Resolution Services

Alberta

Court Procedure Booklet

APPLYING FOR A FAMILY RESTRAINING ORDER

(Without Notice to the Other Party)

Revised January, 2017 KB

APPLYING FOR A FAMILY RESTRAINING ORDER (Without Notice)

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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 (Without Notice)

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: 403-340-7187

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;
- It would be dangerous for you to provide your spouse or partner with advance notice of your application; 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 tells 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 made Without Notice

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.

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 (eg to arrange access).

When court is over, 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.

You will have to come back to court to have the Restraining Order reviewed by a judge after the respondent has been served. Usually, this second court date is in about 2 weeks. At that point, the Restraining Order can be extended or terminated.

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.

Will you be allowed to apply without notice?

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.

A court application made without notice to the other party is called an **ex parte application**. There are some very limited cases where you can make an application without first serving the other party. One case where you can make an ex parte application is if it is an emergency in that your safety or your children's safety will at risk if you serve the other party ahead of time.

If your case is not an emergency, you may want to use our booklet "Applying for a Family Restraining Order on Notice".

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.

PREPARING YOUR COURT DOCUMENTS

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.

Fill in the "Application for a Restraining Order Without Notice in a Family Law Situation" form

In these instructions, we will call this form "Application for Restraining Order".

The purpose of this form is to tell the court "what" you want, and "why". The Court wants to know what kind of an Order you are asking for, and your story. It is a summary of the "why" that supports what it is that you are asking for.

If you want the Court to know something, it has to be in this court form. You can't say anything to the Court that you haven't already written in your application form. You can't hand letters or documents to the judge that were not attached to this form when it is sworn.

When filling in the Application for a Restraining Order form, 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

- Explain why your case is special or an emergency such that you should not have to serve the other party ahead of time
- Attach as exhibits copies of all the documents that you want the Court to see

The Application for a Restraining Order form is your evidence and the Court will use this to help makes its decision. There are serious consequences for not telling the truth in this form.

Fill in each section of the form

1. Check off the box that applies.
2. The date your relationship began.
3. The date your relationship ended.
4. 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.
5. Give information about any family law court proceedings the two of you have been involved in.
6. 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.
7. Here, you list children that have both you and the Respondent as their parents.
8. Here, you list children living with you who are not the child of the Respondent.
9. State what contact the Respondent should have with the children. If you want the Restraining Order to apply to the children too, state "none".
10. State whether or not you have a lawyer, and if so, your lawyer's name.
11. 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)
12. Explain why you think the judge should make a Restraining Order without first giving notice to the Respondent. What do you think the Respondent would do if they were given a copy of this application form ahead of time?

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 Application for a Restraining Order form:

- Exhibits are documents that you attach because they support what you have said in your Application form. 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 as an exhibit to your Application form. You will not be allowed to show the documents to the Judge in Court if they are not attached as exhibits to your Application form.
- 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.
- 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 Application form and the first page of the exhibits. Your "Table of Exhibits" will contain a brief description of each exhibit, for example, Exhibit "A" – photo of hole in my front door.

Once you have finished filling in your Application for Restraining Order form, you must have it declared before a Commissioner for Oaths.

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

Fill in the Restraining Order Without Notice

Leave the date and Judge's name blank.

In the first paragraph of the Order, fill in your name.

In #1, fill in the Respondent's full name and any addresses from which you specifically want the Respondent to be kept away.

The judge will fill in the rest of the form for you.

Photocopy this Order on to green paper (staff at Resolution Services can do this for you).

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.

FILING YOUR COURT DOCUMENTS

Once you have had your Application form or Statement sworn by a Commissioner for Oaths, there are several steps you need to follow to get ready for court.

☐ **Step 1**: Make copies of the Application for Restraining Order form.

☐ **Step 2**: Go to the Court of King's Bench filing counter to file your Application for Restraining Order.

☐ Step 1- Make copies of Application for Restraining Order

Remember that you should not make photocopies of this form until after you have had it declared. After it is declared, make **2 copies** (including all attachments).

☐ Step 2 – Go to the Court of King's Bench filing counter to file your Application for Restraining Order

Go to the filing counter at the Court of King's Bench and hand them your completed Application form or Statement. They will stamp and keep the original copy of the form. They will stamp and return your copies to you.

> ***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.

GOING TO COURT

Your court application will be heard by a Justice of the Court of King's Bench.

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 or My Lady"; and
- Be respectful of the other party and do not interrupt them while they are speaking.

The Clerk at the filing counter will tell you which courtroom to go to.

In most court locations, when Regular Chambers is in session, Duty Counsel will be outside the courtroom. If you would like their help, speak to them before you go into court.

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.

If you are in Regular Chambers, you will hear the judge say "Any ex parte applications?". You will see lawyers and others go to the front of the courtroom and speak to the judge about their applications. When you have the chance, you can go up too.

If you arrive after court has started, or are placed into a courtroom where another matter is going on, you may have to wait until the end of the scheduled cases to speak to the judge. Again, you will go to the front of the courtroom to speak to the judge.

Stand up to speak. Introduce yourself and hand one of the copies of the Application form and your Restraining Order to the Clerk to give to the judge.

Tell the judge briefly what you want (e.g. "I am asking for a restraining order"), then talk about the facts that you have written in your Application form and make any arguments you want to make.

If the other party has a lawyer, you must tell that to the judge.

The judge may ask questions.

The judge then gives their decision. If the judge says that they will grant a Restraining Order, give the Clerk the Order that you have prepared. The judge will sign it and the Clerk will hand it back to you.

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.

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.

If the judge tells you that you must give notice to the other party before the Court will hear your application, go to the Resolution Services office and the staff can give you the forms and instructions that you will need.

AFTER COURT

Make sure your Order is filed. It should have a "Clerk of the Court" stamp on the first page. You should also receive 2 certified copies of the Order.

In most cases, you will now have to serve the Respondent with:

- a filed copy of your Order; and
- a filed copy of your Application for Restraining Order.

Unless the judge has made a different order about how to serve, another person over the age of 18 must serve the respondent by hand-delivering the documents directly to the Respondent (this is called personal service).

When serving the court documents:

- **Do not serve the Restraining Order yourself.** 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.

Tip:

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.

After you have served your Order and Application for Restraining Order on the Respondent, you have to prepare your **Affidavit of Service**. This is the court form that proves to the court that the other party received these documents.

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.

Make 2 copies of the Affidavit of Service. You must be sure to **file** the original Affidavit of Service at the clerk's office.

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.

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.

THE NEXT COURT DATE

Because the Restraining Order is made without notice to the respondent, it is important that the court give the respondent an opportunity to respond to the application. For that reason, it is in place only until the "Review Date". The date for the Review is stated in your Restraining Order.

At the Review Date, the judge can grant a Restraining Order that will continue on for a longer period.

You must go to court for the Review, even if you believe the respondent will not be attending.

If the Respondent wants to object to the Restraining Order, they will have to file an Affidavit setting out their evidence for the court. They should serve the Affidavit to you by having it delivered to your address for service.

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 do not have to repeat information that is already in your Application for a Restraining Order form.

If you have filled in an Affidavit, have it sworn, make 2 copies then have it filed at the King's Bench filing counter.

You must serve the Respondent with your Affidavit a reasonable time before court. Again, do not serve the Respondent yourself. The person who serves must swear an Affidavit of Service.

At the Review date, the judge will hear arguments from both of you about whether or not the Restraining Order should be renewed. If it is, an Order will be typed up for you by our staff.

If the Respondent was not in court, or if they did not stay to receive their copy of the Restraining Order, you must arrange to have them personally served with the Restraining Order.

You must also bring a copy of this Restraining Order and your Affidavit of Service to the police.

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.

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 many locations, Duty Counsel may be available at court. The Duty Counsel program is funded by Legal Aid. The Duty Counsel Lawyers (or students) will speak with you just before court begins, 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. If the judge tells you to take other steps, Duty Counsel will explain those to you after court and tell you where you need to go for more help.

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 (or action 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.

You must ask for the copies of the court documents from 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.

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. You will be given the names of 3 lawyers who practice in the type of law you want, 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 Society Library

These libraries are 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.

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 6 hour seminar offered at many court locations. It is also available as a free online course at http://pas.albertacourts.ab.ca/.

To register for an in person course, see the information on our website at https://www.albertacourts.ca/educational#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 2 of this booklet.

IN THE COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF EDMONTON

APPLICATIONS WITHOUT NOTICE/CONSENT APPLICATIONS

(This form must be completed for every application without notice/consent application)

Before the Honourable Justice_____

Court File Number: _____

Names of Parties *(as set out in style of cause)*: _____

_____

Date of Application: _____

Nature of Application: _____

_____

_____

Name of Person Appearing: _____

☐ Counsel for _____ ☐ Self-Representing

Has this application been made before? Yes ☐ No ☐

If yes, explain when, the name of the Justice, and what happened:

_____

****

(This section to be completed by Clerk):

☐ Order/Fiat provided by Party/Counsel and signed by Justice;

☐ Order/Fiat to be prepared by Counsel;

☐ Order to be prepared by Court Generated Orders Clerk;

☐ Application Denied – Notice Required

☐ Matter Adjourned to _____

☐ Other (Comments) _____

FTR Time_____

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: _____

_____

Form FL-14
Alberta Rules of Court 12.33(2)

Clerk's Stamp

COURT FILE NO.

COURT Court of King's Bench of Alberta

JUDICIAL CENTRE Edmonton

APPLICANT(S)

RESPONDENT

DOCUMENT **Application for a Restraining Order Without Notice in a Family Law Situation**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF APPLICANT(S) FILING THIS DOCUMENT

1. Status of Applicant and Respondent
   - ◯ Married
   - ◯ Divorced
   - ◯ Common-law / Adult Interdependent Partner
   - ◯ Other: _____

2. Date relationship commenced: _____

3. Date of separation: _____

4. Date and action number of any previous applications for a restraining order:
   (a) Date: _____ Action number: _____
   (b) Date: _____ Action number: _____

5. Are there now, or have there ever been, any proceedings against the Respondent in this Court or in the Court of Justice respecting divorce, child support, or custody, access, guardianship, parenting time, decision-making responsibility or contact in respect of a child?

◯Yes ◯No

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

_____

6. Will the granting of this order require the Respondent to leave his or her residence?

◯Yes ◯No

7. Are there any children under the age of 16 years of the Applicant and Respondent?

◯Yes ◯No

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

Child's full name	Birthdate yyyy-mm-dd	Residing With

8. 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	Birthdate yyyy-mm-dd	Relationship to Applicant

9. Proposed parenting time or contact with each child as follows:

10. Do you currently have a lawyer for family law matters?

◯Yes ◯No

If yes, name of lawyer:

_____

11. Does the Respondent have a lawyer?

◯Yes ◯No

If yes, name of lawyer:

_____

12. Why should notice of this application not be given to the Respondent? *[Note: Judges normally hear from both parties before making decisions. Where there is urgency or danger for example, the Court could hear from only the Applicant].*

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 the application, and whether or not the Respondent has any weapons.)

I, _____ [name] _____

solemnly declare that the facts set out in this 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

on _____

at _____ , Alberta.

_____ _____

Commissioner for Oaths in and for Alberta | Signature of Applicant

_____

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

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

Affidavit - General
(Two Page)

An Affidavit is used to to tell the court all of the relevant facts that are necessary to explain your position in the application.

When filling out the Affidavit, make sure that you:

- Number all of your paragraphs (1, 2, 3, 4...)
- 12-Point Font, Times New Roman (or equivalent), 1.5 line spacing and single-sided;
- If you need to add more pages to your Affidavit, add them **before** the signature page. However, your Affidavit can be no more than 8 pages long, unless you have permission from the Court to have a longer Affidavit.
- **Do not write on the backs of the pages.**
- Number the pages of your Affidavit, starting with the first page and finishing with the signature page.

A note on Exhibits:

- If you want to attach any document to your Affidavit, you must say what it is in your Affidavit and mark it as an Exhibit. Letter each one of your exhibits (Exhibit A, Exhibit B...), and attach all exhibits at the end of your Affidavit.
- Number the pages of your exhibits, starting with the first page of Exhibit "A" as #1, and continuing to the last page of the last exhibit.
- You can only attach 40 pages of exhibits, unless you have permission from the Court to attach more.
- Tab your Exhibits, either by using divider tabs (from a stationary store) or by using "post it" or similar notes. Write your Exhibit letters on the tabs.
- Fill in the Table of Exhibits, describing each exhibit again and stating the page number of the first page of each exhibit. The Table of Exhibits is placed between the signature page of your Affidavit and the first page of Exhibit "A".

When your Affidavit is complete:

- **Sign the Affidavit in the presence of a Commissioner for Oaths**.
  Resolution Services staff or the Chambers Clerk may act as a Commissioner for Oaths. Staff must ask to see proper identification from anyone asking them to commission, so remember to bring your picture ID.
- Make 2 copies of your original Affidavit, including all Exhibits (total of 3 with the original).
  Copy the Affidavit AFTER it has been sworn by a Commissioner for Oaths.
- Once you have made copies, bring all copies of the Affidavit to the Clerk's Office for filing. You will receive 2 filed copies back.

Note: You cannot make any changes to your Affidavit once it has been sworn.

Revised April 3, 2020

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**

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 have personal knowledge of the following information, except where I say that what is stated is based on information from another person, in which case, I believe that information to be true.

2. _____

Sworn (OR Affirmed) before me

at _____, Alberta

on _____, 20 ____

_____

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 Affidavit)

ID Verified _____

TABLE OF EXHIBITS

(List your exhibits and the descriptions again.
Number the pages of your exhibits, starting with "1" and numbering all the way through all of the exhibits, like a book.
List the page number that each exhibit starts on. For example, if your first exhibit is 3 pages, then it starts on page 1, and your second exhibit starts on page 4.
If you do not have any exhibits, then remove this page.)

Exhibit Letter	Brief Description of Exhibit	Page Number
A		1
B		

COURT FILE NUMBER	_____	
COURT JUDICIAL CENTRE	Court of King's Bench of Alberta Edmonton	Clerk's Stamp
APPLICANT	_____ (Print full name of Applicant)	
RESPONDENT	_____ (Print full name of Respondent)	
DOCUMENT	**RESTRAINING ORDER WITHOUT 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: EDMONTON, ALBERTA

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;

IT IS ORDERED THAT:

CONTACT:

1. The Respondent shall not attend at, enter or be within [*number*] meters of the following:

   ☐ the Applicant's residence: _____

   ☐ the Applicant's place of employment: _____

   ☐ the Applicant's other addresses: _____

   or be within [*number*] 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_____ (review date). This matter will be back before the Court on that day at _____ am/pm so that the Court may consider whether to renew the Order for a further period of time. If the Respondent wishes to appear on that date and provide evidence to the Court, the Respondent shall file with the Court, a responding Affidavit, no more than 8 pages in length with no more than 40 pages of exhibits. The Respondent shall arrange for a process server or other neutral third party to serve the filed Affidavit on the Applicant or the Applicant's lawyer, by leaving a filed copy with the Applicant or the Applicant's lawyer at least ____ days prior to the review date.

7. If the Respondent does not appear on the review date, an order may be granted in the Respondent's absence.

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 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.]

10. **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, together with a copy of the Application or Statement of Claim and Affidavit relied on in support of this application, shall forthwith be personally served on each Respondent by a third party to be arranged by the Applicant.

OR

☐ A copy of this Order together with a copy of the Application or Statement of Claim and Affidavit relied on in support of this application is to be personally served upon the Respondent(s) as soon as reasonably possible by a Peace Officer.

OR

☐ A Peace Officer may assist in serving this Order (and Application or Statement of Claim and Affidavit) 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].

11. **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 _____ *Enter period of time*

☐ 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.

IN THE COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF _____

APPLICATIONS WITHOUT NOTICE/CONSENT APPLICATIONS

(this form must be completed for every application without notice/consent application)

Court File Number: _____

Names of Parties *(as set out in style of cause)*: _____

_____

Date of Application: _____

Nature of Application: _____

_____

_____

Name of Person Appearing: _____

☐ Counsel for _____ ☐ Self-Representing

Email Addresses for both parties:

_____

Has this application been made before? Yes ☐ No ☐

If yes, explain when, the name of the Justice, and what happened:

_____

_____

****

(This section to be completed by Clerk):

☐ Order/Fiat provided by Party/Counsel and signed by Justice;

☐ Order/Fiat to be prepared by Counsel;

☐ Order to be prepared by Court Generated Orders Clerk;

☐ Application Denied – Notice Required

☐ Matter Adjourned to _____

☐ Other (Comments) _____