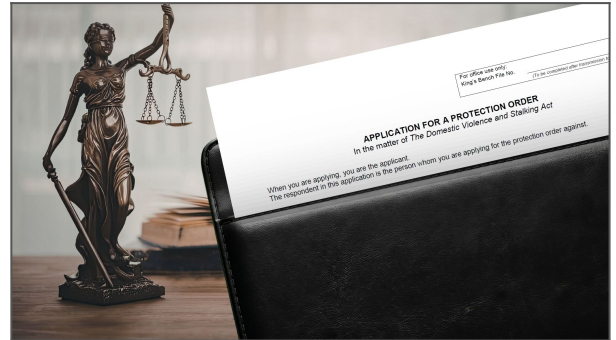


The Quick Guide to Protection Orders and Peace Bonds

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What do you do if someone won't stop following you? How do you deal with a former partner who is making you feel unsafe? Courts in Manitoba are equipped to offer a measure of protection to people asking these questions. But the process can be confusing, overwhelming and even scary. If you have become the subject of an order barring you from contacting someone, you may be just as confused. This article is designed to break down the confusion and provide you with the basics of protection proceedings in Manitoba.



In this article, we focus on protection orders and peace bonds as the most common forms of orders made in this province to protect people.

Protection orders

A protection order is a court order designed to enhance a person's immediate and longer-term safety by restricting another person's ability to contact another.[1] These orders impose conditions tailored to the risks but usually prevent communication and direct or indirect contact. They may also bar a person from being within a certain distance of the protected party or from attending their home, school or workplace. In Manitoba, protection orders are commonly sought in situations involving:

- Family violence or intimate partner violence, including physical, sexual, psychological or financial abuse, threats, and coercive control.
- Harassment and stalking by a current or former intimate partner, family member, acquaintance or, in some cases, non-family individuals whose conduct creates a reasonable fear for safety.
- Situations where immediate protective conditions are necessary pending criminal charges, **family law** proceedings or other civil processes.

If you are a victim of domestic violence or stalking and require urgent protection, this order may be appropriate for your circumstances. The first step is to make sure you are safe. If this requires a police call, then it may help to coordinate with authorities to take care of your immediate safety. Once you are safe, you can make use of protection order proceedings to prevent contact or communication going forward.

To obtain a protection order, you must apply at a Manitoba courthouse using pre-set forms which require information about the nature of the violence or stalking for which protection is required and the immediacy of the applicant's concerns. At the courthouse, the applicant will answer questions under oath from a judicial justice of the peace, who will decide whether to grant the order. If it is granted, court sheriffs will take steps to serve the subject of the protection order. It is important to understand that the protection order is not active until the subject of the order has been served in accordance with the *Domestic Violence and Stalking Act* (the "DVSA").[2]

Protection orders are available on a without-notice basis and, once granted, may last as long as three years and can even be made longer.[3]

Many protection orders are enforceable by police, so any breach should be reported immediately. The consequences for a breach of a protection order can be severe and could be punished by up to five years in prison.

How do I set aside a protection order?

If you have been served with a protection order, you may be confused. You may not understand the basis for the order or why the applicant no longer wants to have contact with you. The first thing to understand is that if you are placed on a no-contact order, you must not contact the protected party in any way, whether by phone, online, in person or through a third party. If you run into the protected party in public, the onus is on you to avoid contact.

Next, you will want to file an application to have the protection order set aside. You have 20 days from the date of service to file. At that point, an appearance date will be scheduled where the matter is scheduled for a trial (usually a half day or one full day). Before the trial date, parties may file affidavits to respond to allegations in the application for a protection order or as set out in other affidavit evidence.

At the hearing, the parties will be cross-examined on their affidavits and application materials. The judge will then decide whether the protection order should be upheld, varied or set aside.[4] The burden falls on the non-protected party to show why the interests of justice support the application to have the protection order set aside.

Family Law Act orders

In Family Law proceedings before the court, judges can make orders prohibiting or restricting contact and communication between partners. These orders can be useful in situations where parents need to have some communication for the interests of their children but where one parent has reasonable safety concerns regarding the other. Family Law Act orders can be very similar to protection orders and can prohibit or restrict the other party's attendance at

or near a place where the applicant regularly attends, including the applicant's home, workplace or business.

A breach of a Family Law Act order can result in a finding of contempt, which is punishable through fines and even imprisonment.

These orders may also be a substitute for a protection order in proceedings where domestic parties require protection but not a blanket order forbidding all communication and contact.

Peace bonds

Peace bonds offer similar protection to a protection order but have some important differences:

- Peace bonds only last one year.
- The test for a peace bond requires the applicant to show a reasonable fear of physical harm or damage to property.
- Peace bonds do not require a domestic relationship or stalking (unlike a protection order).

More importantly, the process is entirely different. Peace bonds are sought by swearing an information based on the allegations to a judicial justice of the peace. Unlike a protection order, peace bonds are not obtained without notice on the day of an application. If the JJP agrees that your grounds for the peace bond are sufficient, an information (charge) will be sworn. The subject of the peace bond will then be served with a summons to appear in court. On this date, both parties appear, and if the matter cannot be resolved, a trial in Provincial Court is scheduled.

At the trial, the applicant carries the burden of demonstrating reasonable fear. The court will decide after examinations are complete whether the burden has been met, and the application for a peace bond will be either granted or dismissed.

Breaching either a peace bond or a protection order is a **criminal offence**. You can be arrested and be subject to prosecution in Provincial Court.

Conclusion

While imperfect, these orders offer a measure of protection for people in dangerous domestic relationships.

However, the processes and requirements to obtain these orders or to have them set aside can be complicated and confusing. It is very important, if someone is harassing you or causing you to fear for your safety, that you seek assistance to make sure you are safe. Likewise, if you are served with an order that forbids you from contacting a partner, family

member or anyone else, you need to understand what you can and cannot do, to avoid breaching the order.

Your first call, should you find yourself in these situations, is to the police. After that, you may wish to avail yourself of the various orders of protection courts can offer.

[1] ***The Domestic Violence and Stalking Act, S.M. 1988, c. 41 (the “DVSA”), s. 7.***

[2] *Id.*, s. 8.1.

[3] *Id.*, ss. 8.1 & 17.

[4] The DVSA, s. 19.

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