules of Court tell you the process and procedure for all kinds of cases in the Court of King's Bench. You can find the Rules of Court in the library in your courthouse or at: www.alberta.ca/alberta-kings-printer

Important Things to know about Protection Orders

A Protection Order is an order made by the court and enforced by the police. It will limit the contact the Respondent(s) (the other party) can have with you and your children.

Usually, the Order will state that the Respondent(s) can have no contact, either directly or indirectly, and in person or by other means (for example, by telephone). The Respondent(s) will also be prevented from coming within a certain distance of certain places (for example, your residence or place of employment).

If the Protection Order includes your children, you may need to deal with sharing parenting decisions and parenting time at some point in the future.

You should not contact the Respondent(s) during the time the Protection Order is in place unless your order says that you can (e.g. to arrange access).

When court is over, in most cases, you will have to have someone personally serve the Respondent(s) with a copy of the Protection Order. Court staff and the police do not serve Protection Orders.

If you change your mind and want to end the Protection Order early, you will have to make a court application on notice to the Respondent(s).

Should you hire a lawyer?

The staff at the courthouse cannot give you legal advice and cannot do your work for you.

Lawyers can help with steps along the way. They can:

- Tell you about your legal rights and obligations;
- Give you an opinion about what your chances are, or how the judge might decide;
- Tell you which option is the better choice for you;
- Complete the court forms and other necessary paperwork;
- Do legal research to find case law to help convince the judge;
- Tell you which court documents would be helpful to your case;
- Help you decide which facts the judge will want to hear;
- Negotiate with the other side;
- Rehearse the court hearing with you;

- Represent you in meetings or in court;
- Go to court for you if you can't go yourself;
- Prepare the Order after court;
- Prepare any letters needed as your matter goes through court; and/or
- Prepare any follow-up documents.



Tip:

Many lawyers are willing to give "unbundled legal services." This means that you can choose which steps the lawyer will do and which steps you will do yourself. If you are interested in this, talk to a lawyer about how unbundled legal services can work in your case.

In many locations, Duty Counsel may be available at court (if your case is scheduled in chambers). The Duty Counsel program is funded by Legal Aid. The Duty Counsel Lawyers (or students) will speak with you on the day you are in court and will help you present your case to the judge. If both parties do not have a lawyer, Duty Counsel will present both sides to the judge.

You should hire a lawyer if:

- You don't want to or can't do the paperwork yourself;
- You don't want to or can't make several trips to the courthouse during business hours;
- You will have problems speaking for yourself in the court hearing; or
- The judge recommends to you that you hire a lawyer.

The Court File

The court keeps a file folder with all the court documents that have been filed in your case. That folder is labeled with a court file number. You must put the court file number on all your court forms, so that they can be properly filed.

If you need to get copies of any of the documents on your court file, you can request a copy through the search portal. You will be charged $25 to pull the file, plus $1 per page for photocopying. If you want a certified copy of any of the court documents, there will be an extra $20 fee.

https://albertacourts.ca/kb/resources/announcements/announcement-from-resolution-court-administration-services-civil-search-portal

To get copies of documents from your court file, you must go to or contact the court where your file is located. For example, if your court file is in Red Deer, you must make your request for copies of the documents to the courthouse in Red Deer.

Other provinces' courts also keep court files and will give you copies of court documents if you ask. Their fees may be different. If you are asking for a copy of an Order from another province, always ask for a certified copy.



Tip:

A certified copy of a court form has a stamp on it saying that it is a certified (or true) copy of the original. It is signed by a court official under the stamp. To be a certified copy, the copy must have this original stamp and signature.

Find the Other Party

In almost every court application, the other party must be given notice of the application. You do this by serving them, which is by handing them copies of the court forms that you have filed.

If you do not know where the other party is, you must try everything you can think of to find them. Some ideas:

- Talk to their friends or family members.
- Talk to the staff where they worked.
- Look them up in the phone book or on www.canada411.com.
- If you know their phone number, try a reverse search at the phone company's website.
- Look them up on social networking sites. Even if they do not reply to you, see if you can contact their friends for information.

Getting Ready

Before you start to prepare your court forms, you should think about what kinds of documents you will need to prove your case. You will have to attach all the documents to your application form, so you will need to collect them ahead of time.

Tips:

If you have made a report to the police, it can be helpful to attach a copy of the report.

You only have one chance to make your case to the court. The judge makes their decision using only the documents that are on the court file. Make sure you have all the information that the judge will need.

Getting Help

It is always a good idea to get legal advice before you start.

Legal Aid **1-866-845-3425**, then ask for the Legal Aid office near you.

If you are a low income Albertan, and need a lawyer to take your case, you can apply for help from Legal Aid.

Pro Bono (Volunteer) services by lawyers

Calgary Legal Guidance	403-234-9266
Lethbridge Legal Guidance	403-380-6338
Edmonton Community Legal Centre (Grande Prairie)	780-882-0036
Central Alberta Community Legal Clinic (Red Deer)	403-314-9129

Check the Pro Bono Law Alberta website www.pbla.ca to see if there are any other services that can help you.

There are other services that may be able to help you with legal information (not advice) and the filling in of forms. Some of these are:

- Student Legal Services (Edmonton) 780-492-8244
- Student Legal Assistance (Calgary) 403-220-8637
- Immigration Services in your area
- Paralegal Companies in your area

Alberta Law Libraries

There are libraries located in most courthouses in Alberta. You can go to the library to:

- Do research on cases with facts similar to yours.
- Find sample court forms for other kinds of court applications; or

- Look for specific procedures in the Alberta Rules of Court.

The library has reference librarians who can answer questions and get you started; however, they cannot give you legal advice.

PREPARING YOUR COURT DOCUMENTS

When you are making an application to the Court of King's Bench, you must prepare two court forms – an **Originating Application** and an **King's Bench Protection Order Questionnaire**. These two forms let the Court know "what" you want, and "why". An **Originating Application** is a brief summary for the Court of "what" you want. The Court wants to know, on one or two pages, what kind of an Order you are asking for. The **Questionnaire** is your story. It is a summary of the "why" that supports what you are asking for.

In most cases, your Originating Application and your Questionnaire are the only documents that you will file with the Court in support of your case. If you want the Court to know something, it has to be in these court forms. For example, you can't ask the Court for something that you haven't already asked for in your Application. Also, you can't say anything to the Court that you haven't already written in your Questionnaire.



Tip:

If you have already started a court action, e.g. for divorce, parenting or child support, you would use an **Application** form rather than the Originating Application form. Ask us for that.

At the beginning of every form:

Fill in the following:

- Court File Number – Your file number as written on your other court documents. (You may not have a file number yet)
- The Judicial Centre, e.g. Edmonton
- Both parties' full names.
- Your complete address and phone number.

Tips:

You may not want to put your own address, email and phone number on this form, if you think it will put you in danger. However, you MUST have an address on the form where court documents can be delivered to you. It is OK to use a friend's address or a work address as your address for service, so long as the people there know that the Respondent(s) may be coming there to deliver documents.

You do not have to put your phone number on this form if you do not want the Respondent(s) to have it. However, if you do not provide it, you will not be contacted about a court date if the Respondent(s) breaches the order.

When filling in your **Originating Application**, complete the sections that apply to you:

1. *Basis for this claim:* Fill in the date that your Questionnaire was sworn.
2. *Remedy sought:* This has been filled in for you.
3. *Affidavit or other evidence to be used in support of this application:* Again, fill in the date that your Questionnaire was sworn.
4. *Applicable Acts and Regulations:* Check off a box if it applies. If you check off "other", fill in applicable Act or Regulation.

   Note: Rules 12.30–12.32 allow you to ask for a Protection Order using this process.

When filling in your **Questionnaire**, be sure to:

- Only state the facts that you know are true
- Only state the facts that are relevant to what you are asking for.
- Attach copies of all the documents that you want the Court to see
- Number all your pages, starting with the first page of your Questionnaire and ending at the signature page.

Your Questionnaire is your evidence, and the judge will use this to help make their decision. There may be serious consequences for not telling the truth in your Questionnaire.

Fill in each section of the Questionnaire.

Relationship between Claimant and Respondent(s): Say whether you are married, divorced, living together, mother and son, etc.

Date and action number…: If you or the other party have applied for a Protection Order, Restraining Order or EPO before, list the dates, court file numbers, and whether or not an order was granted. If you do not know, say "unknown".

Names and dates of birth of children…: List all the children under age 18 living with you.

Reasons: Here is where you tell your story to the judge. Give details of family violence and explain why you are afraid the Respondent(s) will cause you harm.

I request…: Check off the conditions that you want included in your Protection Order.



Tip:

Be specific when writing out your story. Write down what the Respondent(s) did and give dates whenever you can. For example:

Too vague	***More Specific***
My ex is violent.	My ex has slapped me and punched me several times in the last year. The last time was last Tuesday, when he punched me 4 or 5 times in the face.
I am afraid of my ex.	I am afraid that my ex will come to my house when he is drinking and try to break down the door so that he can get to me.
My ex has made threats.	My ex said to me that I had better watch my back.

How to choose and attach documents to your Questionnaire:

- Attach documents to your Questionnaire that support what you have said in your Questionnaire. For example, if you made a police report, you might want to attach a copy of that report. Any documents that you want the court to see must be attached to your Questionnaire. You will not be allowed to show the documents to the Judge in Court if they are not attached.
- Make sure your attachments are relevant, that is that they have a logical connection to the application that you are making.

- Do not attach documents that are already on the court file.
- Think before you attach copies of text messages, emails, diaries, or social media postings. If they are not relevant, the court may order you to pay costs.
- Your attachments must be legible, and the photocopies must also be legible. The font must be about 12.
- **The total number of pages of attachments can be no more than 25**.
- Number all the pages of your attachments, starting with the first page of the first attachment and finishing with the last page of the attachments.
- You must have a "Table of Attachments" inserted between the signature page of the Statement and the first page of the exhibits. Your "Table of Attachments" will contain a brief description of each attachment, for example, "Police Report" and will state the page number that the attachment starts on.

Once you have finished filling in your Originating Application and Questionnaire, you must have your Questionnaire declared before a Commissioner for Oaths.

You may come to the Resolution Services office or the Clerk's office to have your Questionnaire sworn. Bring photo identification with you when you come.



Tips:

Remember that you want your court documents to be as neat and easy to read as possible. The easier you can make the job for the judge, the better.

Make sure all your pages have printed only on one side (no double-sided printing or copying).

If some of the documents you want to attach are smaller than a letter-sized piece of paper (e.g. receipts), tape them onto a piece of paper. You can tape more than one similar document to a sheet of paper, so long as they will all show when being photocopied.

Make sure that your exhibits are complete. For example, don't attach one page of a two-page letter.

Make sure to bring a photocopy of your attachments(s) with you when you have your Questionnaire sworn otherwise you may lose your original.

DO NOT photocopy your Originating Application or Questionnaire until AFTER it is commissioned.

FILING AND SERVING YOUR COURT DOCUMENTS

Once you have had your Questionnaire sworn, there are several steps you need to follow to get ready for court.

- ☐ **Step 1**: Make copies of your Originating Application and Questionnaire.
- ☐ **Step 2**: Go to the Court of King's Bench Chambers Clerk's office to speak to the clerk about a court date and to file your court documents
- ☐ **Step 3**: Serve your court documents on all other parties
- ☐ **Step 4**: Prepare your Affidavit of Service

☐ Step 1- Make copies of your Originating Application and Questionnaire

Remember that you should not make photocopies of your Originating Application and Questionnaire until after you have had your Questionnaire sworn. After this is done, you should make **2 copies** of both your Originating Application and Questionnaire (including all attachments).



Tip:

If there is more than one Respondent(s), then you will have to make one more copy for each extra Respondent(s).

☐ Step 2 – Go to the Court of King's Bench Chambers Clerk's office to speak to the Clerk about a court date and to file your court documents

Go to the Chamber's clerk's office in the Court of King's Bench and hand them your completed court documents. You will speak to the clerk about setting a court date.



Tip:

Each court location has a different name for the counter that files these types of forms. Ask us or ask one of the court staff where the proper filing counter is.

When you set a court date, you are not just picking a date that is convenient for you. You must provide the other party (the Respondent(s)) with enough notice of the court date or else the judge may refuse to hear your application. The clerk at the Chambers office can help you pick a date but be aware that the Respondent(s) must have **10 days' notice** of your application.



Tip:

If you already have a court file and are using an Application form, rather than an Originating Application form, then the Respondent(s) must have **5 days' notice** of your application.

When you are setting your court date, make sure you allow enough time for service. It may take a few days for you to get the documents to him/her. Keep this in mind and don't schedule your court date too soon.

After you have picked a suitable court date, make sure the court date is written on the first page of all copies of your Application.

The clerk will stamp and keep the original copies of your Originating Application and Questionnaire and return 2 copies to you. These copies are what you will need for the next step.



Tip:

Counting the days for service: You do not count the day you serve the document when you are counting the number of days' notice you are giving. If you must give 10 days' notice and you can serve on March 1st, March 2nd

is day 1, and March 3rd is day 2, so the earliest court date you can pick is March 11th.

☐ Step 3 – Serve your court documents on all other parties

A person over the age of 18 must serve the Respondent(s) with copies of all the court documents you have filed.

Service means a person must hand-deliver the documents directly to the Respondent(s) (this is called personal service).

If you want the judge to hear your application on the court date you've selected, then you must be able to show the judge that the Respondent(s) was given enough notice. If you do not give the Respondent(s), the required amount of notice then the judge may refuse to hear your application.

When serving the court documents:

- For your own safety, have someone else serve the documents for you – i.e. ask a friend or family member or hire a process server.
- Have whoever is delivering the documents make a note of the address where the Respondent(s) is when they hand-deliver the documents.
- Make sure the person that serves the documents knows that they will have to swear an Affidavit of Service.



Tip:

You should think about hiring a **process server** to serve the Respondent(s) for you. You can find one by looking under "Process Servers" in the yellow pages or on www.canada411.ca. Process servers can sometimes help you find the Respondent(s), will serve the court documents, and will complete the Affidavit of Service for you. They do charge a fee for their services.

If you cannot find the Respondent(s) to serve, then check out the tips for finding the other party on page 7 of this booklet.

☐ Step 4– Prepare your Affidavit of Service

After you have served your court documents on the Respondent(s), you have to prepare your Affidavit of Service. This is the court form that proves to the judge that the other party was properly notified of your application.

The Affidavit of Service must be sworn. Your Affidavit of Service must be completed and sworn by the person who served the documents.

The Affidavit of Service will:

- Explain who delivered the documents.
- List the documents that were served;
- State the date the documents were delivered; and
- State the address of where the Respondent(s) was served.

You must be sure to **file** the original Affidavit of Service at the clerk's office before the court date and bring a copy of it with you to court.



Tips:

The Respondent(s) is allowed to file an Affidavit setting out the facts they want the judge to know. They must serve you with a copy a reasonable amount of time before your court date. They will serve you by leaving a filed copy of their response at the address for service that you had written on your court documents.

If you want to respond to anything in their affidavit, you must ask the court for permission to file a supplementary affidavit. Ask us how to do that. You may need to adjourn your application.

PREPARING FOR COURT

Your court application will be heard by a Justice of the Court of King's Bench in Chambers. Chambers is where one judge sits in an open courtroom and hears several court applications on a list. Check your Originating Application form to find out what time you must appear in court.

Because there can be many applications on a list for the judge to get through, you want to be sure not to waste any of the Court's time. For this reason, there are some things you should think about before you go to court:

- Make sure you know what you want to say to the Court;
- Make sure that everything you want to say to the Court is in your Questionnaire; and
- Make sure you have filed your Affidavit of Service and that you bring a filed copy of it with you.

Remember that you have put a lot of work into preparing and filing your court documents and serving the other party and you want to be as ready as you can on the court date.

The Court of King's Bench can seem quite intimidating. Although the staff and judges try to make the court system as open and friendly as possible, there are still some basic things you should know going in:

- Dress for court in a neat and respectable manner.
- Be on time.
- Do not eat, drink or chew gum/tobacco in the courtroom.
- Remove your hat.
- Turn off cell phones, pagers and music devices.
- Make sure you have copies of all your filed court documents.
- Make sure to bring a pen and paper to write down the judge's decision, name, room number and the date.
- Speak clearly and loudly when you are in court.
- Stand up when the judge is speaking to you or when you are speaking to the judge; and
- Be respectful of the other party and do not interrupt them while they are speaking.



Tips:

Chambers is set up to do quick applications (less than 20 minutes). If the Justice or the parties think that your matter is going to take more than 20 minutes, it can be adjourned to a viva voce hearing – that is, where you and the Respondent(s) can go to the witness stand and give your evidence verbally.

You can go in and watch morning chambers, so you can see how applications are made and what information the judge wants to hear when making a decision.

GOING TO COURT

On your court date, plan to arrive early, especially if you want to talk to Duty Counsel before court.

Bring with you:

- Copy of your Originating Application
- Copy of your Questionnaire(s)
- Copy of your Affidavit of Service
- Pen and paper

Find out which courtroom you are in by asking security staff and checking the docket lists or boards. Make sure you are in the right courtroom – there may be several courtrooms where family matters are heard.

Duty Counsel will be outside the courtroom. If you would like their help, speak to them before court.

There will be a list of all the matters in your courtroom either outside the door or on a table inside the courtroom. The list will not necessarily be called in order. Expect to be in the courtroom for at least 2 hours.

Sit in the gallery area of the courtroom. All conversation in the courtroom is recorded, so it is best to have any discussions outside. Once the judge comes in, you should not talk.

When your name is called, go to the front of the courtroom. The usual order of the speakers is as follows:

- The Applicant(s)(s) speaks first. Stand up to speak. If you are the Applicant(s), introduce yourself and the Respondent(s) (or their lawyer). Tell the judge briefly what you want (e.g. "I am asking for a Protection Order") then talk about the facts that you have set out in your Questionnaire and make any arguments you want to make.
- The Respondent(s) speaks next. Stand up to speak. If the Applicant(s) did not introduce you, introduce yourself. Tell the judge briefly what your position is (e.g. "I am OK with the Protection Order, but I still want to see the children") then talk about the facts that you have set out in your Questionnaire and make any arguments you want to make.
- The Applicant(s) may then respond to what has been said by the Respondent(s).
- The judge may ask questions about either party.
- At this point, both parties will have made all the arguments they want to make, and should not make any further arguments.
- The judge then gives their decision. You should write down the judge's decision (along with their name and the courtroom number).
- The judge may review the draft order that you have brought with you and sign that order. The order needs to be filed at the clerk's office before it is a valid order.
- The judge made direct staff to type up the Order for you. You will be told what you need to do to get your copy of the Order, you may be asked for your email address.



Tips:

Chambers is a busy place, and the judge will not be familiar with your file. Make sure you cover all the important points when you are given your chance to speak.

If the Respondent(s) has a lawyer, the judge will sometimes reverse the order of speaking, allowing them to go first.

When the judge is giving their decision, make sure they have addressed everything you wanted a decision about. If they did not, politely ask the judge about it. It may help to have a checklist with you before you start, so you can make sure the judge has dealt with all the issues.

AFTER COURT

Make sure your Order is filed. It should have a "Clerk of the Court" stamp on the first page. If you are the Applicant(s), you should also receive 2 certified copies of the Order.

If the Respondent(s)(s) did not come to court, or if they did not wait for their copy of the Order, it is up to you to arrange to have them served with a filed copy of the Order.

Have a person over the age of 18 serve the Respondent(s)(s) with a filed copy of the Order. The person who serves the Respondent(s)(s) must swear / affirm an Affidavit of Service stating they served the Respondent(s)(s).

Ask us for an Affidavit of Service for the Order. Make 2 copies of the sworn / affirmed Affidavit of Service.

File the Affidavit of Service with the Clerk's office.

Fill in the Statement of Description

Fill in the form, one for each Respondent(s), with as much information as you have. If you do not know some of the information, just leave it blank.

Deliver the Order to the Police

It is important that the Protection Order is properly registered with the police. This makes sure that the police have an accurate record of the Order on their computer system and can act quickly if the order is breached or disobeyed.

Take your remaining certified copy of the Protection Order, a filed copy of the Affidavit of Service, and the Statement of Description to your local police headquarters or R.C.M.P. detachment.

The addresses for the Restraining Order Registry offices in Edmonton and Calgary are:

The Chief of Police
Edmonton Police Service
9620 - 103A Avenue
Edmonton, Alberta, T5H 0H7
Attention: Case Management Unit

The Chief of Police
Calgary Police Service
5111 – 47 Street NE
Calgary, Alberta, T3J 3R2
Attention: Case Management Unit

If outside of Edmonton or Calgary, you will need to contact the local police or RCMP detachment in your area - consult the phone directory.



Tip:

You should still have one filed copy of the Affidavit of Service and a certified copy of your Protection Order. Keep these documents with you at all times while the Order is in effect. The police may want to see it if the Order is breached or disobeyed in the future.

If the Respondent(s)(s) disobeys the Protection order

If the Respondent(s)(s) breaches or disobeys the Protection Order, call the police or RCMP.

If the Respondent(s)(s)t is arrested as a result of disobeying the Protection Order, you will be contacted at the telephone number you had provided on the first page of the Restraining Order. You may be required to appear in court to give evidence of the breach. A judge will decide what penalty the Respondent(s) will face.

As the Applicant(s), you must not contact the Respondent(s)(s) or allow the Respondent(s) back into your home while the Protection Order is in effect. The Protection Order is directed toward the Respondent(s)(s), so it is not revoked if you do contact the Respondent(s)(s). However, these circumstances make it difficult to enforce the Protection Order. And, it may make it harder to obtain a Protection Order in the future, especially if no further threats or violence occur during this contact.

Terminating, Varying or Extending the Protection Order

You will have to make a further court application if:

- you decide that you no longer want or need the Protection Order to be in effect,
- you want to have the Protection Order continue for a longer period, or
- you want to change what the Protection Order says.

MORE INFORMATION

Besides applying for a Protection Order, there are other Applications you can make to help protect you and your children from harm.

One option is to apply for an **Emergency Protection Order**. This order is available if the Respondent(s)(s) is a member of your immediate family or an adult interdependent partner and your case is an emergency. An Emergency Protection Order is very similar to a Restraining Order. If you think you need an Emergency Protection Order, call the police, or come to your nearest Provincial Court location.

Another option may be to apply for a **Restraining Order**, either without notice or on notice to the abusive family member.

Or you can apply for a **Peace Bond**. If you are frightened for your safety, or you fear harm to your children or property, you may be able to apply for a Peace Bond.

A Peace Bond is issued under the Criminal Code and is a Court Order that requires the other party to keep the peace and obey any other conditions the court decides are necessary. You do not need a lawyer to obtain a Peace Bond. To obtain a Peace Bond, first report the incident to your local police or RCMP detachment and tell them why you are worried about your safety (get a file number from the police). Next, go to your local criminal court to arrange an appearance before a Provincial Court Judge or an appointment with the presiding Justice of the Peace.

Domestic Violence Resources

Community resources

For more information about other services that can assist in family violence situations, contact the following:

- Your local police, RCMP detachment, shelter or victim's services unit. They can help you get more information about other services in your community.
- Alberta Children's Services - Prevention of Family Violence and Bullying Division.
- The Community Service Referral Line can refer you to other helping resources.
- Look in the Human Services Guide of the phone directory under Crisis/Distress Lines (24 hours), Family Violence, and/or Shelters.

Parenting After Separation Seminar

The Parenting After Separation (PAS) Seminar is not mandatory before making this Application, but it is recommended, if you have children.

PAS is a free online course at https://www.alberta.ca/pas

Once you're done the course, you will get a certificate, which you must file at the court.

ANY QUESTIONS??

If you have questions about the steps in the booklet or the court forms given to you, please contact us. Our addresses and phone numbers are on page 4 of this booklet.

Clerk's Stamp

COURT FILE NUMBER _____
(File number, as on other court documents)

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____
(City or town where court is located)

CLAIMANT _____
(Print your full name, as on other court documents)

RESPONDENT _____
(Print the other party's full name, as on other court documents)

DOCUMENT

Originating Application for a King's Bench Protection Order (no prior court file)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

_____
(Name)

_____
(Full address)

_____

( ) _____

NOTICE TO THE RESPONDENT

This application is made against you. You are a Respondent. You have the right to state your side of this matter before the Court. To do so, you must be in Court when the application is heard as shown below:

COURT DATE: _____, _____ _____, 20 _____.
(Weekday) *(Month)* *(Day)* *(Year)*

TIME: _____
(Time of Day)

WHERE: _____
(Courtroom (if known), Street address of court location)

_____

BEFORE WHOM: **Justice in Family Chambers**

Go to the end of this document to see what else you must do and when you must do it.

1. BASIS FOR THIS CLAIM:

I rely on the following grounds or reasons for making this application:

a) The Respondent has subjected me to family violence.

b) Other grounds or reasons are set out in the King's Bench Protection Order Questionnaire declared by me on _____
(Date)

2. REMEDY SOUGHT:

☒ A King's Bench Protection Order against the Respondent.

☐ Variation of time for service

3. AFFIDAVIT OR OTHER EVIDENCE TO BE USED IN SUPPORT OF THIS APPLICATION:

☒ I have filed a King's Bench Protection Order Questionnaire in support of this application, declared on _____
(Date)

☐ I am relying on the following: *(Describe the evidence, other than your Affidavit, that you are relying on)*

_____

_____

_____

4. APPLICABLE ACTS AND REGULATIONS:

☒ *Protection Against Family Violence Act*

☒ Rules 12.30, 12.31 and 12.32

☐ Rule 13.5 – Variation of time period

☐ Other

(Please state any other Acts / Regulations that apply to your application)

_____

_____

_____

Complete this section if the Respondent will be served outside of Alberta

There is a real and substantial connection between Alberta and the facts on which I base my claimed because this is a family law matter and: *(Check off all that apply)*

☐ I live in Alberta

☐ The child(ren) live in Alberta

☐ Other: *(Give reasons why there is a connection with Alberta)*

_____

_____

_____

_____

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application.

If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you.

If you want to take part in the application, you or your lawyer must attend in Court on the date and time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

Clerk's Stamp

COURT FILE NUMBER _____
(File number, as on other court documents)

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____
(City or town where court is located)

CLAIMANT _____
(Print your full name, as on other court documents)

RESPONDENT _____
(Print the other party's full name, as on other court documents)

DOCUMENT: **King's Bench Protection Order Questionnaire**

DECLARED BY: _____
(Name of Claimant)

DECLARED ON: _____
(Date Questionnaire is declared)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

_____
(Name of party filing this document)

_____
(Full address of party filing this document)

_____

( ) _____

Relationship between Claimant and Respondent

(Choose one)

- ☐ Married
- ☐ Divorced
- ☐ Common-law / Adult Interdependent Partner
- ☐ Siblings
- ☐ Parent / Child
- ☐ Other *(Describe)* _____

Date and court file number of any previous legal proceedings relating to family violence and whether or not an order was granted:

Date (yyyy/mm/dd)	Court File Number	Order granted
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No
		☐ Yes ☐ No

Name(s) and date(s) of birth of any child(ren) in the custody of the Claimant:

Child's Full Name	Birth date (yyyy/mm/dd)

REASONS FOR REQUESTING A PROTECTION ORDER

*(Set out details of why you need a protection order against the Respondent stating all **relevant** facts, which prompted this application. Include the dates, nature and history of family violence, and whether any weapons were involved, and if so, the type of weapons which prompted this application.)*

I REQUEST THE KING'S BENCH PROTECTION ORDER INCLUDE THE FOLLOWING CONDITIONS:

(Check off all that apply and fill in the details)

☐ 1. The Respondent is restrained from attending at or entering, or being within 200 metres of the following places:

(a) the Claimant's / family member's residence:

(Complete address) _____

_____

_____

(b) the Claimant's / family member's place of employment

(Name and complete address) _____

_____

_____

(c) the Claimant's / family member's other addresses:

(Complete address) _____

_____

_____

or from being 100 metres of the Claimant and family members anywhere in the Province of Alberta.

☐ 2. The Respondent is restrained from contacting the Claimant or associating in any way with the Claimant. The Respondent is further restrained from subjecting the Claimant to family violence.

☐ 3. The Claimant and other family members are granted exclusive occupation of the residence located at:

(Complete address) _____

_____

_____

for _____ weeks / months.

(Specify time period)

☐ 4. The Respondent shall reimburse the Claimant in the amount of $_____ for monetary losses for the following reasons:

(Describe losses, including amounts and dates. Attach receipts if available.)

_____

_____

☐ 5. The ☐ Claimant ☐ Respondent _____ is
(Name)
granted temporary possession of:
(Specify personal property) _____

_____

_____

☐ 6. The ☐ Claimant ☐ Respondent _____
(Name)
may not take, convert, damage or otherwise deal with:
(Specify property) _____

_____

_____

☐ 7. The Respondent may not make any communication likely to cause annoyance or alarm to the Claimant, including personal, written or telephone contact, or contact by any other communication device, directly or through the agency of another person, with the Claimant and other family members or their employers, employees, co-workers or the following specified persons:
(Full names) _____

_____

☐ 8. A peace officer shall remove the Respondent from the residence located at:
(Complete address) _____

_____

_____

☐ 9. A peace officer shall accompany _____
(Name)
to the residence located at:
(Complete address) _____

_____

on _____
(Specify date and time)
to supervise the removal of personal belongings.

☐ 10. The Respondent shall post the following bond:
(Specify bond) _____

_____

☐ 11. The Respondent shall attend the following counselling:

(Specify counselling) _____

_____

☐ 12. The child(ren) _____
(Full name(s))

Is/are authorized to attend counselling without the consent of the Respondent.

☐ 13. A peace officer shall seize and store the following weapons:

(Specify weapons) _____

_____

☐ 14. Other

(Specify) _____

_____

_____

_____

I, _____ solemnly declare that the facts set out in this
(Your full name)
document are true. I make this solemn declaration, conscientiously, believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me to be true
on _____, 20 ____
at _____, Alberta.

_____
Commissioner for Oaths in and for Alberta, Justice of the Peace or Notary Public

Print name and expiry / Lawyer / Student-at-Law

_____
(Signature of person swearing / affirming Declaration)

I.D. Verified_____

NOTE: It is an offence to make a false declaration.

STATEMENT OF DESCRIPTION
FOR RESTRAINING OR PROTECTION ORDER

(Give this form to the Police along with a Certified Copy of your Restraining or Protection Order)

Applicant's Full Name: _____

Respondent's Full Name: _____

WEAPONS WARNING: The Applicant believes that the Respondent may have the following weapons:

_____
(Describe weapon – gun, knife, etc. or state "none")

The following is a description of the above-named Respondent:

FULL SURNAME AND GIVEN NAMES: _____

ALIASES:_____

DATE OF BIRTH:_____ SEX: ☐MALE ☐FEMALE

ADDRESS OF RESIDENCE AND PHONE NUMBER:_____
_____

EMPLOYER OR SCHOOL NAME, ADDRESS AND PHONE NUMBER:
_____
_____

RACE:_____

HEIGHT AND WEIGHT: _____

BUILD:_____

EYE COLOUR AND DEFECTS:_____

HAIR COLOUR, LENGTH AND TYPE:_____

FACIAL HAIR AND COLOUR:_____

COMPLEXION:_____

MARKS, SCARS, AMPUTATION AND DEFORMITIES:_____
_____

TEETH AND SPEECH:_____

PHOTOGRAPH ATTACHED: ☐YES ☐NO

ADDITIONAL
INFORMATION:_____
_____

Clerk's Stamp

COURT FILE NUMBER	_____
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE	_____
CLAIMANT(S)(S)	*Family Member Requesting Emergency Protection Order* _____
RESPONDENT(S)(S)	*Family Member that Claimant seeks protection from* _____
DOCUMENT	**KING'S BENCH PROTECTION ORDER**
PARTY FILING THIS DOCUMENT	_____ _____ _____

DATE ON WHICH ORDER WAS PRONOUNCED: _____ *Date*
THE HONOURABLE JUSTICE: _____ *Enter name of presiding Justice*
HEARD AT: _____ *Select a Judicial Centre*, **ALBERTA**

UPON THE COURT having reviewed the evidence filed in support of this application;

UPON NOTING that an application for a King's Bench Protection Order came before this Honourable Court on *Date* in accordance with section 4 of the *Protection Against Family Violence Act*;

AND UPON:

- ☐ hearing from the Claimant(s) / Counsel / Duty Counsel for the Claimant(s)(s);
- ☐ the Claimant(s) having failed to appear;
- ☐ hearing from the Respondent(s) / Counsel / Duty Counsel for the Respondent(s)(s);
- ☐ hearing from the Respondent(s), who is requesting an adjournment for _____ *Enter reason*;
- ☐ noting the Respondent(s) having failed to appear, although properly served;
- ☐ noting the Respondent(s) having failed to appear but service cannot be confirmed;

IT IS HEREBY ORDERED THAT:

1. The application for a King's Bench Protection Order is hereby:

☐ Adjourned to:_____ *Date, time and address* with the terms set out below to apply during the adjournment period.

☐ Adjourned for an Oral Hearing to _____ *Date, time and address* with the terms set out below to apply during the adjournment period.
[A separate Oral Hearing Order must also be completed.]

☐ Granted, as set out below.

2. The Respondent(s)(s), _____*Enter name of Respondent.*, is specifically restrained from being within _____ *200 or other distance* metres of:

☐ the Claimant(s)'s/family member's residence:_____
Enter address

☐ the Claimant(s)'s/family member's place of employment:_____
Enter address

☐ the Claimant(s)'s/family member's other addresses: _____
Enter address

or from being within _____ *100 or other distance* metres of the Claimant(s) anywhere else in the Province of Alberta.

3. The Respondent(s)(s) is restrained from harassing, molesting, watching, following, telephoning, or otherwise interfering with or contacting the Claimant(s)(s) and the following person(s), _____, either directly or indirectly, and either personally or by agent, including through the use of social media, anywhere in the Province of Alberta.

4. On the Respondent(s)(s) being in breach of any of the terms of this Order:

   a. the Respondent(s)(s) may be charged under s. 13.1(1) of the *Protection Against Family Violence Act*; or

   b. if the Respondent(s)(s) is not charged under s. 13.1(1) of the *Protection Against Family Violence Act*, any Peace Officer/Police Officer is authorized to and may forthwith arrest the Respondent(s), and bring the Respondent(s), as soon as possible, before a Justice of the Court of King's Bench of Alberta to show reason why there should not be a finding of civil contempt.

However, the Respondent(s) shall not be arrested unless the Respondent(s) has previously been served with a copy of this Order, or if not served, is shown a copy of this Order by the Peace Officer/Police Officer and, on being given an opportunity to do so, does not then obey it.

5. In making an arrest under this Order, a Peace Officer/Police Officer is authorized to do anything necessary to carry out the arrest, including the use of as much reasonable force as may be necessary to make the arrest, and without warrant to enter any place where, on reasonable and probable grounds, the Peace Officer/Police Officer believes that the Respondent(s) may be found.

6. This Order is sufficient authority for the keeper of a correctional institution to receive the Respondent(s) in custody pending appearance before a Justice of the Court of King's Bench of Alberta.

7. This Order remains in effect up to and including the _____ *Date* day of _____ *Month*, 20____*Year*, unless terminated or continued by order of this court.

8. Either party may apply to amend, vary, or strike out the within Order on providing notice to the other party 5 days or more before the date the application is scheduled to be heard or considered.

9. The Respondent(s) shall not be in breach of this Order in the following circumstances:

    a. Any contact between the Claimant(s) and the Respondent(s) through a third party for the purpose of:
        i) arranging existing court ordered parenting time to any child(ren) who are not named in this protection order; or

        ii) exercising parenting time agreed to between the parties through mediation or through their counsel, but only for children who are not named in this protection order;

    shall not constitute a breach of this order.

    b. The exercise of any parenting time granted to the Respondent(s) in relation to the children by Order of a court of competent jurisdiction granted after this Order, shall not constitute a breach of this Order.

    c. Any contact between the Claimant(s) and the Respondent(s) for the purpose of arranging and attending court (including arranging for service of documents through a third party or service by email), mediation, counselling, meetings with legal counsel present, or any contact required for legal proceedings shall not constitute a breach of this Order.

    [Any specific parenting terms must be put into a separate parenting Order.]

10. **SERVICE***: [Choose from below and initial.]*

☐ A copy of this Order is to be personally served upon the Respondent(s) as soon as reasonably possible by a Peace Officer/Police Officer.

OR

☐ A Peace Officer/Police Officer may assist in serving this Order upon the Respondent(s)(s).

[only requires a Peace Officer/Police Officer to provide information that will assist with service]

OR

☐ The Clerk of the Court shall serve both parties, or where applicable, Counsel for the parties, with a copy of this Order, via email addresses provided in Court. The requirement of filing an Affidavit of Service is dispensed with.

OR

☐ *[Indicate any special instructions for service].*

[If anything other than personal service is ordered, a Peace Officer/Police Officer will not serve the order.]

11. **Additional terms of this Order:**
[*Choose from below and initial*]

☐ A Peace Officer/Police Officer shall accompany the Applicant/Respondent(s) to the residence at: *Address* on one (1) occasion, as soon as reasonably possible, to supervise the removal of personal belongings.

☐ The Claimant(s) is granted exclusive possession of the residence at:_____ *Address* for _____ *Enter period of time*

☐ A Peace Officer/Police Officer is directed to remove the Respondent(s) from the residence at: _____ *Address* within _____*Enter period of time*

☐ A Peace Officer/Police Officer shall seize and store the following weapons:

_____

List weapons

For this purpose, the Peace Officer/Police Officer is authorized without warrant to enter any place where, on reasonable and probable grounds, the Peace Officer/Police Officer believes the Respondent(s) may possess or store the above listed weapons.

☐ *Add other terms as appropriate – see s. 4 Protection against Family Violence Act*.

☐ Rule 9.4(2)(c) is invoked *[Approval by a party is not required.]*

☐ Rule 9.4(2)(d) is invoked *[Clerk is directed to sign this Order.]*

[Clerk to add Webex address for next appearance as required.]

_____

Justice of the Court of King's Bench of Alberta

Warning to the Respondent(s):

YOU MUST OBEY THE PROVISIONS OF THIS ORDER. Failure to obey this order may constitute an offence under section 13.1(1) of the *Protection Against Family Violence Act.* A person who is guilty of an offence under section 13.1(1) of the *Protection Against Family Violence Act* is liable for a first offence to a fine of not more than $5000 or to imprisonment for a term of not more than 90 days or to both; for a second offence, to imprisonment for a term of not less than 14 days and not more than 18 months; and for a third or subsequent offence, to imprisonment for a term of not less than 30 days and not more than 24 months.

YOU SHOULD IMMEDIATELY CONTACT A LAWYER for advice as to what your rights are and as to what you are required to do respecting this Order.

Notice to the Claimant(s):

YOU ARE ADVISED to carry a copy of this Order with you at all times as this will help to ensure timely enforcement of the Order.

Clerk's Stamp

COURT FILE NUMBER _____
(File number, as on other court documents)

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____
(City or town where court is located)

APPLICANT _____
(Print your full name, as on other court documents)

RESPONDENT _____
(Print the other party's full name, as on other court documents)

DOCUMENT: **Affidavit of Personal Service**

SWORN / AFFIRMED BY: _____
(Name of person making this Affidavit)

SWORN / AFFIRMED ON: _____
(Date Affidavit sworn / affirmed)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

_____
(Name of party filing this document)

_____
(Full address of party filing this document)

_____

( ) _____

I, _____, of _____, Alberta,
(Name of person who served) *(Name of City / Town)*

SWEAR / AFFIRM AND SAY THAT:

1. I have personal knowledge of the facts set out below, except where I say that they are based on information and belief. In that case, I believe the information to be true.

2. I am 18 years of age or older.

3. On _____ I served the ☐ Applicant ☐ Respondent
(Date)

_____
(Name of person who was served)

with the following documents:

☐ Application form filed: _____
(Date filed)

☐ Originating Application filed: _____
(Date filed)

☐ Affidavit filed: _____
(Date filed)

☐ Claim filed: _____
(Date filed)

☐ Statement filed: _____
(Date filed)

☐ Disclosure Statement filed: _____
(Date filed)

☐ Order filed: _____
(Date filed)

☐ Other*: (State the name of the document and the date filed with the court. If it is not a filed document, attach a copy as an exhibit to this Affidavit.)*

_____

_____

4. I served the documents listed above by personal service, that is, I left the documents with the
☐ Applicant ☐ Respondent at: *(Complete address where you served the Applicant or Respondent)*

_____

_____

_____

Sworn (OR Affirmed) before me

at _____, Alberta

on _____, 20 _____

_____
Commissioner for Oaths in and for the Province of Alberta,
Justice of the Peace or Notary Public

Print Name and Expiry / Lawyer / Student-at-Law

_____
(Signature of person swearing / affirming Affidavit)

ID Verified _____