

The information in this pamphlet is general legal information only. You should get legal advice about your own situation.



Metropolitan Action Committee on Violence Against Women and Children

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Building a better foundation for justice in Ontario

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- for peace bonds *only*, document every time the person damaged your property (e.g. take photographs).

Mutual Peace Bonds. JPs often issue “mutual peace bonds” which say you and the other person cannot have any contact with each other. This suggests that you have done something to provoke the harassment.

Caution: if you agree to a mutual peace bond, this could cause problems with other legal areas such as custody and immigration.

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Once you have the peace bond, do not contact the other person, as it will be a breach. If you breach a mutual peace bond, you will have committed an offence and could be charged.

Can I change the terms of a peace bond? Yes, but it is very difficult to do so, and you will have to go through the whole process again.

What happens if a restraining order or peace bond is breached?

- Have a copy of the order with you and wherever you go often (e.g. work, your children’s school).

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- Go to a safe place.
- Call the police. With the order in hand, they can charge the person for breaching the order and s/he may go to jail.

Be aware: sometimes the police are not helpful and do not enforce these orders.

They may refuse to press charges or minimize your complaints. If the officer does not address your need for protection, you should talk to their supervisor. Ideally, try to have someone you trust with you when you talk to the police. You should also talk to Victim-Witness Assistance

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Program staff about what should happen the next time the order is broken.

What are terms of release (also known as “bail conditions”)?

When a person has been charged by the police and is detained in jail, there is a bail hearing before s/he is released from jail. A bail hearing usually takes place a day or two after a charge is laid. A JP or judge makes the bail decision based on evidence provided by the Crown Attorney and the lawyer of the accused. Where there is a victim, such as in cases of assault or criminal harassment, one

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of the usual bail conditions is that the accused has to stay away from the victim. This is called a “term of release.” Bail conditions will remain effective until criminal proceedings are done (i.e. when the accused is found

“guilty” or “not guilty” or the charge is withdrawn). Bail conditions can be changed, but the victim must give her/his consent if the person who is accused wants the no-contact term removed.

How do I get a term of release? When the accused is being released on bail, the Crown Attorney will ask you

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what you need to feel safe. You can say that you do not want the accused person to contact you (in person, by phone or e-mail, etc.). The Crown Attorney will then suggest terms of release to the court. A JP or judge will make a decision based on these suggestions and on the arguments the accused person’s lawyer makes.

What happens if the terms of release are breached? S/he can be charged with breaching his/her bail conditions and should be rearrested and brought before the court for a hearing to establish new bail conditions.

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Can I change the terms?

You can go to the Victim-Witness Assistance Program’s office and ask them to help you talk to the Crown Attorney. The Crown Attorney may ask the court about having the terms of release changed, but s/he makes the decision to approach the court with new terms. At the bail review meeting, the JP or judge will decide whether or not to accept the change(s).

Resources

Ontario Women’s Justice Network
www.owjn.org

Assaulted Women’s Helpline
1-866-668-8900 (toll free)
1-866-863-7068 (TTY)

Women’s Legal Drop-In
613-569-2236

Anishnaabe-Kwewag Gamig, Alderville Women’s Shelter
1-800-388-5171 (toll-free)
Shelters www.shelternet.ca

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Sexual Assault Centres

www.ocrcc.ca

Sexual Assault/Domestic Violence Treatment Centres

www.satcontario.com

Victim-Witness Assistance Program
1-888-579-2888 (toll-free)
416-314-2447 (Toronto)

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Notes

No contact orders

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If you feel threatened or are being stalked (e.g. followed, observed, harassed) by a partner, ex-partner, family member, or stranger, you should get a “no contact order” (NCO). You should also think about no contact orders if you are about to be released from jail or prison and fear for your safety and that of your loved ones.

Although NCOs may be an important step in protecting you and your loved ones, many women, especially those who are LGBT, Aboriginal, racially marginalized, immigrant, and young women, may hesitate to get one for many reasons:

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- they may fear that threats against them will be minimized. Unfortunately, this is a well-founded fear. Try to have someone you trust go with you when you request a NCO. The presence of a trusted friend or family member will not only provide you with moral support, but may also emphasize the seriousness of your situation.

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- they may be concerned about having their partners charged. But NCOs are *not* criminal charges. It is only when an NCO is breached that a person may be charged with the offence

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What are no contact orders?

There are three types of orders that a court can issue

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- of breaching it.
- they may fear that an NCO will make their abusers upset, angry, and/or more violent towards them. Some women go to shelters or a safe space before getting an NCO. There may be many steps to take in order to protect you and your children. It is important to get the help you need and create a “safety plan” (a list of things you can do to make yourself safer).

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when it believes someone may harm you or your loved ones or that you have a “reasonable fear” of being harmed - restraining orders, peace bonds, and terms of release. These orders are legal documents that are meant to stop the behaviour of the person you fear will hurt you. They usually say that the person has to:

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- stay away from you and/or your loved ones;
- not communicate with you and/or your loved ones by any means (telephone, e-mail, text messaging, etc.); and/or

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- not have guns, firearms, bullets, etc.

When someone “breaches” (disobeys) an NCO, its effectiveness often depends on you contacting the police so they will enforce it. Unfortunately, you should remember that the police do not always take action against people who breach these orders. NCOs do not replace your need to have a safety plan. Contact your local shelter or women’s agency to get help developing a safety plan.

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Restraining order

How does a restraining order work? It applies to

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partners, ex-partners, and family members, *but not* to strangers. It does not apply to property and it can last anywhere from a few days to several months or could be made into a permanent order.

How do you get a restraining order? You have to apply for one before a judge in Family Court. You can apply for a restraining order alone, or it can be part of another matter before the family court (e.g. a custody or divorce matter). It can take up to a few months to get a restraining order.

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What happens if you are in danger right now? You can ask the court for an “ex

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parte” restraining order (a restraining order you can ask the court to make without the other person’s participation). This may be important if the person who abused you is getting out of jail or there is some other urgent reason you are in fear for your immediate safety. Your abuser is not told about your application for the order. The judge can issue the order on the spot if they believe your fear for your immediate safety is true.

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An ex parte order is a temporary measure. It lasts for anywhere from 24 hours to one week. If you want the restraining order for a longer

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period, you will need to get an extension or apply for a regular restraining order.

What is involved in applying for a restraining order? Your application will involve: a formal submission, evidence, and a hearing where both sides can make their claims.

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Before changing the terms of an order (its details), be sure it is what you want and that you are not being pressured or threatened, because it may be difficult to go back to court and ask for the original terms. Should you decide to change the terms:

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- you need to go back to the

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court and bring a motion to change the terms of the order, or

- you and the other person may be able to make a new agreement through “mediation” (a process where things are decided out of court).

You do not have to agree to mediation if you feel uncomfortable or are afraid of your partner, ex-partner, family member.

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Peace Bond (also known as “entering a recognizance” or an “810”)

Make an appointment with a Justice of the Peace (JP) at a provincial court to explain why you are seeking a peace bond (the police do not need to be involved).

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How does a peace bond work? It applies to partners, ex-partners, spouses, family members, or strangers. It applies to any threats or actions that damage your property, as well as threats or actions of violence against you or your loved ones. It can last up to 12 months, and if your abuser or stalker refuses to sign the document, s/he will be jailed for up to 12 months.

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How do I get a peace bond? Make an appointment with a Justice of the Peace (JP) at a provincial court to explain why you are seeking a peace bond (the police do not need to be involved).

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If the JP agrees that a peace bond is required in your situation, s/he will issue a document telling the person you are concerned about to appear in court on a specific date. At the appearance:

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- you will give evidence under oath describing why you need a peace bond;
- the other person will have the opportunity to disagree with your argument; and
- the JP will decide whether or not the peace bond should be issued.

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- keep any evidence of abuse, such as hospital records, photographs, and threatening e-mails.
- if your children have been harmed or mistreated, you can present evidence on it.

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