Emergency Protection Orders

An **Emergency Protection Order (EPO)** is a court order that helps protect Albertans from family members committing family violence. It can order the person causing harm to stay away from you, stop contacting you and move out of the family home. EPOs are for emergency and urgent situations.

EPOs are described in Alberta's *Protection Against Family Violence Act*.

Who can apply for an EPO?

You can apply for an EPO if you are experiencing **family violence** by a **family member** that is serious or requires immediate help.

To apply, **all** the following must be true:

1. A family member has committed family violence.
2. You have reason to believe the family member causing harm (the **respondent**) will continue or resume carrying out the family violence.
3. The situation is serious or urgent such that you need a court order right away to protect you and your family. This usually means the family violence happened recently.

You can get an EPO 24 hours a day, 7 days a week.

If the situation is not serious or urgent, a **King's Bench Protection Order** or **restraining order** may be options. Find more information at **www.willownet.ca** - a CPLEA website about violence and abuse laws in Alberta.

You should NOT rely on this booklet for legal advice. It provides general information on Alberta law only.

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The following are **family members**:

- someone you are or were married to
- someone you are or were in an adult interdependent relationship with
- someone you live with or have lived with in an intimate relationship
- a parent of your child, regardless of whether you have lived with that person
- someone you are related to by blood, marriage, adoption or an adult interdependent relationship (including adult children and in-laws)
- a child in your care and custody
- someone you live with who has care and custody over you

You **cannot** get an EPO against:

- someone you are dating UNLESS you live together in an intimate relationship OR you have children together
- someone you live with but are not intimate with (such as a roommate)

You can still report violence to the police or get other orders to keep these people away.

FAMILY VIOLENCE

The *Protection Against Family Violence Act* says that family violence includes:

- actions that injure someone or damage property AND that intimidate or harm a family member
- any act or threat of an act that intimidates a family member by creating a reasonable fear of property damage or injury to a family member
- forced confinement (such as being locked in a room with no way out)
- sexual abuse
- stalking (including repeated, harassing contact)

Family violence does **not** include a parent correcting a child by using force if the force is reasonable in the situation.

What does an EPO say?

An EPO can:

- require the family member causing harm to
  - stop entering or going near your home, workplace, children's school or any other places you regularly go
  - stop contacting and communicating with you and other people named in the order
- give you exclusive possession of your family home, even if your name is not on the lease or title
- give police authority to
  - remove the family member causing harm from your family home
  - seize and store weapons used or threatened to be used to commit family violence

A judge or justice of the peace decides whether to grant you an EPO and what it should say, all based on the situation.

What does the judge think about?

The judge or justice of the peace must consider the following when deciding whether to grant an EPO:

- history of family violence by the respondent toward you and other family members
- if the respondent's behaviour has been controlling towards you or other family members
- if the family violence is ongoing or getting worse
- any immediate danger to people or property
- how elder adults are more vulnerable to violence
- the effect on your children
- the best interests of you and your children
- your need for a safe environment to arrange for longer-term protection from family violence

If you or someone you know is in danger, call 911 immediately.

An EPO is not a long-term substitute for a parenting order or for an order dividing property. While it can address these issues in the short-term, an EPO is for protection and safety only.

Find the application form and more information on the Government of Alberta's website: bit.ly/3qFlEgQ

How to apply for an EPO?

You can get an EPO 24 hours a day, 7 days a week.

A Provincial Court judge or justice of the peace can grant an EPO in person or over the phone. The process to apply is different in each city or town.

In Edmonton:

- during business hours, contact Legal Aid Alberta's Emergency Protection Order Program (by phone or in person)
- after hours, weekends or statutory holidays (by phone or in person), contact the Edmonton Hearing Office (till midnight only) or the Calgary Hearing Office (midnight to 8am)

In Calgary:

- during business hours, contact Legal Aid Alberta's Emergency Protection Order Program (by phone or in person)
- after hours, weekends or statutory holidays, contact the Calgary Hearing Office (by phone or in person)

Elsewhere in Alberta:

- during business hours, go to the nearest Provincial Court building
- after hours, weekends or statutory holidays, contact the Hearing Office for your part of the province (till midnight) or the Calgary Hearing Office (24 hours)

You can also contact your local police or RCMP station, or a Victim Services Unit in your area. You can contact your lawyer if you have one.

If you are applying for an EPO by phone, you must fill out a **Telephone Application for an Emergency Protection Order form**. You must email the form and a copy of your government-issued identification (front and back) to the Hearing Office you contact.

Legal Aid Alberta's Emergency Protection Order Program

- **Edmonton:** call 1.780.422.9222 or go to the Edmonton Law Courts building
- **Calgary:** call 1.403.297.5260 or go to the Calgary Court Centre building

Edmonton Hearing Office
(for everyone north of Wetaskiwin)

- Open 8am to midnight
- Phone: 1.780.422.3699
- Email: hearingoffice.edmonton@gov.ab.ca

Calgary Hearing Office
(for everyone in Wetaskiwin and south)

- Open 24 hours a day
- Phone: 1.403.297.4444
- Email: hearingoffice.calgary@gov.ab.ca

Provincial Courts in Alberta

To find a location near you, visit:
albertacourts.ca/pc/court-practice-and-schedules/locations-map

Victims Services Units

To find support near you, call 310.0000 or visit:
www.alberta.ca/victim-services-units.aspx

In an emergency, go to the police for help.

The respondent is the person responding to an application made by the applicant in civil court.

Get free legal help at the EPO Review Hearing.
Contact Legal Aid Alberta during business hours at:
Edmonton: 1.780.422.9222
Calgary: 1.403.297.5260
Or visit: **bit.ly/3kCUQKq**

Will the family member causing harm know about the order?

The family member causing harm (the **respondent**) will not know right away that you have applied for an EPO. Unlike some requests for court orders, you can apply for an EPO without notice to the respondent. This means you do not have to tell the respondent beforehand that you are applying for an EPO.

However, an EPO is not enforceable until the respondent receives a copy of it. They must know what rules to follow. A police officer or other third party, like a process server, will give a copy to the respondent. **Do not** give a copy to the respondent yourself.

What is a review hearing?

Within 9 working days of the order being granted, a justice in the Court of King's Bench will review the EPO at a review hearing. The EPO will say the date of the review hearing.

The respondent can attend the review hearing and share their story. The court will review all the evidence, including the transcript of your application for the EPO.

At the review hearing, the court will do one of four things:

- cancel the order
- confirm the order (so that it continues)
- order you and the respondent to attend an oral hearing (a court appearance where you and the respondent will give oral evidence), or
- cancel the order and grant a King's Bench Protection Order to replace it.

The review hearing will go ahead even if you or the respondent are not there.

How long does an EPO last?

An EPO can last for up to one year. The clock can start from:

- the date you get the EPO,
- the date of the review hearing, or
- the date of an oral hearing.

What happens if the family member does not follow the EPO?

Call the police. Always keep a copy of your EPO with you so you can show it to the police when necessary.

The police will decide whether to arrest and charge the family member with breaching the order. If the family member is charged, they will appear in court and be prosecuted by a Crown prosecutor. If the family member pleads guilty or is convicted of breaching the EPO, they will be fined or receive a jail term. Anyone convicted of more than one breach automatically receives a jail term.

What is the difference between an EPO and a King's Bench Protection Order (KBPO)?

The key difference between an EPO and a KBPO is that an EPO is for urgent, serious situations. You may not be eligible for an EPO but still eligible for a KBPO.

There are a few more differences:

- You can apply for an EPO without the family member's knowledge, but not a KBPO. When you apply for a KBPO, you must give a copy of the application to the family member you are asking for the order against.
- You can apply for an EPO by telephone or in Provincial Court. A hearing for a KBPO must be in the Court of King's Bench.
- A KBPO can include more terms than an EPO. For example, a KBPO can say the family member must pay you expenses incurred because of the violence.
- An EPO is reviewed after 9 working days and stays in place until it expires. A KBPO can stay in effect for up to one year and can be renewed.

Sometimes at the review hearing for an EPO, the court will cancel the EPO and grant a KBPO instead.

See the **King's Bench Protection Orders** info **sheet** for more information at www.willownet.ca

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About CPLEA

The Centre for Public Legal Education Alberta is dedicated to making the law understandable for Albertans. We provide legal information on a wide variety of topics through our websites, print resources, workshops and more. For more information, visit our website: www.cplea.ca

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Alberta LAW FOUNDATION

Department of Justice Canada

Ministère de la Justice Canada

Resources

Find more information about domestic violence and the other info sheets in this series on **WillowNet** – a CPLEA website about violence and abuse laws in Alberta. **www.willownet.ca**

- **Family Violence Info Line: 310.1818**
  Get help anonymously. Available 24/7 in over 170 languages.
- **Victim Services Alberta: 780.427.3460 or www.alberta.ca/victim-services-units.aspx**
  Connect with local supports.
- **Court and Justice Services: www.alberta.ca/court-and-justice-services.aspx**
  Get help finding court forms or information on the court process.
- **Community Legal Clinics in Alberta: www.lawcentralalberta.ca/clinics**
  Get free legal advice if you earn a low income.
- **Legal Aid Alberta's Emergency Protection Order Program (EPOP): 1.780.422.9222 (Edmonton area) or 1.403.297.5260 (Calgary area) or www.legalaid.ab.ca/services/family-violence-matters/**
  Get free legal help applying for an EPO.

We want to know what you think!
To take our one minute survey:

- capture this QR code with your phone camera, or
- go to bit.ly/3g8tby9