

Queen's Bench Protection Order

A **Queen's Bench Protection Order (QBPO)** 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, move out of the family home, allow you to use certain property, and more.

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

Who can apply for a QBPO?

You can apply for a QBPO if you are experiencing **family violence** by a **family member**.

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

*If your situation is serious, you may be able to get an **Emergency Protection Order**. Go to the police for help.*



If you are not eligible for an EPO or a QBPO, a **restraining order** may be an option.

Find more information at www.willownet.ca – a CPLEA website about violence and abuse laws in Alberta.

You **cannot** get a QBPO 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 no contact orders against these people.

FAMILY VIOLENCE

The Act says that family violence includes:

- actions that cause injury or property damage 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 not more than what is reasonable in the situation.



See the **Emergency Protection Orders** info sheet for more information at www.willownet.ca

What is the difference between a QBPO and an EPO?

The key difference between a QBPO and EPO is that an EPO is for urgent, serious situations. You may be eligible for a QBPO even if you are not eligible for an EPO.

There are a few more differences:

- You cannot apply for a QBPO without the family member's knowledge, but you can for an EPO. When you apply for a QBPO, you must give a copy of the application to the family member you are asking for the order against.
- A hearing for a QBPO is in the Court of Queen's Bench. You cannot apply by telephone or in Provincial Court.
- A QBPO can include more terms than an EPO. For example, a QBPO can say the family member must pay you expenses incurred because of the violence.

- A QBPO can stay in effect for up to one year and can be renewed. An EPO is reviewed after 9 working days and stays in place until it expires.

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

What does a QBPO say?

A QBPO 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, both directly and indirectly
 - pay for any money lost because of the family violence, such as loss of income or support, medical or dental expenses, moving costs or legal fees
- give you exclusive possession of your family home, even if your name is not on the lease or title
- give you temporary possession of personal property, such as a vehicle, bank cards, children's clothing, medical insurance cards, ID, and keys
- allow your child to receive counselling without the family member's consent
- not allow you or the family member causing harm to take, convert, damage or otherwise deal with property that the other has an interest in
- 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
- require the family member to:
 - post bond to make sure they follow the order
 - receive counselling

A justice of the Court of Queen's Bench decides whether to grant a QBPO and what it should say, all based on the situation.

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



To **serve** someone means to officially give them documents in a way that can be proven to the court.

How to apply for a QBPO?

1. Fill out two court forms:

- Originating Application – Protection Against Family Violence Act (Form 7)
- Queen’s Bench Protection Order Questionnaire (Form FL-13)

Find these forms on the Alberta Courts website:

albertacourts.ca/qb/areas-of-law/family/family-law-forms

You must swear the Questionnaire before a Commissioner for Oaths or Notary Public (most court clerks perform these services).

2. File the completed documents at the courthouse.

Take three copies – one for the court, one for you and one for the respondent. The court will help you choose a court date.

3. Serve the filed documents on the respondent.

You must make sure the respondent receives the documents at least 10 days before the scheduled court date. You can have someone else (such as a family member, friend or process server) **serve** the documents so that you do not have to see or talk to the respondent.

4. Complete and file an Affidavit of Service at the courthouse.

This sworn document proves the respondent received the application documents.

5. Attend court on the scheduled date.

If you need legal advice on the day of your hearing, you may be able to talk to duty counsel. Duty counsel are volunteers lawyers or Legal Aid lawyers that provide free legal advice on the day of your court appearance.

6. Tell the judge your story.

Remember, the respondent can also share their story and challenge your version of events. Do not interrupt, make faces or roll your eyes. Stay calm. You may have a chance to talk to the judge again to challenge the evidence you disagree with. You can bring a trusted friend or family member with you to court for support.

7. The judge decides whether to grant the order.

If the judge does grant the order, file the order at the courthouse. The order is not enforceable until the respondent receives a copy of it. Usually, a peace officer serves the order on the respondent.

8. File an Affidavit of Service to prove the respondent received a copy of the order.

Whoever served the documents will swear the Affidavit of Service but you will likely have to file it at the courthouse.

9. Give copies of the filed QBPO and the filed Affidavit of Service (for service of the order) to local police or RCMP (if they do not already have them).

A lawyer can help you through the process. Contact:

- **Legal Aid Alberta** to see if you are eligible for services: 1.866.845.3425 or www.legalaid.ab.ca
- a **legal clinic** near you: www.lawcentralalberta.ca/clinics
- the Law Society of Alberta's **Lawyer Referral Service**: www.lawsociety.ab.ca/public/lawyer-referral/lawyer-referral-request/

What if the family member cannot be found?

There are steps you can take if you cannot find the family member to serve them with court documents. For more information, see CPLEA's **Serving Court Documents info sheet** at www.cplea.ca/courts

How long is the QBPO good for?

The judge can grant a QBPO for up to one year. The court can renew it for further year-long terms. You should apply to renew your QBPO before it expires.



You do not have to serve the documents personally and in many cases, it is not safe to do so. Find more information on serving documents in CPLEA's **Serving Court Documents info sheet** at www.cplea.ca/courts



About CPLA

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

© 2021

Legal Resource Centre of Alberta Ltd., Edmonton, Alberta

Operating as: Centre for Public Legal Education Alberta

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

We would like to thank the Alberta Law Foundation and the Department of Justice Canada for providing operational funding, which makes publications like this possible.

Alberta **LAW**
FOUNDATION



Department of Justice
Canada

Ministère de la Justice
Canada

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

Call the police. Always keep a copy of your QBPO 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.

Resources

Find more information about domestic violence and the other info sheets in this series on **WillowNet** – a CPLA 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/victims-services.aspx**
Connect with local supports.
- **Resolution and Court Administration Services: www.alberta.ca/rcas.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/3g8tb99