

# What you need to know about... Emergency Protection Orders

## What is an Emergency Protection Order?

An Emergency Protection Order (EPO) is a legal tool intended to protect Albertans experiencing family violence. If you are experiencing family violence, you may want to consider applying for an EPO. If you are eligible, an EPO can do any of the following:

- Require an abusive family member to:
  - Stop entering or going near your home, place of employment, or children's school(s). This can also include other places you regularly go.
  - Stop contacting or associating with you and your family.
  - Stop communicating with you and your family both directly and indirectly.
- Give you exclusive possession of your family home even if your name isn't on the lease or title.
- Give you temporary possession of personal property such as pets, vehicles, debit cards, passports, health care, and insurance cards, etc.
- Give police the authority to:
  - Remove the abusive family member from your family home.
  - Seize and store weapons when they have been used or their use has been threatened in family violence.

When you apply, a judge or justice of the peace will assess your situation and if you're eligible, will issue an EPO tailored to your needs.



To learn more about whether an EPO is the best option for your situation, contact the Family Violence Info Line at 310-1818, your local family violence information centre or shelter, or Legal Aid Alberta's Emergency Protection Order Program at 1-866-845-3425. If you are in immediate danger, call 911 for help.

## When can I apply for an Emergency Protection Order?

If you are or have experienced any of the following types of **family violence**, you can apply for an Emergency Protection Order (EPO):

- Actions that cause personal injury or property damage, and are intimidating or cause harm. This can include punching, kicking, breaking furniture or personal items, damaging doors or walls, among other things.
- Failure to provide food, shelter, or medical attention that causes injury and is for the purpose of intimidation.
- Threats that cause reasonable fear of injury or property damage and intimidation. This can include emotional and mental abuse in certain cases, particularly if there is a history of threats being carried out.
- Forced confinement (for example, being locked in a room with no way out).
- Sexual contact that is the result of force or threat of force.
- Stalking, which includes repeated, harassing contact.



An EPO will only be granted if the situation is urgent or serious, which usually means the family violence recently happened or is serious enough to warrant an EPO. If the situation is not urgent or serious, an EPO may not be issued. A restraining order or Queen's Bench Protection Order are alternatives if the situation is less urgent.

In order to apply for an EPO, Alberta law states that family violence must have been committed by a **family member**. In Alberta, a family member includes anyone who:

- Is related to you by blood, marriage, or adoption, including adult children and in-laws.
- You are (or were) married to.
- You are (or were) in a common law (adult interdependent) relationship with.
- You live with (or lived with) in an intimate relationship.
- You have children with, regardless of whether you lived together or were married.
- You have care and custody of or legal guardianship over.



An EPO cannot be issued if the violence was committed by someone you are dating, if you do not live together and do not have children together, or if the violence was caused by someone you live with but are not intimate with (for example, a roommate). However, these individuals can still have criminal charges filed against them.

## How do I apply for an Emergency Protection Order?

You can apply for an Emergency Protection Order (EPO) anytime day or night in many different ways:

- You or your lawyer can apply in person at your local courthouse during business hours.
- Contact Legal Aid Alberta's Emergency Protection Order Program (EPOP) during business hours. Staff will arrange for you to meet with a lawyer who can provide you with free advice about whether to apply for an EPO or another protection order. If you are eligible for an EPO, the EPOP lawyer will make the application on your behalf.
  - In Edmonton, call 780-422-9222
  - In Calgary, call 403-297-5260
  - In Lethbridge, call 403-388-3162
  - For all other jurisdictions, call 1-866-845-3425 to ask about services in your area.
- In Edmonton or Calgary, visit the Bail Hearing Office at your local courthouse. It is open 24 hours a day, seven days a week.
- Contact the Victim Services Unit in your area. Call 780-427-3460 or visit [www.solgps.alberta.ca/programs\\_and\\_services/victim\\_services/Pages/VictimServiceUnits.aspx](http://www.solgps.alberta.ca/programs_and_services/victim_services/Pages/VictimServiceUnits.aspx) for a list of locations and contact information.
- In emergencies, contact police who can make an application on your behalf. Police can also press criminal charges against the abusive family member.
- Call the Family Violence Info Line at 310-1818 (open 24 hours) to be referred to a service in your area that can help.

After you make an application, a judge or justice of the peace will consider your application and decide whether to grant an EPO.



If you are issued an EPO, call Legal Aid Alberta at 1-866-845-3425 as soon as possible to arrange for a duty counsel lawyer to represent you at your review hearing. There are no financial eligibility criteria or there is no charge for this service.

## Will my abusive family member know that I am applying for an Emergency Protection Order?

Not right away. When you make an application for an Emergency Protection Order (EPO), the abusive family member (known as the Respondent) does not have to be given advance notice of your application. This is called an *ex parte* application.

However, an EPO is not enforceable until a copy of it is given to the Respondent, so that he or she knows what rules to follow. When an EPO is issued, a police officer (or another third party like a process server) will be responsible for giving a copy of it to the Respondent.

Since an EPO can be issued without notice to the Respondent, a review hearing is held after it is issued to allow the Respondent to reply to the EPO.

## How does a judge or justice of the peace decide whether to grant an Emergency Protection Order?

There are three criteria that must be met for a judge or justice of the peace to grant an Emergency Protection Order (EPO):

- family violence must have taken place;
- there is reason for you to believe the violence will continue; and,
- the situation is serious or urgent enough for you to require an order for your immediate protection, and the protection of other family members living with you.

A judge or justice of the peace will consider:

- the history of family violence, and whether it is repetitive or escalating;
- any evidence of controlling behaviour by the abusive family member;
- the existence of immediate danger to you or your property;
- the vulnerability of any elderly family members;
- the impact of the exposure to family violence on your children; and,
- your need for a safe place to arrange for longer-term protection from family violence.



If you are granted an EPO, you will receive a copy of it and an information sheet that explains what will happen next, called **Important Information When You Have Been Granted an Emergency Protection Order**. You should also call Legal Aid Alberta at 1-866-845-3425 to arrange for a duty counsel lawyer to represent you at the review hearing.

## How long does an Emergency Protection Order last?

An Emergency Protection Order (EPO) starts as soon as it is ordered and served on the abusive family member. It lasts until it is reviewed by the Court of Queen's Bench. A review of the EPO must take place within nine working days from when it was first issued. The EPO will contain the date, time, and location of the review. If an EPO is confirmed by the Court of Queen's Bench, it can last for up to one year.



You should keep your copy of the EPO with you at all times, so that you can show it to the police if the abusive family member isn't following the rules in it.

## What happens when an Emergency Protection Order is reviewed?

At the first review hearing, a Court of Queen's Bench judge will have a copy of your EPO, the application, and a transcript of what you (or the police officer) said when you appeared before the judge or justice of the peace to get the EPO. The Court of Queen's Bench judge will consider any additional evidence submitted by you or the Respondent. This evidence is usually submitted in the form of an affidavit, which is a written statement made under oath.

After considering all of the evidence, the judge will do one of the following things:

- cancel the EPO;
- confirm the EPO;
- order another hearing where you and the Respondent will give oral evidence; or,
- cancel the EPO and issue a Queen's Bench Protection Order to replace it.

The review hearing will take place even if you or the Respondent are not present. You do not need a lawyer for the hearing, but it is recommended. Legal Aid Alberta will provide you with a free duty counsel lawyer for the hearing regardless of your financial circumstances. If the Court of Queen's Bench judge orders another hearing, you will no longer be eligible for help from duty counsel and will need to apply for legal aid or hire a lawyer to assist you.



Duty counsel are lawyers located at the courthouse who are available to assist unrepresented individuals. Call Legal Aid Alberta at 1-866-845-3425 as soon as your EPO is issued to confirm availability of duty counsel for your review hearing.

## What happens if the abusive family member doesn't follow the Emergency Protection Order?

If the abusive family member is not following the rules in the Emergency Protection Order (EPO), call the police. You will likely need to show police a copy of your EPO.

Once you have made a report to police, they can decide whether to arrest and charge the abusive family member with a breach. If charged, he or she will have to appear in court and will be prosecuted by a Crown Prosecutor. If the abusive family member pleads guilty or is convicted of breaching the EPO, he or she will be fined or receive a jail term. Anyone convicted of more than one breach automatically receives a jail term.



Be aware that an EPO is not a long-term substitute for a custody or parenting order, or for an order dividing property. It is to be used for protection and safety only.

## Help and Further Information

### Legal Aid Alberta's Emergency Protection Order Program (EPOP)

- In Edmonton, call 780-422-9222
- In Calgary, call 403-297-5260
- In Lethbridge, call 403-388-3162
- Other areas, call 1-866-845-3425

### Victim Services Alberta

- Call 780-427-3460 or visit [https://www.solgps.alberta.ca/programs\\_and\\_services/victim\\_services/Pages/VictimServiceUnits.aspx](https://www.solgps.alberta.ca/programs_and_services/victim_services/Pages/VictimServiceUnits.aspx) for a list of locations and contact information.

**Family Violence Info Line** (available 24/7 in over 170 languages): 310-1818

**WillowNet: Abuse and the Law in Alberta** provides plain language legal information including all of the information sheets in this series: [www.willownet.ca](http://www.willownet.ca).

**LegalAve** provides plain language information about family law in Alberta: [www.legalave.ca](http://www.legalave.ca).



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