Resolution Services

Alberta Government

Court Procedure Booklet

APPLYING FOR A FAMILY RESTRAINING ORDER

(On Notice to the Other Party) No Court file

Revised, March 2021 KB

APPLYING FOR A FAMILY RESTRAINING 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

APPLYING FOR A FAMILY RESTRAINING ORDER (On Notice to the other party)

INTRODUCTION

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

Calgary
7th floor, Calgary Courts Centre
601 - 5 Street SW
Phone 403-297-6981

Edmonton
8th floor, Brownlee Building
10365 – 97 Street
Phone 780-415-0404

Grande Prairie
Main Floor, Court House
10260 - 99 St.
Phone: 780-833-4234

Lethbridge
1st Floor, Court House
320 - 4 St. S
Lethbridge AB T1J 1Z8
Phone: 403-388-3102

Red Deer
Main Floor, Court House
4909 - 48 Ave
Phone: 403-340-7181

Medicine Hat
Court House
460 First Street SE
Medicine Hat, AB T1A 0A8
Phone 403-529-8716

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

Options and Resources

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.

Besides a Restraining 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 lived together in a "relationship of interdependence with your spouse or partner;
- You have reason to believe your spouse or partner will cause you and/or your children physical harm;
- You believe that giving your spouse or partner 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 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.qp.alberta.ca

Important things to know about Restraining Orders

A Restraining Order is an order made by the court and enforced by the police. It will limit the contact the respondent (your spouse or partner) can have with you and your children.

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

If the Restraining 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 during the time the Restraining Order is in place unless your order says that you can (e.g. to arrange parenting time or contact).

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

If you change your mind and want to end the Restraining Order early, you will have to make a court application on notice to the respondent.

Should you hire a lawyer?

The staff at the court house 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 **Calgary and Edmonton**, Duty Counsel is normally available at court. 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 of 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 of 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 ask for them. You will be charged $10 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 $10 fee.

To get copies 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 of 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 **310-0000**, 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
Grande Prairie Legal Guidance	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.

Lawyer Referral Service **1-800-661-1095**
This service will refer you to lawyers in private practice. When you call, ask for a family law lawyer. You will be given the names of 3 lawyers who practice in the area of family law, and in your area. You can speak to any of them for the first ½ hour for free.

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 can not 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 **Application** and an **Affidavit**. These two forms let the Court know "what" you want, and "why". An **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 **Affidavit** is your story. It is a summary of the "why" that supports what it is that you are asking for.

These two court forms make up your entire application documents. 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 Affidavit.

> ***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 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 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 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 to have it.

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

1. *Basis for this claim:* Fill in the date that your affidavit 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 affidavit 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: Rule 12.33 allows you to ask for a Restraining Order using this process.

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

- Only state the facts that you know to be true
- Only state the facts that are relevant to what you are asking for
- Attach as exhibits copies of all the documents that you want the Court to see
- Number all of your pages, starting with the first page of your Affidavit and finishing with the last page of your exhibits.

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

Fill in each section of the Affidavit.

#3 Check off the box that applies.
#4 The date your relationship began.
#5 The date your relationship ended.
#6 If you have ever applied for a Restraining Order before, write in the date that you applied and the court file number. If you do not know, ask us and we can search the court computer for you.
#7 Give information about any family law court proceedings the two of you have been involved in.
#8 Check off "yes" or "no". If the two of you are living together now, then a Restraining Order will make the Respondent vacate the residence.
#9 Here, you list children that have both you and the Respondent as their parents.
#10 Here, you list children living with you who are not the child of the Respondent.

#11 State what parenting time or contact the Respondent should have with the children. If you want the Restraining Order to apply to the children too, state "none".

#12 State whether or not you have a lawyer, and if so, your lawyer's name.

#13 State whether or not the Respondent has a lawyer, and if so, the lawyer's name. (If you don't know it, leave it blank)

Reasons: Here is where you tell your story to the judge. Explain what has happened that makes you afraid that the Respondent will cause you harm.

Tip:

Be specific when writing out your story. Write down what the Respondent 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 has said to me that I had better watch my back.

How to choose and attach **Exhibits** to your Affidavit:

- Exhibits are documents that you attach to your Affidavit because they support what you have said in your Affidavit. For example, if you filled out a police report, you may want to attach that. Any documents that you want the court to see must be attached as an exhibit to your Affidavit. You will not be allowed to show the documents to the Judge in Court if they are not attached as exhibits to your Affidavit.
- Make sure your exhibits 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 except for the Order that you want to change.

- Think before you attach copies of text messages, e mails, diaries, or social media postings. If they are not relevant, the court may order you to pay costs.
- Exhibits are labeled - Exhibit "A", Exhibit "B", etc.
- Your exhibits must be legible and the photocopies must also be legible. The font must be about 12.
- The total number of pages of exhibits can be no more than 40.
- Number all of the pages of your exhibits, starting with the first page of Exhibit "A" and finishing with the last page of your exhibits.
- You must tab each exhibit, and label the tab with the exhibit letter. You can buy divider tabs at a stationary store, or you can use "post it" (or similar) notes to tab the exhibits.
- You must have a "Table of Exhibits" inserted between the signature page of the Affidavit and the first page of the exhibits. Your "Table of Exhibits" will contain a brief description of each exhibit, for example, Exhibit "A" – Police Report, and will state the page number that the exhibit starts on.

Your Affidavit 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 Affidavit.

Once you have finished filling in your Application and Affidavit, you must have your Affidavit sworn before a Commissioner for Oaths.

You may come to the Resolution Services office or the Clerk's office to have your Affidavit 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 of your pages have print only on one side (no double sided printing or copying!).

Your Affidavit must explain what each exhibit is.

If some of the documents you want to attach are smaller than a letter sized piece of paper (e.g. receipts or pay stubs), tape them to 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.

You can group related documents as one exhibit. For example, all of your paystubs can be grouped as one exhibit.

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 exhibit(s) with you when you have your Affidavit sworn otherwise you may lose your original.

DO NOT photocopy your Application or Affidavit until AFTER it is sworn.

FILING AND SERVING YOUR COURT DOCUMENTS

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

- ☐ **Step 1**: Make copies of your Application and Affidavit
- ☐ **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 Application and Affidavit

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

☐ 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) 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 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 Application form, then the Respondent 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 Application and Affidavit 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 with copies of all the court documents you have filed.

Service means a person must hand-deliver the documents directly to the Respondent (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

was given enough notice. If you do not give the Respondent the required amount of notice then the judge may refuse to hear your application.

When serving the court documents:

- 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 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.

Tips:

You should think about hiring a **process server** to serve the Respondent 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, will serve the court documents, and will complete the Affidavit of Service for you. The do charge a fee for their services.

If you cannot find the Respondent to serve, then check out the tips for finding the other party on page 6 of this booklet.

☐ Step 4– Prepare your Affidavit of Service

After you have served your court documents on the Respondent, 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.

Just like your Affidavit for your application, your 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;
- Say the date the documents were delivered; and
- Say the address of where the Respondent 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.

> ***Tip:***
>
> The Respondent 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 Regular Chambers. Regular Chambers is where one judge sits in an open courtroom and hears several court applications on a list. Check your 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 Affidavit;
- Make sure you have filed your Affidavit of Service and that you bring a filed copy of it with you;
- Try to talk to the Respondent to find out if they are coming to court; and
- If you and the Respondent agree that you need more time, phone the Chamber's clerk's office to ask about adjourning your application.

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 of 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;
- Be respectful of the judge and refer to him/her as "My Lord/My Lady"; and
- Be respectful of the other party and do not interrupt them while they are speaking.

Tips:

Regular Chambers is set up to do quick applications (less than 20 minutes). If you think your matter is going to take more than 20 minutes, it should be adjourned to **Special Chambers**. Ask us how to do that.

You can go in and watch regular 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 (In Edmonton or Calgary only) before court.

Bring with you:

- Copy of your Application
- Copy of your Affidavit(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.

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

There will be a list of all of 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 speaks first. Stand up to speak. If you are the applicant, introduce yourself and the respondent (or their lawyer). Tell the judge briefly what you want (e.g. "I am asking for a Restraining Order") then talk about the facts that you have set out in your Affidavit and make any arguments you want to make.
- The respondent speaks next. Stand up to speak. If the applicant did not introduce you, introduce yourself. Tell the judge briefly what your position is (e.g. "I am OK with the Restraining Order, but I still want to see the children") then talk about the facts that you have set out in your Affidavit and make any arguments you want to make.
- The applicant may then respond to what has been said by the respondent.
- The judge may ask questions of either party.
- At this point, both parties will have made all of 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).
- We have staff that will type up the Order for you. You will be told what you need to do to get your copy of the Order.

Tips:

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

If the respondent 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 want decided. 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 of 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, you should also receive a certified copy of the Order.

If the Respondent 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 them with a copy.

Have a person over the age of 18 serve the Respondent with a filed copy of the Order.

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

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

Fill in the Statement of Description

Fill in the form 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 Restraining 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 are able to act quickly if the order is breached or disobeyed.

Take your remaining certified copy of the Restraining 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 Restraining Order. Keep these in your possession 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 disobeys the Restraining order

If the respondent breaches or disobeys the Restraining Order, call the police or RCMP.

If the respondent is arrested as a result of disobeying the Restraining 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 will face.

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

Terminating, Varying or Extending the Restraining Order

You will have to make a further court application if:

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

MORE INFORMATION

Besides applying for a Restraining 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 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 is to apply for a **King's Bench Protection Order** on notice to the abusive family member. This application should not be used in emergency situations.

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 a 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. Call toll free from anywhere in Alberta at 310-0000 and ask for 422-5916.

- The Community Service Referral Line can refer you to other helping resources. Call 780-482-INFO(4636) in Edmonton or 403-268-INFO(4636) in Calgary.
- 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. You can register for the PAS course at http://pas.albertacourts.ab.ca/. Once you're done the course, you will get a certificate, which you must file at the court if you are making any other kind of court application involving your children.

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 2 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)

APPLICANT _____
(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 Family Restraining Order (no existing 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:

My grounds for making this application are set out in my Affidavit sworn on

_____
(Date)

2. REMEDY SOUGHT:

(Describe the order(s) you want from the Court)

☒ A Restraining Order against the Respondent

☐ Variation of time for service

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

☐ I am relying on the evidence set out in my Affidavit sworn 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:

☐ Rule 3.8 – Commencing application by Originating Application

☐ Rule 12.33 – Application for a Restraining Order

☐ Rule 13.5 – Variation of Time

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

_____

_____

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)

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 – Restraining Order (on Notice)**

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,
(Your name) *(Name of City / Town)*

SWEAR / AFFIRM AND SAY THAT:

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

2. I provide the following information, in question and answer format, in support of my application for a Restraining Order.

3. Status of Applicant and Respondent
   - ☐ Married
   - ☐ Divorced
   - ☐ Common Law / Adult Interdependent Partner

4. Date relationship commenced: _____

5. Date of separation: _____

6. Date and action number of any previous applications for a restraining order:

_____

_____

7. Are there now, or have there ever been, any divorce, custody, child support or spousal support proceedings against the Respondent in this Court or in the Provincial Court?
☐ Yes ☐ No

If yes, please provide the court file number(s): _____

8. Will the granting of this order require the Respondent to leave his or her residence?
☐ Yes ☐ No

9. Are there any children under the age of 16 years of the Applicant and the Respondent?
☐ Yes ☐ No

If yes, list the children's names, birth dates and with whom the children are residing:

Child's full name	Birth date	Residing with:

10 Are there any other children involved?
☐ Yes ☐ No

If yes, list the children's names, birth dates and relationship to Applicant:

Child's full name	Birth date	Relationship to Applicant

11 Proposed access for all children:

12 Do you currently have a lawyer for family law matters?

☐ Yes ☐ No

If yes, name of lawyer: _____

13 Does the Respondent have a lawyer?

☐ Yes ☐ No

If yes, name of lawyer: _____

14 Reasons for requesting Restraining Order

(Set out details of why you need a restraining order against the Respondent, stating all relevant facts, including the dates, nature and history of the conduct, threats and/or violence which prompted this application, and whether or not the Respondent has any weapons.
If you need more room, use a blank sheet of paper – do not write on the back.)

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 _____

TABLE OF EXHIBITS

Exhibit Letter	Brief Description of Exhibit	Page Number
A		
B		

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:_____

_____

COURT FILE NUMBER _____

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE _____

Clerk's Stamp

APPLICANT _____
(Print full name of Applicant)

RESPONDENT _____
(Print full name of Respondent)

DOCUMENT **RESTRAINING ORDER (WITH NOTICE)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

_____
(Applicant's Name)

_____
(Full Address)

_____

_____

( ) _____
(Phone)

DATE ON WHICH ORDER WAS PRONOUNCED _____

THE HONOURABLE JUSTICE: _____

HEARD AT:

UPON THE APPLICATION of the Applicant, _____; AND UPON THE COURT having reviewed the evidence filed in support of this application and having heard representations made by or on behalf of the Applicant;

AND UPON:

- ☐ hearing from the Applicant / Counsel / Duty Counsel for the Applicant;
- ☐ the Applicant having failed to appear;
- ☐ hearing from the Respondent /Counsel / Duty Counsel for the Respondent;
- ☐ hearing from the Respondent, who is requesting an adjournment for;

(Length requested) _____

(Reason) _____

☐ noting the Respondent having failed to appear, although properly served;
☐ noting the Respondent having failed to appear but service cannot be confirmed.

AND UPON THE COURT having reviewed the evidence filed by the Respondent *(where applicable)* and having heard representations made by or on behalf of the Respondent;

IT IS ORDERED THAT:

CONTACT

1. The Respondent shall not attend at, enter or be within _____ meters of the following:

   ☐ the Applicant's residence:

   _____

   _____

   ☐ the Applicant's place of employment:

   _____

   _____

   ☐ the Applicant's other addresses:

   _____

   _____

   or be within _____ meters of the Applicant anywhere in the Province of Alberta.

2. The Respondent(s) is/are restrained from harassing, molesting, watching, following, telephoning, or otherwise interfering with or contacting the Applicant 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.

ENFORCEMENT:

3. Upon the Respondent(s) being in breach of any of the terms of this Order, any Peace Officer is authorized to forthwith arrest the Respondent, and bring the Respondent(s), as soon as possible, before a Justice of the Court of King's Bench of Alberta to show any reason why there should not be a finding of civil contempt. However, the Respondent shall not be arrested unless the Respondent has previously been served with a copy of this Order, or if not served, is shown a copy of this Order by the Police/Peace Officer and, upon being given an opportunity to do so, does not then obey it.

4. It is further ordered that, in making an arrest under this Order, a Peace 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 Police/Peace Officer believes that the Respondent may be found.

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

OTHER:

6. This Order shall remain in effect up to and including the ____ day of ___, 20___. However, it shall cease to have any force or effect on this action being discontinued or on the trial of this matter unless continued by Order of this Court.

7. 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.

8. The Respondent shall not be in breach of this Order in the following circumstances:

   a. Any contact between the Applicant and the Respondent 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 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 Applicant and the Respondent 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.]

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

[If the Applicant has the means, and if there is no danger in relation to service, a private process server or other neutral third party should be utilized to serve this Order]

☐ A copy of this Order shall forthwith be personally served on each Respondent by a third party to be arranged by the Applicant.

OR

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

OR

☐ A Peace Office may assist in serving this Order upon the Respondent(s).
[Only requires a Peace Officer to provide information that will assist with service.]

OR

☐ _____

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

10. **MISCELLANEOUS:** *[choose those that apply and initial]*

☐ A Peace Officer shall accompany the Applicant/Respondent to the residence at:

_____

on one (1) occasion, as soon as reasonably possible, to supervise the removal of personal belongings.

☐ A Peace Officer is directed to remove the Respondent from the residence at:

_____

within _____.

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

_____

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

☐ 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]*.

_____

Justice of the Court of King's Bench of Alberta

Warning to the Respondent:

YOU MUST OBEY THE PROVISIONS OF THIS ORDER. Failure to obey this order may result in committal for civil contempt or criminal charges.

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 Applicant:

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 _____