

Legal Options for Protection from Child Sexual Exploitation and Human Trafficking Protection Orders

A protection order for victims of human trafficking or child sexual exploitation can offer protection to victims by requiring the respondent (person you want to be protected from) to stay away from the victims.

This fact sheet provides information to explain how to apply for protection orders and how they work.

Definitions

Applicant – person applying for the order

Respondent – person you want to be protected from

Subject – victim of child sexual exploitation or human trafficking

Judicial Justice of the Peace (JJP) – the justice who will hear your case and make a decision based on the evidence presented

Child sexual exploitation – occurs where a child is compelled by force, the threat of force, intimidation or the abuse of power or a position of trust, to engage in sexual conduct; or, there is an exchange of drugs/inhalants/alcohol for sexual conduct

Human trafficking – occurs where a person abducts, recruits, transports or hides a person or controls, directs or influences the movements of that person and uses force, the threat of force, fraud, deception, intimidation, the abuse of power or a position of trust, or repeatedly gives drugs/inhalants/alcohol, to cause, compel or induce that person to: become involved in prostitution or any other form of sexual exploitation, to provide forced labour or services, or to have an organ or tissue removed

What is a protection order?

A protection order is a court order, granted on an urgent basis, forbidding the respondent from having contact with the victim (subject). These orders are granted by a JJP and can contain all or some of these conditions:

- The respondent may not communicate with or contact you or a specified person, directly or indirectly.
- The respondent may not follow you or any specified person.
- The respondent may not come near any place that you, or a specified person, happen to be or regularly attend, such as your home, job, school, or place of worship.
- The respondent must return specified personal effects or documents to you.

Who can apply for a protection order?

- an adult victim of human trafficking
- a parent or guardian of a child victim of human trafficking or sexual exploitation
- where a child victim is in care, a Child and Family Services Agency, appropriate CFS Authority, or the Director of Child and Family Services

The applicant must explain to a JJP why a protection order is needed, and provide facts, times, dates and locations which show why a protection order is urgently needed.

How much does it cost?

There is no charge for getting a protection order.

How are applications for protection orders made?

There are two ways to apply for a protection order – in person or by phone.

To apply in person:

- Go to the nearest Law Courts building and ask for a hearing for a protection order.
- Fill out the application and a fill-in-the-blank affidavit, describing the child sexual exploitation or human trafficking.
- Court staff will schedule the hearing for you.
- Go to the courtroom where your application will be heard. The JJP will either be in the room or in contact by teleconference or video conference.
- A lawyer or a peace officer can submit an application with the consent of the applicant.
- The JJP will review your application, affidavit and any verbal evidence given and make a decision.

You can bring a friend to court for support.

To apply by phone:

- Go to a lawyer or police officer and ask for help.
- Fill out an application and a fill-in-the-blank affidavit, describing the child sexual exploitation or human trafficking.
- The JJP will be called so you can give your evidence over the phone, as long as it is possible to tape record it.
- The JJP will review your application, affidavit and any verbal evidence given and make a decision.

You do not need witnesses or other people to give evidence when you are applying for a protection order, but they can do so if they have first-hand information about the facts.

How long does it take?

If the JJP finds you have sufficient evidence, you will be granted an order immediately. It will then go into a computer registry that is available to all police, so they can enforce the order if you call them for help.

How does the respondent know I have a protection order?

If a protection order is granted, the police or Sheriff's Office serve the respondent, as soon as they can, with a copy of the protection order. The respondent has 20 days, or a longer period if a judge allows it, to apply to have the order set aside (cancelled) or varied.

Can the respondent stop the protection order?

If the respondent applies to the Court of Queen's Bench to have the order set aside (cancelled) or varied, you will be notified. The respondent will be allowed to see and listen to the evidence you gave in court. You will be given notice of the hearing and will have the opportunity to explain to the court why the order should stay in place and answer the respondent's evidence. The protection order remains in effect unless the court orders that it should be set aside or varied.

How long is the order in effect?

Protection orders are usually in effect for three years. However, a JJP can grant a longer order if he/she believes you need protection for a longer time. If you have a protection order that has expired, or is about to expire, and still need protection, you can apply to get a new one.

Remember

- A protection order is not a guarantee of safety – a safety plan is very important.
- Just because you apply for a protection order does not mean you will automatically get one.
- JJPs issue court orders based on case law, facts and evidence. You must be specific about the facts of your situation, including dates, times and places.

Information

For more information and services related to child sexual exploitation and human trafficking, go to:

<http://www.gov.mb.ca/fs/traciustrust/index.html>

<http://www.gov.mb.ca/fs/traciustrust/initiatives.html>

For more information about this process, go to the Law Courts building nearest you or talk to a lawyer.

Human trafficking and child sexual exploitation are criminal offences and should always be reported to the police and child welfare authorities. If the police have enough evidence, they can charge the offender.