

# EMERGENCY PROTECTION ORDERS

## (Protection Against Family Violence Act)

An Emergency Protection Order (EPO) can provide immediate protection to victims of domestic violence. An EPO is normally obtained with the assistance of the police and is ordered by a Provincial Court Judge or Justice of the Peace. The police usually apply for an EPO by telephone and **can only apply with the consent of the victim (who is referred to in the legislation as the claimant)**. However, the claimant, or a person who has the consent of the court, may also appear in person before a Provincial Court judge to ask for an EPO. An EPO can only be granted if the Justice of the Peace or Provincial Court Judge decides there has been family violence, and that because of seriousness or urgency, there is a need to ensure the immediate protection of the victim.

An EPO can be obtained from a presiding Justice of the Peace on a 24 hr. basis and can:

- Keep abusive family members away from the home, workplace, school or other premises where family members might be present;
- Prohibit abusive family members from contacting or communicating with other family members;
- Grant exclusive rights to occupy the home to certain family members for a specified period.
- Direct police to remove abusive family members from the home temporarily;
- Direct police to accompany family members to their home and supervise the removal of personal belongings;
- Direct police to seize and store weapons; and
- Specify any other provision for the immediate protection of family members.

An EPO can be granted for up to one year.

A court date for the review of an EPO must be set within seven (7) working days after the EPO has been granted. If a review cannot be scheduled within 7 days, the EPO will be in effect until the review date. At the review, a Justice of the Court of Queen's Bench may confirm the EPO, revoke the EPO, direct that an oral hearing be held, or issue a new order. There is no requirement for a lawyer for the victim at this review, however, one would be helpful. Legal Aid will provide a lawyer for the claimant at the review. There is no need for the claimant to file an application or pay any associated legal fee for the initial EPO application or up to one court appearance.

The police officer will give one copy of the EPO to the respondent and another copy to the claimant. Once the respondent has notice of the EPO through either personal or substitutional service, the EPO may be enforced.

If both the claimant and the respondent want to "stop" the EPO, it may be possible for them to have the matter brought forward to Queen's Bench Chambers to apply for a consent order vacating the EPO.

**An EPO is not a replacement for criminal charges.** The police will still lay charges under their mandatory charging policy if there is sufficient evidence of a crime, regardless of the wishes of the victim. An EPO can be granted regardless of whether or not criminal charges have been laid.

An EPO may be inappropriate if the respondent has a history of severe violence and mental instability. If the respondent is unlikely to comply with the order the police may not be able to protect the claimant. The claimant should make plans for her/his safety and should consider accessing an emergency shelter. In exceptional circumstances, police may be able to apprehend the respondent under the provisions of the **Mental Health Act**.