

Restraining Orders

An application for a Restraining Order is a civil action filed by a lawyer in Court of Queen's Bench. A person who fears that another person will cause them or their family personal injury, or will cause damage or loss to their property, or property which is part of a matrimonial property claim, may apply to the Court for a Restraining Order. If both parties are legally married, a request for a Restraining Order must be accompanied by an action such a divorce or judicial separation.

A Restraining Order is a Court order that requires an individual, usually a spouse, to stop molesting, annoying or harassing the plaintiff, or the plaintiff's family. In making the Order the judge will consider if irreparable harm will be caused to one spouse if the order is not made. If the order is granted, a condition is included ordering the police to arrest the defendant if the Restraining Order is not complied with. The defendant is then brought before the Justice of the Court of Queen's Bench, charged with contempt of court. If found guilty of contempt of court; the Court has the authority to order the defendant to pay a fine or go to jail. A Restraining Order is effective as soon as it is served on the other party by a document process server. A copy of the Restraining Order should be brought to the RCMP detachment after service so police are aware of the order prior to any breach.

If the Order is breached, the victim should call the police, showing them a copy of the Order. The petitioner also has conditions which they must follow e.g. if the spouses reconcile, the Restraining Order is not longer valid.

The closest Court of Queen's Bench to the Bow Valley region is in Calgary. The best way to proceed in making an application for a Restraining Order without using a lawyer is to contact Calgary Legal Guidance's Court Preparation and Restraining Order Program at 403 234-9266 or visit www.clg.ab.ca