Exclusive Possession Orders

An **Exclusive Possession Order** is a court order giving someone the right to live in the family home (exclusive possession) while ordering others living there to leave. For example, the court can grant exclusive possession to a person experiencing domestic violence and order the person causing harm to move out.

What does an Exclusive Possession Order say?

An Exclusive Possession Order can:

- evict your spouse or partner from the home
- order your spouse or partner to stop entering or going near the home
- give you exclusive possession of the family vehicle, pets and other household goods you need to look after yourself and your children

The **family home** is:

- property you or your partner or spouse owns or rents, *and*
- where you have lived with your partner or spouse, *and*
- a house, self-contained dwelling unit, mobile home, condo, suite, or living quarters in a business.

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

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Who can apply for an Exclusive Possession Order?

You can apply for an exclusive possession order if your relationship has broken down, and you and your partner or spouse cannot live peacefully together. You can apply if you rent or own your home, even if your name is not on the lease or title of the home.

If you are married or in an adult interdependent relationship:

You can apply for exclusive possession of your family home under the *Family Property Act* or *Family Law Act*. You should know:

- You can only apply under the *Family Law Act* if you are also applying for child support, or partner or spousal support, or both.
- The *Family Property Act* gives both spouses or partners the right to apply for exclusive possession of the home.

If you are not married and not in an adult interdependent relationship:

- You can apply for exclusive possession of your family home under the *Family Law Act* **only if** you are also applying for child support.



For more information on **Adult Interdependent Relationships**, see CPLEA's **Living Together booklet** at **www.cplea.ca/publications**

If you are experiencing family violence, the process is different. You can apply for exclusive possession of the home under the *Protection Against Family Violence Act* if you are applying for an Emergency Protection Order or King's Bench Protection Order. Find more information at **www.willownet.ca** – a CPLEA website about violence and abuse laws in Alberta. Or contact legal Aid Alberta's Emergency Protection Order program at 1.780.422.9222 (Edmonton area) or 1.403.297.5260 (Calgary area).

How to apply for an Exclusive Possession Order?

You must apply for the order in the Court of King's Bench, if you applying under the *Family Law Act* or the *Family Property Act*.

Because the court's rules can be complicated, it is best to have a lawyer represent you. If you represent yourself, make sure you understand the rules that apply to you.

See the other info sheets in this series for more information about the court process at **www.willownet.ca**.

What does the court think about?

The court must consider the following things when deciding whether to grant an Exclusive Possession Order:

- if your partner or spouse has other living options
- the needs of your children
- you and your partner or spouse's finances
- any other court orders about child support, spousal or partner support, or dividing property
- any restrictions or conditions of the lease, if the family home is rented

How long does an Exclusive Possession Order last?

An Exclusive Possession Order is temporary. It does not allow you to keep the family home forever. The judge will decide how long the order should last depending on your situation. For example, the order may last until your divorce is final or until your children finish school.

While the order is in place, you and your spouse or partner both must consent to selling the home. To protect yourself, you can register the Exclusive Possession Order against the title of the home at Alberta's Land Titles Office if:

- you or your partner or spouse owns the home
- you or your partner or spouse have a lease for more than 3 years, or
- you or your partner or spouse have a life estate in the property.



Find more information about going to court at **www.cplea.ca/courts**

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About CPLEA

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

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Resources

Find more information about domestic violence and the other info sheets in this series on **WillowNet** – a CPLEA 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/victim-services-units.aspx**
  Connect with local supports.
- **Court and Justice Services: www.alberta.ca/court-and-justice-services.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/3g8tby9