

RESTRAINING ORDERS

What is a restraining order?

If you are afraid that someone will harm you, there are legal orders that you can get from the court to protect you. These are called protection orders.

A restraining order is one type of protection order. If you are afraid that your partner or ex-partner may harm you or your children, you can ask for a Restraining Order from a family court. This is a document that will place restrictions on a partner or ex-partner to prevent any violence.

There is another type of protection order called a peace bond. This is an order you can get from the criminal court if you are afraid that someone will hurt you, your family, your pets, or damage your property. This is a signed promise to keep the peace and have good behavior. You can get a peace bond against anyone, such as a neighbour, sibling, friend or co-worker. But under Ontario's Family Law Act, you can only get a restraining order against a partner or ex-partner. Peace bonds are generally given for a year while restraining orders are more permanent. If you already have a peace bond you can also apply for a restraining order in family court if you seek protection for a longer period of time.

You do not need to have started a family court process to get the family court restraining order.

What types of restrictions can a restraining order place?

It can put limitations on:

- where your partner or ex-partner can go
- what they can do
- who they can contact

Example 1: They cannot go within 300 metres of your child's school

Example 2: They must stay 500 metres away from you and cannot communicate with you or your children

Example 3: They cannot go within 500 metres of your home or place of work.

Who can ask for a restraining order?

You can apply for a restraining order under the Family Law Act against someone if you fall under one of these categories:

- You were married to them
- You are married to them
- You are living with them or have lived with them for any period of time
- You have a child with them

How to obtain a restraining order?

Find out which courthouse to go to for your application. This will depend on:

- Where you, your partner or ex-partner or your children live and
- What other family law issues you need to deal with.

Normally, you would apply in the municipality where you, your partner or ex-partner live. But if your application also deals with issues around your children, such as parenting arrangements, you would apply in the municipality where your child lives.

There are 3 courts in Ontario that deal with family law – the Ontario Court of Justice, The Superior Court of Justice and the Family law branch of the Superior Court of Justice. All of them can give you a restraining order, but not all of them deal with all other family law issues. You should go to the court that is appropriate for dealing with the other family law issues you need to resolve.

Once you have determined the appropriate court, you must then:

- Apply to the court by filling out Form 8: Application (General) to start the court process. You can also ask for other family law issues to be resolved in your application OR:
- If you need the restraining order urgently, File an Application along with a motion with the court. In this case you will need to fill out Form 8: Application (General), Form 14: Notice of Motion, Form 14A: Affidavit (General).

(A motion is a process that requests a judge to make an order before a final judgment is made on a matter)

- Serve the documents, which means providing a copy of the documents to your partner or ex-partner so they know you have started a court case.
- Attend court to explain your case. If the danger is immediate, if you don't know where your partner or ex-partner is, or you are afraid that providing notice to them will increase the risk of harm, you can bring a "motion without notice." This means they won't know you've applied for a restraining order and they won't be in court to tell their side of the story. In this case, the judge will grant a temporary restraining order based on your documents only. The judge will set a court date for later to hear from both parties.

Once a restraining order is made:

- The court may make an interim (temporary) or final restraining order against a person.
- The police may arrest and charge the people or person named in the restraining order if they do not follow it and comply.
- Once an interim restraining order expires, the people named in the restraining order do not have to follow the conditions anymore.
- If you want to change the terms of an interim restraining order before it expires, you must file a motion through the court.
- You must file a motion through the court if you want to change the terms of a final restraining order.
- A final restraining order may be permanent or end on a date set by a judge. Temporary restraining orders end on a date set by a judge or when your family law case expires.

Keep yourself safe:

Just because there is a restraining order in place does not mean your partner or ex-partner will not try to harm you. It can also take time to get a restraining order. It is very important to have a safety plan in place. Contact a community agency or shelter to get help with creating a safety plan..