



If you fear family violence, you may be able to get an order from the Provincial Court to protect yourself and/or a child.

**If you are concerned that you or your children are in immediate danger, call 911 or your local police emergency number.**

## When a protection order can be granted

A protection order is a court order made to protect one family member from another family member if there is a risk of family violence. Violence does not mean only physical or sexual abuse or violence. It can include emotional or physical abuse such as intimidation, harassment, coercion or stalking.

To apply for a protection order, you must be seeking protection from a family member as defined in the *Family Law Act*.

The protection order usually lists conditions (rules) the person named in it must follow. For example, they might be ordered not to have contact or communicate with the family members who need protection.

[Family Law Act](#)

## Other options

Applying for a protection order in Provincial Court may not be your only option. For example, if the order you are seeking would contradict an order made by the BC Supreme Court, you should apply for a protection order in that court.

Also, a person who fears violence may be able to get another type of protection order under the *Criminal Code* called a s. 810 order and should discuss their situation with police.

[Criminal Code protection orders](#)

## How to apply for a protection order

Get detailed information about how to apply for a protection order from the Legal Aid BC website.

The Court's *Application About a Protection Order* form also explains what you need to do to get a protection order, or to change or cancel a protection order, either with or without notice to the other party.

[Criminal or family law orders for protection \(Legal Aid BC\)](#)

## Whether the other party needs to be told about the application

It is very unusual for a judge to grant an order without having heard both sides. Fairness usually requires that both sides have a chance to be heard before a decision is made.

In most cases, if you are applying for a protection order, the person that you want to be protected from must be served (told).

However, if an order is necessary to provide immediate protection for you or a child and there is a real risk of harm if the other side were told about the application before it is heard, the judge can permit you to have a hearing without giving the other party notice.

If you say you don't want to give the other party notice in your *Application About a Protection Order* form, in most cases your application will be scheduled before a judge on the same day you file it. After hearing from you, the judge will decide whether you need to give notice to the other party.

If you do not need to give notice, the judge will give you a chance to present your case and they will make a decision on your protection order application. If notice to the other party is required, you will be told the steps you need to take before your application is considered.

## Evidence at protection order hearings

You may present evidence at a hearing about a protection order either by testifying or in written affidavits. The *Application About a Protection Order* includes an affidavit (a written statement of facts) for you to fill out. The affidavit can be your evidence at your hearing. You can also present affidavits from other people who have seen or heard things that are relevant

to your application. An affidavit should include the relevant facts and you can attach relevant documents to it.

Time in court is limited, particularly at a first appearance on an urgent application, so it is very helpful for the judge to be able to read any relevant documents before your court appearance. You can provide them to a judge by filing an affidavit in the court registry and, if you are giving the other side notice of the application, delivering a copy of it to them with your application.

Any affidavits or documents you prepare should be as short as possible.

## **What happens after a protection order is made**

If the judge makes a protection order, you will usually be given a copy before you leave the courthouse. You will be required to give the court whatever information you have about where the person named in the order can be found. The court registry will arrange to have a copy of the order, your application, and affidavit(s) served on (delivered to) that person.

## **How to have a protection order changed or cancelled**

If a protection order has been made against you in Provincial Court and you believe it is not justified, you can apply to change it or set it aside (cancel it).

You must file an *Application About a Protection Order*.

- Fill out Schedule 2 if you want the order to be changed
- Fill out Schedule 3 if you want the order to be cancelled
- Then have a filed copy, with any supporting documents, served on (delivered to) the other party by an adult other than yourself
- Read the section above titled "Evidence at protection order hearings" to be sure you provide factual evidence

The court registry will provide you with a court date. The other party is usually entitled to at least seven days' advance notice of your application before the court date. However, it may be possible to have your application heard by a judge with less than seven days' notice if the matter is urgent. Use an *Application for Case Management Order Without Notice or Attendance* to ask a judge to shorten the notice period.

The judge may be able to decide your application on the first day you and the other party go to court, but if your case is complicated or there is a lot of evidence, you may need to return to court for a hearing on another day. If so, the judge may make an interim (temporary) order to last until the hearing.

## **Do you need a lawyer to apply for a protection order or have one cancelled?**

You do not need to have a lawyer to make applications in court or to file court documents, but you may find it very helpful to speak to a lawyer about your problem. A lawyer can give you advice about your legal issues and can help you understand court forms and processes. They can also help you prepare for a hearing or other court appearance.

### **Provincial family forms**

Application about a protection order and Application for case management order without notice or attendance.



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