



If You Have a No Contact Order Made Against You

December 2014

❗ In this fact sheet, **partner** means the person you're not allowed to contact.

What's a no contact order?

If you were involved in a family violence incident, the court may have made a no contact order against you. A no contact order is a court order that makes it illegal for you to contact your partner, either directly or in some other way. This is true even if your partner wants to contact you. You can go to jail or be fined if you try to get in touch with your partner in any way, such as:



phone calls



written messages, including email



messages sent through other people



visits to your partner's home or workplace

There are five types of court orders commonly called no contact orders.

- **Condition of release from custody before trial (bail):** If you've been charged with assaulting or threatening your partner, you may be ordered not to contact your partner until your trial is complete. A judge or justice of the peace can make this order.




A condition of release applies until your trial is over, and (if you're found guilty) until you've been sentenced.

- **Condition of probation:** If you plead guilty or are found guilty of assaulting or threatening your partner, the judge may sentence you to probation instead of jail. Or the judge may order probation after you get out of jail. Usually the judge will order that you follow certain **conditions** (rules) during probation. One of the conditions could be a no contact order.




A condition of probation order may last for up to three years.

- **Conditional sentence:** If you're convicted of a crime and given a conditional sentence, this means you won't go to jail. Instead you'll serve your sentence in the community and have to obey certain conditions. Those conditions might include a no contact order.

 A conditional sentence may last for up to two years minus one day.

- **Peace bond:** Your partner or the police can ask for a peace bond to keep you from harming your partner or the children. There'll be a hearing in criminal court and the judge will decide whether to order a peace bond and what the conditions will be. The peace bond usually includes the condition that you not have any contact with your partner (and any of your or your partner's children).


The peace bond doesn't give you a criminal record. But you can be charged with a criminal offence and get a criminal record if you don't obey the conditions.


 A peace bond may last for up to one year.

- **Family law protection order:** Your partner has to apply to family court to get this order. Your partner can apply without letting you know. The order can be made even if you're not at the court hearing. You'll get a copy of it.

The judge can order that you have no contact with your partner (and any of your or your partner's children). You'll have to stay away from specified places where they might be. A family law protection order may also include orders about having weapons or other things. You can go to court to ask to have the order **set aside** (cancelled) if you think it's not reasonable.

The family law protection order doesn't give you a criminal record. But you can be charged with a criminal offence and get a criminal record if you don't obey the conditions.

 A family law protection order lasts until the date noted on the order. If there's no end date on the order, it will last for one year.

-  If you **breach** (disobey) the conditions of any no contact order, you could be charged with a criminal offence and could go to jail.

A no contact order is in place. If my partner phones and wants to see me, is it okay to meet?

No. You can be charged with a criminal offence if you try to make contact, even if you both want to meet. You must apply to a judge to change the court order before you can contact your partner.

How do I get the no contact order changed?

You can ask the court that made the order to **vary** (change) it. Your partner must agree to the change and appear before the judge to explain why. The judge will have to agree that your partner (and any of your or your partner's children) are no longer at risk of harm from you.

Talk to your lawyer or **duty counsel** (lawyers paid by Legal Aid) at the courthouse about how to apply to court to change the order.

I was taken to overnight lock-up after a family violence incident. Does my partner have the right to change the locks and keep me out of my house?

Yes, your partner has that right if there's a no contact order in place with the condition you not go to your home. The police or a justice of the peace may order you to have no contact with your partner when you're released. Even if there's no order, your partner may think your attempt to return home is a threat.

Talk to your lawyer or duty counsel at the courthouse about how to apply to court for an order that gives you the legal right to enter the home.

I was released from lock-up and a no contact order was made. The police took me home to pick up my things because I'm not allowed to live there now. I forgot my laptop and work clothes. What can I do?

Don't contact your partner directly or through another person. You could be charged with breaking the no contact order.

You can ask the court for an order to get your things. Talk to your lawyer, a courtworker, or a family justice counsellor about how to do that.

A no contact order is in place saying I can't speak to my partner or go near the home. Can I see my children?

When you're charged with assaulting or threatening your partner, the court may also order you to have no contact with your children. Do what you can to persuade the criminal court not to make that order. You can ask the court instead to order that you have "no contact or parenting time with the children unless ordered by a family court." This would let you arrange with family court to spend time with your children. You wouldn't have to change the no contact order. The process to change the no contact order can be difficult and take a long time.

If your partner has a family law protection order, you may also have a parenting order. The parenting order may say whether you have parenting time or contact with your children, and what the conditions are. The protection order overrules the parenting order.

If you have a parenting order, talk to family duty counsel at the courthouse or a family justice counsellor about how to arrange to see your children. You may have to go to court to find out what your rights are.

The judge may order that with certain conditions you can continue to have parenting time or contact with your children. For example, the judge may say someone has to supervise your visits with your children.

The court ordered that my parenting time or contact with my children must be supervised. How can I get that changed?

You'll have to prove to the judge that a change in your circumstances makes it reasonable to change the order. The judge will look at what's in the children's best interests.

For help to change an order, talk to family duty counsel at the courthouse or find out if you qualify for the Family LawLINE phone service (phone numbers on the next page). A family justice counsellor may also be able to tell you how to apply to the court to have the order changed.



For online help with the process to change an order, see the Family Law in BC website.

www.familylaw.lss.bc.ca

Where can I find legal help?

- **Criminal court:** Contact duty counsel (at the courthouse), a Native courtworker if you're Aboriginal (Native Courtworker and Counselling Association of BC: **1-877-811-1190**, call no charge), or your local advocates organization.



Elizabeth Fry Society: www.caefs.ca/feature/local-societies
John Howard Society: www.johnhowardbc.ca

- **Family court:** Contact family duty counsel (at the courthouse) or the family justice counsellor (at the justice access centre or family justice centre) in your area (Service BC: **1-800-663-7867**, call no charge).
- **Family LawLINE:** You may qualify for free legal advice by phone from a family lawyer (for issues such as parenting time or contact with a child). Call Legal Aid:



604-408-2172 (Greater Vancouver)
1-866-577-2525 (call no charge, elsewhere in BC) 9:00 a.m. – 3:00 p.m.
Monday, Tuesday, Thursday, Friday
9:00 a.m. – 2:30 p.m. Wednesday

- **Lawyer Referral Service:** If you don't have a lawyer, call to get the name of one. You can have a half-hour appointment for \$25 plus tax to find out if you have a case and the fee to hire the lawyer. This service isn't available in all areas of BC.



604-687-3221 (Greater Vancouver)
1-800-663-1919 (call no charge, elsewhere in BC)

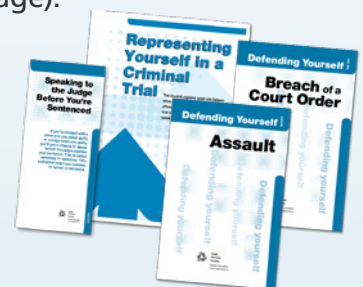
- **Information about the criminal justice system:** Ask at your local legal aid office for free publications or get them online (see the next page).



Defending Yourself: Assault
Defending Yourself: Breach of a Court Order
Representing Yourself in a Criminal Trial
Speaking to the Judge Before You're Sentenced



See also the Justice BC website.
www.justicebc.ca/en/cjis/you/accused/going_to_court/index.html
www.justicebc.ca/en/cjis/you/accused/court_decision/sentencing.html



- **Information about family law when there's abuse and family violence:** See the Family Law in BC website.



www.familylaw.lss.bc.ca/legal_issues/abuse.php
www.familylaw.lss.bc.ca/legal_issues/abuseLegislation.php

How to get free Legal Services Society publications

Read: www.legalaid.bc.ca/publications

Order: www.crownpub.bc.ca

(under Quick Links, click BC Public
Legal Education & Information)

Questions about ordering?

Phone: 604-601-6000

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This fact sheet explains the law in general. It's not intended to give you legal advice on your particular problem.



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www.legalaid.bc.ca