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INTRODUCTION

WHO THIS BOOKLET IS FOR?

This booklet is for any person who is being abused, assaulted or harassed by his/her spouse, boyfriend, girlfriend or ex-spouse and therefore needs information about his/her rights, help available, and information about the court system. If you suspect that someone you know is being abused, please give this booklet to him/her.

The information in this booklet is for women and men who have chosen to stay in an abusive relationship, or who have left or are trying to leave. When a person tries to leave an abusive partner, that partner may become more violent.

The information in this booklet refers to women but the information also applies to abused men, abused elders, and those in a gay or lesbian relationship. The term partner refers to spouse, boyfriend, girlfriend or common-law spouse.

WHAT THIS BOOKLET IS ABOUT

This booklet explains what you can do to protect your safety – whether you choose to leave or to stay. What kind of help you can get from the police, the courts and from various agencies, if you are being abused.

It includes information about:

- ◆ What Domestic/Relationship Violence is
- ◆ What you can do if you have been assaulted or if you have been threatened with assault, or if you are being criminally harassed
- ◆ What the police do when they are called
- ◆ What the court process is
- ◆ How to get a Peace bond
- ◆ What to do if you choose to end this relationship
- ◆ Who can help with emotional, financial and legal advice

HOW CAN A FRONT LINE WORKER HELP?

If you are in an abusive relationship you can get help from a worker. The worker can help you and your children and pets – whether you decide to leave or stay in the relationship.

You may wish to have a worker with you when you are dealing with the police and the courts. A worker can not only provide emotional support but can also:

- ◆ Help you identify your rights
- ◆ Help you learn about the court system
- ◆ Help you by being with you in court
- ◆ Help you find the information about the services that you require

DOMESTIC/RELATIONSHIP VIOLENCE – WHAT DOES IT MEAN?

When people talk about violence in relationships they are usually talking about abuse. Abuse includes a range of behaviors from intimidation and threats to physical or sexual assault. An abuser uses threats and violence to gain power and control over his partner and to take away her self worth.

Examples of Abuse

Abuse can be physical, sexual, emotional and financial. The following are some examples of abusive behavior:

- ◆ Humiliating or degrading you in front of others
- ◆ Yelling at you, insulting you or calling you names
- ◆ Isolating you by stopping you from leaving the home or using the telephone
- ◆ Not letting you have any money

- ◆ Controlling and limiting what you do, where you go, who you see
- ◆ Breaking your things, damaging property
- ◆ Threatening you, your children, your pets, or someone you know
- ◆ Forcing you into sexual activity that you do not want
- ◆ Shoving, slapping, choking, punching or kicking you
- ◆ Hurting you with an object of any kind

Abuse may start as emotional or verbal and gradually increase to physical or sexual violence. Abuse comes and goes in cycles. After incidents of abuse, your partner or ex-partner may be very sorry and loving for a short period of time and then will abuse you again. If you are involved with an abusive person, you may be feeling frightened, confused and alone.

Is Sexual Abuse a part of Domestic Violence?

Sexual Abuse includes all acts of unwanted sexual attention and exploitation, including inappropriate touching or molesting, exposing a person to pornographic materials, sexual assault with an object, forced bondage and rape. When these activities occur within families and intimate relationships they become part of domestic violence. By using sex to humiliate and to inflict violence on victims, the abuser is able to exert power and control over them. The effects of domestic violence – shame, confusion, fear and anger – will not go away. Silence allows it to thrive. Know that Domestic Violence is not your fault if you are a victim.

WHAT IS AGAINST THE LAW?

Any kind of abuse is harmful. But many kinds of abuse are also against the law – they are crimes and the police can lay charges. Assault is the most common charge used against the abuser. Criminal harassment (stalking) is another important charge to know about.

Assault

If your partner or ex-partner does any of the things listed below, it is assault and is a crime:

- Hits you or physically hurts you
- Threatens to hit you or physically hurt you and you believe that he can do it
- Forces you to do something you do not want to do for his sexual pleasure

Criminal Harassment (stalking)

Criminal harassment is unwanted attention: a pattern of threats and actions that makes you afraid for your safety or your children's safety. It may make you feel you can't do what you want or go where you want.

If anyone, especially an ex-partner, does any of the things listed below and makes you afraid for your safety, or the safety of your children or pets, it is criminal harassment (stalking) and it is a crime. Some examples are:

- ◆ Contacts you over and over again (for example at work or at home in the middle of the night)
- ◆ Makes indecent phone calls to you, or calls you over and over and hangs up without speaking
- ◆ Follows you or watches you or other family members (for example parks outside your house)
- ◆ Sends you gifts you do not want
- ◆ Threatens you or other family members or friends
- ◆ Threatens to destroy property or harm your pets
- ◆ Does anything else that is threatening and that makes you afraid he will harm you

If any of the things described above are happening to you, call the police right away. Also, to help the police with your case, keep a written record of every incident, including what happened, the date, the time, and where it happened. Assault and criminal harassment are against the law. You have the right to protection.

Uttering Threats

(1) Every one commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat

- (a) to cause death or bodily harm to any person;
- (b) to burn, destroy or damage real or personal property; or
- (c) to kill, poison or injure an animal or bird that is the property of any person.

Disobeying Orders of the Court

(1) Every one who, without lawful excuse, disobeys a lawful order made by a court of justice or by a person or body of persons authorized by any Act to make or give the order, other than an order for the payment of money, is, unless a punishment or other mode of proceeding is expressly provided by law, guilty of

- (a) an indictable offence and liable to imprisonment for a term not exceeding two years; or
- (b) an offence punishable on summary conviction.

ARE YOU THE ONLY ONE?

No. People of all age groups, from all economic and social classes, and from all racial and cultural groups can be abused.

Since the age of 16, 51% of Canadian women report having experienced at least one incident of physical or sexual violence.

Nearly one quarter of women (22%) who have experienced wife assault never told anyone about the abuse. Statistics has shown that there may be as many as 35 violent incidents before a woman will call the police. In Canada, their partners kill an average of two women every week. (Stats Canada 2003)

It is hard for any woman to take action to stop abuse in a relationship. If you are a senior or a person with disabilities you may be dependent on your partner to take care of your daily needs. This could make it especially difficult for you to protect yourself from abuse.

You may also feel particularly isolated because of language, pressures from family, racism, or because you are a newcomer to Canada. You may have more difficulty convincing people that the abuse is really happening. If you are a newcomer you may be afraid of being deported if you contact the police or a service that can help. (See the next section for what the law says about women who are newcomers to Canada).

If you are being abused, it is important to remember: Violence against a partner in relationships is not a private, family matter. Assault and harassment are crimes.

If you are being assaulted or harassed, call the police or contact one of the agencies who can help. (See Page 20)

WOMEN WHO ARE NEWCOMERS TO CANADA

If you are a newcomer to Canada and your husband is violent towards you, here are some of the things you should know:

- ◆ If you have permanent resident status, you will not be deported if you leave the relationship, even if your spouse is sponsoring you.
- ◆ If your husband is your sponsor, and you leave him, you may be able to get social assistance.
- ◆ If you are a refugee claimant or you do not have permanent status, get legal help right away. Canadian immigration guidelines offer some protection to women who are being assaulted by their partners.
- ◆ If you are sponsoring your husband and he assaults you, get legal help. You may be able to withdraw your sponsorship of your husband.

If English is not your first language, you will be able to get the assistance of an interpreter through the agencies with Workers. Some of these agencies are listed in the "Who Can Help" section. (Page 20)

PLANNING FOR YOUR SAFETY, YOUR CHILDREN'S SAFETY AND THE SAFETY OF YOUR PETS

It can be very difficult to leave a relationship when you are being abused. But whether you choose to stay or to leave, your safety must come first. The police and court orders may be able to offer some protection, but there are limits to what they can do.

To help keep you and your children and pets safe, you need to have a safety plan – whether you have decided to leave or stay in your relationship.

What is a Safety Plan?

A safety plan means thinking about what you need to stay safe, getting information, and talking over your plan with people who can help. Making a safety plan means doing things like:
Telling neighbors or friends to call the police if they hear frightening or loud noises, or if they see anything suspicious.
Memorizing the telephone number of an agency that can help.

Thinking about where you can go if you decide to leave. (A place that is safe, like the emergency shelter, where he will not know to look for you).

- ◆ Putting some money in a safe place, a little at a time, and canceling joint credit cards.
- ◆ Packing a suitcase for you and the children and leaving it with a friend.
- ◆ Putting an extra set of keys for the car and the house in a safe, easily accessible place.
- ◆ Getting legal advice about your situation.
- ◆ Putting ID, passports and other important papers for you and your children in a safe place. (If keeping original documents is a problem, call the legal aid office 340-5119 for help in getting certified photocopies).

Where can I go?

If you need a safe place for you and your children, find the nearest Women's Shelter by calling 1-866-331-3933. Arrangements will be made for you and your children to stay at the shelter. Arrangements will be made for your pets through the local S.P.C.A.

Read "If you leave a violent relationship" and "What if you want to end the relationship" for more suggestions about your children and other safety issues. Remember, planning for your safety is something you need to think about on a regular basis, especially if your circumstances change (for example, if you move, have more children, you become ill, or the relationship becomes more abusive). Ask someone you trust to help you with your safety plan. It could be your worker, or a friend.

GOING TO THE POLICE / CALLING THE POLICE

If your partner or ex-partner or spouse has hit you, sexually abused you, or is threatening or harassing you, call the police. The emergency number is 911 and can be found inside the front cover of the phone book.

When the police answer, give your name and address. The person answering the phone needs to know what is happening. Try to speak slowly and clearly. You will need to answer all the questions you are being asked. Tell the police:

- ◆ That you are in danger
- ◆ What your person is doing or has done
- ◆ If he has a weapon and what it is
- ◆ If he has been violent before
- ◆ If you have children with you
- ◆ If either you or the children have been hurt
- ◆ If you already have a peace bond or restraining order in place

What happens when the police come?

When the police come to your house, they will talk to you to find out what has happened. Tell them if you are afraid for your safety and what your partner or ex-partner has done to make you afraid.

Tell the police if you have tried to leave the relationship, or have told your partner you are leaving. The police should know about this because your partner or ex-partner may become more violent.

If the police find that your partner or ex-partner has assaulted or threatened you, or that he might do it again, they will probably arrest him. The police must arrest the person if there is enough evidence. They can arrest him even if you don't want them to.

If your partner or ex-partner leaves before the police arrive, they can still arrest him if they can find him. If you know where he is, tell the police.

The police will give you a card with their name and phone number on it and your police case number. The office may arrange for a Victims Services Advocate to come to your home to assist you with information or getting to safety. If your partner or ex-partner returns you can ask the police to come back.

How do I get to a safe place?

You can ask the police or Victim Service Advocate to arrange for you and your children to go to the Central Alberta Women's Emergency Shelter. As an alternative, you can ask the police to get you and the children to friends, relatives, or a motel. Arrangements can also be made to ensure the safety of your pets.

What if I need medical treatment?

If you have been hurt, the police can get you to a hospital or doctor. The hospital will collect medical evidence of the assault. Remember you have the right to ask questions about any medical examination, to have a friend or worker with you, and to refuse treatment.

Do I have to leave my home?

No. The choice is yours. However, if you stay in the family home, it is a good idea to have the locks changed and to have a safety plan in place.

What will happen if my partner is arrested?

If the police make an arrest, one of these two things can happen:

He will be released but the police or courts will make an order that tells him there are certain things he cannot do (for example contact you or go to your home)

He will be kept in jail overnight, and will have to appear in front of a Judge in a courtroom for a bail hearing to see if he will be released and what the conditions of release are.

What if I don't want to proceed with the charge?

Once a charge has been laid, calling the police cannot drop the charges at your request. You must contact the Crown Prosecutor. The decision to drop the charges is not yours to make. The Crown Prosecutor may decide to proceed with the charges whether or not you want the trial to go forward.

If my partner is not arrested can charges still be laid?

Even if the police do not arrest the abuser, they are required to investigate your case and prepare a report. They will do this even if you have not been hurt or if you do not want to be a witness. They will ask you questions about what happened. It is important to tell the police as many of the details as you remember.

If the police believe a person has committed an assault or criminal harassment in a relationship, they must send a report to the Crown Counsel who decides whether or not your partner or ex-partner can be formally accused of a crime. If the Crown approves of charges, the police will "lay a charge". The police do not need your agreement or consent to do this.

You have the right to know the status of the police investigation and the court case involving your partner or ex-partner. Also, you have the right to know if Crown Counsel lays no charges. If you are not satisfied with the Crown's decision, you have the right to an explanation.

Under what conditions are charges not laid?

In order to charge an individual, the Police require evidence such as, bruises, abrasions, redness, etc. In cases where there is no witness or physical evidence, it would be extremely difficult to prove that you were abused. You would be asking them to believe your side of the story. If this is happening to you, you should consult a lawyer. (See Who can help)

What if I do not call the police right away?

It is a good idea to write down what happened and report the assault or harassment as soon as possible, so you can remember the details. Include time, date, place and as many specific details as possible. This helps the police get the evidence they need.

Even if you don't call the police right away, you still have the right to get help. Call the police or go in person to the police station to report the assault or harassment. A worker from the Central Alberta Women's Emergency Shelter, the Central Alberta Women's Outreach or RCMP Victim Services will accompany you if you wish. If you have been sexually assaulted, the workers from the Crisis Centre can assist you.

What will happen at the bail hearing?

At the bail hearing, the Judge will decide if the abuser should be let out of jail while he or she deals with the charges against the abuser. The Judge will say what things the abuser has to do to be released. These things are called "conditions of bail". For example a condition of bail may be that he cannot use alcohol or drugs or that he cannot own guns or other weapons.

Will the Judge issue a restraining order?

The Judge can order the abuser to stay away from your home or where you work and not to contact you either directly or indirectly. This means that your partner or ex-partner cannot phone you or write to you, send gifts, or ask someone else to give you a message.

Is it okay for me to contact my partner or ex-partner?

No. The order for no contact also means that you cannot phone or write to your partner or ex-partner, send him gifts, or ask someone else to give him a message.

Will he be able to visit with our children?

In some cases the Judge will order that a third party become involved so that the abuser can still see the children. He or she will determine the frequency, location and may include a condition that a third party supervises the visits.

How can I find out what the conditions of bail are?

Ask a victim worker to help you find out what the conditions of bail are. Keep a copy of the restraining order with you at all times.

What happens if he doesn't obey the conditions of bail?

If your partner or ex-partner doesn't do what the conditions of bail or the no contact order say, he can be arrested again and charged with "breach" of bail or an order. This is in addition to the first charge of assault or criminal harassment. If your partner or ex-partner breaks any of the conditions, phone the police or go to the police station at 4811 – 49 St. and report the incident.

IF YOU LEAVE A VIOLENT RELATIONSHIP

What about the children?

Take the children with you when you leave your home, to protect them and improve their chances of getting custody (the right to take care of them).

Be careful about your own safety if you go back for the children. Ask the police to go with you. Phone the police in advance to set up a time. The police officer can make sure you are safe, but they cannot force your partner to give you the children if you don't have a court order giving you custody.

Can he go to the school and take the children?

Let the school know what is happening. If you have a custody order, the school will not let your partner pick up the children. However, if there is no custody order in place, the school is powerless. Your partner has an equal right to pick up the children. Conversely, if your partner has a custody order, you cannot pick the children up at school.

If he refuses to let you take the children or he has a court order giving him custody, get legal advice right away. If you feel your children are in danger, call Central Alberta Child and Family Services Authority 340-5400. See also "Planning For Your Safety".

If I leave my home does that mean he gets to keep it?

Even if you leave the home at first, you may be able to get an order later from a Judge saying that you have the legal right to stay in the home with your children. This is called an "exclusive occupancy order". You need a lawyer to go to the court with you in order to get this order. See "Who Can Help".

If I leave, will the police help me to get my belongings?

It is strongly suggested, particularly in a violent relationship that you take only articles such as clothing, toiletries or children's belongings. The police will attend to keep the peace only. Property considered "dual property" must not be removed. The court during the divorce settlement will settle the possession of these items.

What will I do for money?

If you have a place to stay for now, but you don't have enough money, contact Employment, Immigration & Industry 340-5353 and apply for "Family Violence funding". This is emergency money they can give you quickly.

If you decide to stay separated from your partner and you have no money, you may apply for regular assistance through Employment, Immigration & Industry.

You can also apply to court to get financial support from your husband or ex-partner. Contact a lawyer to see if he can help you.

If you already receive money, like a pension or disability cheque, contact the office that sends you the cheques to tell them that you have separated from your partner. Give them your new address. It is important to tell the office that you have left an abusive relationship.

If you have money in a joint bank account, take your money out right away. If you have credit cards in both your names, contact the Credit Card Company to get them cancelled or to have your name removed. If your pension or disability

cheque is automatically deposited into your joint bank account, make other arrangements. If you own a house, car, or other property together, get legal advice.

How to get legal help

You may need to talk to a lawyer right away about children, money, or home you shared with your partner. If you cannot afford a lawyer, contact the Legal Aid Office 340-5119 or one of the other agencies that offer legal assistance. These are listed in "Who Can Help?"

THE COURT PROCESS

INTRODUCTION

When a person is charged with assault or harassment, then they have to go to Domestic Violence (DV) court. This DV court process is difficult for anyone, but especially for a woman who has been assaulted or harassed. The case may move slowly through the system. At times you may feel as if you are the one who is being charged with an offence.

It is important to remember, though, that many women who have gone through this process have found it helpful in the end. There are people who can help you. For example workers from the Women's Shelter, the Outreach Centre, the Crisis Centre or Victim Services will be with you during the court process if you wish.

Crown Counsel

The Crown Counsel is the lawyer representing the government. After the police have prepared their report, the crown counsel decides if there is enough evidence to charge the abuser.

It is important to remember that the Crown counsel makes this decision – and does not need your agreement to do so. The Crown counsel is not acting as your lawyer. He or she will consider if it is in the interests of the public to lay charges, and if it is likely that the court will find your partner or ex-partner guilty.

Will I have to go to court as a witness?

If the Crown Counsel decides that the case will go ahead, you are an important witness. You will be asked to "testify" the trial. The Crown Counsel may interview you before the trial and explain what will happen in court. A worker may also explain this process to you. It is called Court preparation.

If you need an interpreter, the Crown will arrange one for your interview and for your court appearance.

What if I do not want to be a witness or attend court?

If you decide you do not want to be a witness, A subpoena is a court order and if you are served, you must appear before the court. This will depend on other evidence available. If you are called to testify, you must do so, or be subject to contempt of court sanctions. One must tell the truth or be subject to perjury prosecution.

How will I know when I have to be in court?

You will be given a paper called a "subpoena". It tells you that you have to go to court and when the trial is going to take place. The subpoena will probably be delivered to you in person by a police officer.

What is a Victim Impact Statement?

RCMP Victim Services Advocate or the police officer will ask you if you want to fill out a victim impact statement. In this statement you can explain what effect the assault has had on you and your children. The Judge uses this statement to help determine what sentence the abuser will receive if he is convicted.

The statement is filled out by the victim and returned to the Victim Services Coordinator who will ensure that it is received by the court.

Do I have to be in court for every court date?

No. You do not usually have to be at the first appearance, although you can be there if you want to be. The Crown will tell you if you have to be present.

What happens at the first appearance?

The person who assaulted you, "the accused", will be ordered to appear in front of the Judge. At this "first appearance", he will usually be asked if he intends to get a lawyer if he has not retained one, and if he pleads guilty or not guilty. If the accused does not have a lawyer, a new court date will be set for a plea.

If the accused says he is guilty there will be no trial. The court will set the sentencing date. At the sentencing date, the Judge will say what will happen to the abuser. (See Sentencing). The court could order a pre-sentence report or sentence that day.

If the abuser says he is not guilty, a trial will be held at a later date.

If your partner or ex-partner has been in jail until the first appearance, the Judge may release him on bail until the trial starts. Usually, released on bail includes the condition that he stay away from the family home and has no contact with the victim. Another condition may be that he cannot have a gun or other weapons.

THE TRIAL

Before the trial, you may want to visit the courthouse to watch some other trials, to see what happens. A worker will go with you to familiarize you with the courthouse. One of these workers will also go to court with you for the assault trials if you wish. The following agencies provide court preparation and court accompaniment: Central Alberta Women's Emergency Shelter, Crisis Centre, Native Counselling Services, Central Alberta Women's Outreach and RCMP Victim Services.

The Crown will present evidence to show the offence happened. You will be called as an important witness. Other witnesses such as neighbours, police, friends, or perhaps your doctor may be called.

Will my children be called as witnesses?

No – your children will not have to testify unless it is absolutely necessary.

What does the defense lawyer do?

The lawyer defending your partner will question the Crown's witnesses, (including you). He will present the defense's side of the story. The process is the same as it was for the Crown counsel. Often, the accused will be called as a witness. The defense lawyer's questions may be more difficult for you to answer than the Crown's. That is because it is the defense lawyer's job to make your story seem less credible.

In some cases, the accused may decide to defend himself without a lawyer. If that happens, you may have to deal with your partner or ex-partner questioning you when you testify.

After hearing the facts presented by both sides, the Judge will make a decision.

Why can the accused be found not guilty?

If the accused is found not guilty, it does not mean that the Judge didn't believe you. Criminal trials follow strict rules of evidence, and the law says that the accused has to be proven guilty "beyond a reasonable doubt".

In rare cases, the Crown counsel will decide to appeal the Judge's decision. Appeal Judges make their decision based on all written notes taken at the original trial.

What happens if he is found guilty?

If your partner or ex-partner is found guilty, he will be sentenced. This means that the Judge will decide what should happen to him.

Your Victim Impact Statement will be taken into consideration. The information in it will help the Crown recommend a sentence, and will help the Judge decide.

WHAT KIND OF SENTENCE WILL HE RECEIVE?

If your partner or ex-partner is found guilty, here are some of the sentences he could receive:

Conditional Discharge with Probation

If he follows certain discretionary conditions such as:

Staying away from you and the children

Getting counseling

Attending a treatment program for drug or alcohol abuse

Attending anger management sessions for a certain period of time, he will not have a criminal record

Suspended Sentence with Probation

For a set period of time, he must follow all the conditions set by the Judge in a "probation order". Usually, one of these conditions is that he reports to a probation officer. The Judge may also order him into a treatment program. The probation officer must tell you what conditions are in the order, which would include jail time served in the community rather than an institution with probation.

If he does not follow the conditions of the probation order, he can be arrested and sentenced for not following the probation order, as well as for the original offence.

Jail

If the assault was severe or he has committed criminal offences before, he might be sent to jail. He may be allowed to serve his jail sentence on weekends so he won't lose his job.

How will I know when he gets out of jail?

It is important to tell corrections staff and the parole board of your address or telephone number changes. This is so they can send you up-to-date information about the parole hearings and release dates for your partner or ex-partner.

WHAT ELSE CAN I DO?

HOW CAN I BE PROTECTED IF MY PARTNER IS NOT PUT IN JAIL BUT CHARGED WITH AN OFFENCE?

There are three types of protection "tools" that can be used for your protection. They are the Emergency Protection Order, Queens Bench Protection Order and Peace Bond.

Emergency Protection Order (EPO)

An Emergency Protection Order increases the protection available to the victims of Family Violence by making it possible to remove the abusive family member from the home for a specified length of time.

Frivolous and vexatious claims are prohibited. Anyone who makes such a complaint can be charged with public mischief under the Criminal Code of Canada.

An EPO can be obtained on a 24-hour basis from a Provincial Court Judge or a presiding Justice of the Peace, by accessing the RCMP/POLICE or Children's Services. The order will be granted if the Justice of the Peace determines

that family violence has occurred and that immediate protection is needed. The Court of Queens Bench must schedule the order for review within nine working days.

The Central Alberta Law Office at 340-5119 acts as duty council for both the complainant and defendant for the first court appearance.

Once the abusive family member(respondent) has actual notice of the EPO, the order may be enforced.

An EPO can be used to:

- ◆ Keep abusive family members away from home, workplace, school or other premises where family members might be present.
- ◆ Prohibit abusive family members from making contact or communicating with other family members
- ◆ Grant exclusive rights to occupy the home to certain family members for a specified period
- ◆ Direct the police to remove abusive family members from their home and supervise the removal of personal belongings
- ◆ Direct police to seize and store weapons
- ◆ Specify any other provision for the immediate protection of family members

At the review that is scheduled within nine working days, the Court of Queens Bench may:

- ◆ Confirm the EPO
- ◆ Revoke the EPO
- ◆ Direct that an oral hearing be held
- ◆ Issue a new order

Queen's Bench Protection Order

Any new order resulting from a review of an EPO is called a Queen's Bench Order. The Protection Against Family Violence Act allows the victim to apply for protection directly from the Court of Queen's Bench. A protection order can be in force for up to one year and may be extended for further one-year periods.

In addition to the terms in an EPO, the Queen's Bench Protection Order can also include terms that:

- ◆ Require the abusive family member to reimburse the victim for any monetary losses suffered as a result of family violence
- ◆ Allow the victim or abusive family member to temporarily possess specified personal property
- ◆ Instruct the victim or abuser not to deal with property in which they both have an interest
- ◆ Require the abuser to post a bond to ensure compliance
- ◆ Require any family members involved in the violence to receive counseling

Restraining Order

- ◆ The victim is required to prepare all necessary paper work
- ◆ Prohibits certain actions or conduct by a person against whom the order is issued
- ◆ May be requested within an existing court action, or application can be made upon commencing a court action
- ◆ Applying for an Order does not involve the police and there is no need for an investigation or a police file
- ◆ Application is made in the courtroom before a presiding Justice of the Court of Queen's Bench
- ◆ Where the only relief asked for is for a Restraining Order there is no filing fee; if other relief is requested there is a filing fee e.g. Civil Matter - \$200 Divorce - \$210
- ◆ The process can be quite technical: a lawyer is recommended. For Family Law matters, an Instruction Package is available to assist you in applying. The instruction package is a fill-in-the-blank form for a Statutory Declaration and Restraining Orders that are not of a Family Law nature, you may have to file a Statement of Claim and other supporting documents.
- ◆ In truly emergent circumstances, the Order may be obtained in a day or two
- ◆ To take effect, the Order and Declaration/Affidavit must be served on the Respondent. (The person who must comply with the terms of the order).
- ◆ Once granted, the Order is usually set down for review in 2 to 3 weeks, and once reviewed is good for about 3 months or until the action is concluded.

- ◆ The order must contain an enforcement paragraph which gives the police the power to arrest
- ◆ You should register the Order at the Restraining Order Registry at your local police station along with a copy of the sworn affidavit of service proving that the Restraining Order was served on the Respondent
- ◆ Breaching the order is not a criminal offence, but it may be in civil contempt of court
- ◆ If you act on your own behalf, you will have to appear in court should the Order be breached

Peace Bond

- ◆ RCMP will prepare all necessary paperwork
- ◆ Compels the person against whom a peace bond has been obtained to refrain from certain behavior or contacting certain persons
- ◆ May be obtained by anyone who fears on reasonable grounds that another person will cause injury to him/her, the spouse or children, or that property will be damaged
- ◆ There is no need for a lawyer.
- ◆ There is no cost to obtain a Peace bond
- ◆ A Peace Bond remains in effect for one year
- ◆ In truly emergent circumstances, it is possible to obtain a Peace Bond in about 2 to 3 weeks; otherwise, it takes no longer
- ◆ To start the application process, you must attend your local RCMP station to prepare an information sheet that contains the allegations against the person you fear. The city of Red Deer RCMP complaint line is 344-5575.
- ◆ You will be required to attend at the courthouse before a Justice of the Peace to justify the allegations and then to swear the information
- ◆ The police will be involved in an application for a Peace Bond and a police investigation will be conducted
- ◆ You will be advised by the RCMP of a court date for the hearing for the person named in the Peace Bond. You may be required to attend court at a later date, and if so you will be notified
- ◆ If a Peace Bond is issued, you should keep a copy with you to show the police
- ◆ Breaching the provisions of a Peace Bond is a criminal offence

FINANCIAL BENEFITS AVAILABLE

Restitution

If the Victim has a financial loss as a result of a crime, he/she may have the right to seek restitution from the offender. Restitution is a way for the offender to repay the victim for a loss he/she has suffered.

The victim is required to complete a Request for Restitution Form, which can be obtained from the office investigating the case or Victim Services. Once the form is filled out, it should be returned to Victim Services as soon as possible. It will then be forwarded to the Crown Prosecutor.

The victim will be required to take all necessary documents to court to support the claim. Restitution that can be ordered may include:

- ◆ Damage, destruction, loss of property
- ◆ Bodily harm (monetary loss including income or support)
- ◆ Expenses incurred in moving out of the offender's house
- ◆ Losses incurred by unknowingly purchasing stolen property

After an offender is found guilty, the Judge can consider restitution when sentencing. The victim is responsible for filing the order as a Judgment in the Court of Queen's Bench. The Victim is also responsible for enforcing the Judgment in the same way as if he/she had brought an action in Civil Court and had obtained a Judgment. If the restitution is ordered but not paid, the victim may wish to consult a lawyer.

If the Crown declines to make application, the victim may request the court to do so on its own motion. In this case, the victim may wish to contact his/her own lawyer.

Financial Benefits for Victims of Violent Crimes

The Victims of Crime Act provides financial benefits to innocent victims injured during the commission of a crime. Those injured during a crime may be entitled for a one-time financial benefit based on the severity of injuries sustained.

Individuals are considered eligible for financial benefits if they have suffered physical or emotional injury as a result of being victims of a crime in Alberta. This program does not cover property damage or loss due to crime.

When a crime results in death, dependents of the victim may be eligible for financial benefits. Likewise, a legal guardian may apply on behalf of minors or dependent adults. If it is determined that the behavior of the victim contributed to the injury, the amount of the benefit may be reduced.

The requirements and conditions are:

- ◆ The crime must occur in Albert
- ◆ The details of the offence must be reported to the police within a reasonable length of time
- ◆ The Financial Benefits Program must receive written application within one year of the injury
- ◆ The applicant must provide such information about the matter and the injury sustained as a result, as this may be required to make a decision on the application
- ◆ Forms may be obtained from Victim Services

Supports for Albertans fleeing abuse

Albertans in an abusive situation can get help 24 hours a day, seven days a week through Employment, Immigration & Industry (Alberta Works). All they need to do is call 1-866-644-5135 toll-free from anywhere in Alberta to find out what is available. Financial supports are also available through Alberta Works Income Support providing the program's eligibility criteria are met.

Getting to safety

- ◆ Emergency transportation to a safe place, such as a women's shelter.
- ◆ Emergency accommodation in a hotel or motel if shelters are full or not available.
- ◆ Help for emergency needs not provided by a shelter, such as prescription drugs, nutritional products, dental, optical services and childcare.
- ◆ Relocation costs within Alberta or Canada are covered if needed, to escape threat of violence.

Setting up a new household

- ◆ \$1,000 benefit to help set up a new home.
- ◆ Damage deposit to secure a residence.
- ◆ Financial help for needs such as food, clothing, shelter and other basic needs,
- ◆ free from expectation to seek employment, so parents can deal with personal and/or family matters.
- ◆ \$50 monthly benefit in recognition that client is not ready to go to work.

Starting a new life

- ◆ Employment and training support services to help find a job is available to all Albertans.
- ◆ Free service to get child support from other parent(s), if doing so does not endanger safety of family.
- ◆ After getting a job, certain amounts are not deducted. Check with Employment, Immigration & Industry for details.
- ◆ Continued health benefits after family is able to leave
- ◆ Health benefits available for children in low-income families.

WHAT IF YOU WANT TO END THE RELATIONSHIP?

If you want to end the relationship, whether you are married or living common-law, talk to a lawyer. If you can't afford a lawyer, apply for legal aid. The following sections are about some of the things to discuss with a lawyer.

Maintenance and Support

It is Maintenance Enforcement Program's(MEP) responsibility to enforce child and spousal maintenance orders by collecting payments and forwarding them to the appropriate individuals. MEP can only enforce maintenance when the debtor, creditor or Crown has registered with the program. MEP seeks the voluntary cooperation of all people involved in orders for maintenance.

MEP will:

- ◆ Maintain the confidentiality of their clients' personal information
- ◆ Attempt to collect on all maintenance orders
- ◆ Conduct child status reviews at the request of debtors who believe their children may no longer be eligible for support under their court order
- ◆ Initiate the removal of collection actions within 14 days when debtors pay their arrears and make arrangements for future payments. Wage support deductions notices issued due to a debtor's failure to pay maintenance will normally not be terminated until the file is closed.

MEP does not obtain court orders for clients, change the amount of support ordered by a court or otherwise vary a court order. MEP also does not provide legal advice or legal representation to clients or deal with custody, access or parenting time issues.

The Family Law Act replaces the Domestic Relations Act, the Maintenance Order Act, the Parentage and Maintenance Act, and parts of the Provincial Court Act and the Child, Youth and Family Enhancement Act. The Family Law Act can be viewed and printed from the Alberta Queen's Printer website at www.qp.gov.ab.ca.

The Family Law Act;

- ◆ gives clear guidelines to family members, lawyers and judges about the rights and responsibilities of family members, and
- ◆ encourages settlement of family law disputes and focuses on the best interests of children.
- ◆ the responsibilities and powers of parents, guardians and others, how to share responsibilities, powers and time with children when parents do not live together
- ◆ how to decide on amounts of support, and
- ◆ how to apply to the court when people cannot agree.

The Family Law Act does not deal with:

- ◆ divorce, and
- ◆ matters involving family property, and
- ◆ child protection matters.

The old terminology – custody and access orders—often created the perception of “winners and losers” in the family law process. Because one of the main goals is to reduce conflict and help eliminate some of the emotional costs of family breakdown, these concepts have been removed.

The courts may make a parenting order when a child has more than one guardian (usually parents) who live apart and are unable to agree on how to distribute the powers, responsibilities and entitlements of guardianship.

A parenting order requires the allocation of parenting time and parenting responsibilities between the parents to be balanced and focused on the best interests of the child. There is no reference to custody and access.

A contact order involves contact between the child and persons other than the guardian—such as grandparents and other people who might be important to the child. An application for in-person visitation or other contact, such as by telephone or e-mail, can be made if a guardian has denied contact with a child.

Custody

Custody is a parent's legal right to take care of the children. If you leave a relationship, apply right away to family court for a temporary order for custody of your children – even if you did not take the children with you. You may need a lawyer for this.

Guardianship

Guardianship gives a parent the right to make decision about how their children are raised (including education, religious training, etc.). It is important to talk to your lawyer about this when making custody arrangements.

Access

Access is the legal term for the children's right to see a parent that does not have custody. You can ask the Judge to order specified access. This allows the non-custodial parent to see the children only if he follows certain conditions such as not drinking or using drugs for 48 hours before the visit, not taking them out of province, or seeing them only at specific times.

Property

Whether you are married or living common-law, you have a right to a fair share of the family assets such as a car, house, furniture and other things that the family used together.

What is Mediation?

- In mediation, parents or others involved in raising children work together with a trained mediator to work out parenting arrangements and resolve other issues that result when parents live apart.
- If you have a child under 18 years of age and either you or the other party earns less than \$40,000 per year, mediation services are available to you at no cost.
- If you prefer to hire a private mediator, visit [Alberta Family Mediation Society \(www.afms.ca\)](http://www.afms.ca)

What happens in mediation?

- The mediator may first meet with each party separately. This will help determine whether mediation is the best alternative for them. It also allows each parent to tell the mediator what issues they would like to try to resolve during the mediation.
- If both parties agree, they will meet together with the mediator to discuss and try to settle issues which may include:
 - how will the children share their time with each parent
 - who will make the day-to-day decisions about the children's lives
 - how much money will each parent pay to support their child(ren)
- The mediator has no decision-making authority and does not take sides
- Mediation sessions are confidential and cannot be used as evidence in any court action.

- The number of sessions usually depends on the number of issues to be resolved.

Child Protection Mediation

- Mediation Services will mediate contested Child Protection cases.
- Mediation Services are currently available through Court Services in Edmonton, Calgary and Rural Alberta.
- The process is empowering for all parties involved, improving communication and allowing input into outcomes that determine the best interests of the child and family in conjunction with Children's Services.

Benefits of Mediation:

- Children don't have to take sides, so can avoid getting "caught in the middle".
- Parents may learn how to improve communication and negotiation skills, making it easier to settle future disputes.
- A mediated agreement takes into account the family's special needs.
- Parents are often better able to accept and respect a mediated agreement that they have worked out together.
- Mediation is confidential and can save time and money.

WHO CAN HELP?

The following is a list of some of the agencies who can help you. This list is by no means complete. All of these agencies listed have workers who are ready to help you. If the agency you contact cannot help directly, the worker will put you in touch with an agency that can. **Remember you are not alone.**

Ambulance, Fire, Police (Emergency)	911
AADAC	340-5274
Central Alberta Refugee Effort Committee (CARE)	346-8818
Crisis Centre	340-1124
Central Alberta Women's Emergency Shelter	346-5643 or 1-888-346-5643
Central Alberta Women's Outreach	347-2480 or 1-866-347-2480
Community Information and Referral Society	346-4636
Dial-a-Law	1-800-332-1091
Central Alberta Child and Family Services Authority	
♦ Red Deer Service delivery	340-5400
♦ Regional Family Violence Coordinator	341-8642
Employment, Immigration & Industry	340-5485
Family Court Counsellor	340-7180
Help/Distress Line	340-1120
Legal Aid Society of Alberta	340-5119
Mental Health Help Line	1-877-303-AMHB (2642)
Native Counselling Services	347-4377
RCMP (Information)	341-2000
RCMP Victim Services	341-2041
Red Deer and District SPCA	342-7722
Red Deer Native Friendship Centre	340-0020

PHONE NUMBERS AND NOTES:

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