



Legal
Services
Society

British Columbia
www.lss.bc.ca

No Contact Orders Explained

Information for people with no contact orders made against them

Note: In this fact sheet, the term “your partner” refers to the person whom you are not allowed to contact.

What is a *no contact order*?

There are four types of orders that are all commonly called *no contact orders*. This brochure explains the different types, which can be:

- a condition of release from custody before trial
- a condition of probation
- a conditional sentence order of imprisonment (also known as “house arrest”)
- a criminal peace bond
- a civil restraining order

All of these orders make it illegal for you to have any contact with your partner, either directly or through another person. You can go to jail or be fined if you try to get in touch with your partner in any way, such as:

- phonecalls
- written messages
- sending messages through other people
- visiting your partner’s home or workplace

It is a crime to contact your partner — even if he or she wants to contact you.

What is a condition of release from custody before trial?

If there is a charge against you for assaulting or threatening your partner, you may be ordered not to contact that person until your trial is complete. This order could come from a police officer, justice of the peace, or judge.

What are a condition of probation and a conditional sentence order of imprisonment?

If you plead guilty or are found guilty of assaulting or threatening your partner, the judge may sentence you to probation or house arrest with conditions. One of the conditions could be a no contact order. Before the probation order starts, the judge may put you under house arrest with a

no contact condition. If you contact your partner when you are ordered not to, you could go to jail.

What is a peace bond?

A peace bond is a criminal court order that is meant to keep one person from harming another. Your partner or the police can ask for a peace bond. If they do, there will be a hearing. You will get a summons telling you to show up in court. Unless you agree to the peace bond (this is called *entering into a peace bond*), the hearing will go ahead. This hearing will be similar to a criminal trial. The prosecutor will try to prove that your partner has a reasonable fear that you will hurt her/him or the children. You or your lawyer can try to show that your partner’s fears are unreasonable. The judge will then decide whether to order a peace bond and what the conditions of the peace bond will be. The peace bond itself does not give you a criminal record, but it is a criminal offence for you to do anything forbidden by the peace bond.

What is a restraining order?

A restraining order is a civil order that says you must stay away from the place where you and your partner (and any children) live, and that you must not contact your partner at work, by phone, or in writing. To get this order, your partner has to apply to a family court judge, usually when applying for child custody or separation. It is a criminal offence to do anything forbidden by the restraining order; however, the order itself does not give you a criminal record.

What does it mean to “go to trial”?

When you are charged with breach of a court order, you will have to go to court. You will be asked whether you plead guilty or not guilty to the charge.

If you plead not guilty, there will be a trial. The prosecutor will present evidence about the charge against you. Your partner will be called as a witness,

and so will the police if they were involved. You or your lawyer will present your defence. A judge will decide whether you are guilty or not. If you are found guilty, the judge will sentence you. You might get a fine, probation, a jail term, or a conditional sentence order (house arrest).

What happens if I plead guilty?

There will not be a trial, but you will still have to go to court. The prosecutor will tell the judge what you are charged with and may ask for certain conditions or a certain type of sentence. You or your lawyer will have a chance to speak to the judge before you are sentenced. Ask at your legal aid office for the brochure called *Speaking to the Judge Before You Are Sentenced*. In most cases, a conviction means you will have a criminal record. This record can keep you from getting certain jobs, getting a passport, and visiting other countries.

Can I agree to a no contact order?

Yes. If you do, it means that you agree that your partner has reason to fear that you will harm her/him. The judge takes your agreement into account when deciding whether to make the order, but there also needs to be a legal reason for the judge to make the order.

How long does a no contact order apply?

Each type of order has its own time limit:

- A condition of release applies until your trial is over, and (if you are found guilty) until you have been sentenced.
- A probation order may last for up to three years.
- A conditional sentence order of imprisonment (also known as “house arrest”) may last for up to two years minus one day.
- A peace bond may last for up to one year.
- A restraining order can last for any amount of time. If there is no expiry date written on the order, it lasts until a judge makes another order changing it.

When there is a no contact order in place and my partner phones and wants to see me, is it okay if we meet?

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

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 children) are no longer at risk of harm from you.

How can I see my children if there is a restraining order saying that I cannot speak to my partner or go near the home?

When you are charged with assault or threatening your partner, the court may also order you to have no contact with your children. Try not to let the criminal court decide this. You can ask the court to order instead that you have “no access to the children unless ordered by a family court.” This would let you deal with getting access to your children in family court — without having to change the no contact order, which can be difficult and take a long time.

If your partner has a civil restraining order, there is probably also a custody order for the children. It may say whether you have access to your children, and if so, what the conditions are.

If you have a court order for access, 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 clarify what your rights are.

The judge may order that you have access to your children with conditions; for example, your visits might have to be supervised by someone else.

The court ordered that my access visits must be supervised. How can I get that changed?

Talk to family court duty counsel, call the LawLINE (see the next page for the phone number), or see the family law website at www.familylaw.lss.bc.ca for help with changing an order. A family justice counsellor may also be able to tell you how to apply to the court to have the supervised access order changed. The judge will look at what is in the children’s best interests. You will have to prove to the judge that there has been a change in circumstances that justifies changing the order.

If I am taken to overnight lock-up after a domestic violence incident, does my partner have the right to change the locks and keep me out of my house?

Yes. The police or a justice of the peace may order you to have no contact with your partner when you are released. Even if there is no order, your partner may think that your attempt to return home is a threat. Talk to your lawyer or duty counsel about how to apply to the court for an order that gives you the legal right to enter the home.

After I was released from lock-up and the no contact order was made, the police escorted me to pick up my things because I could no longer live at home. I forgot my laptop and work clothes. What can I do?

Do not contact your partner directly or through another person, or you could be charged with breaking the no contact order. Talk to your lawyer, a courtworker, or a family justice counsellor about how to ask the court for an order for the return of your things.

If I am convicted of a criminal offence, can the judge order me to attend a treatment program?

Yes. In some cases, you would have to agree to attend, but the judge can also order you to attend. You might do so in order to get probation or house arrest instead of a prison sentence. Contact your probation officer to find out whether there is a program in your area and to get help to sign up.

Do I need a lawyer or can I represent myself in court?

You can represent yourself, but you may need help from duty counsel or a courtworker to understand what happens in court and what to tell the judge. You can also go to your local legal aid office and ask for copies of these publications: *Representing Yourself in a Criminal Trial*, *Speaking to the Judge Before You Are Sentenced*, and *What To Do If You Are Charged with a Breach of a Court Order*.

If I have a lawyer who is not telling my side of the story, can I speak to the judge?

Usually not, unless you are being sentenced. When you are a witness, you can answer questions, but otherwise your lawyer will have to speak for you. Before you go to court, talk to your lawyer about your

defence and the facts you want the judge to hear. If you are found guilty, the judge may ask if you have anything to say before sentencing you.

What resources are available to help me?

For criminal court, contact your local John Howard Society, Elizabeth Fry Society, duty counsel (found at the courthouse), or (if you are Aboriginal) a native courtworker. For family court, contact the family court duty counsel (at the courthouse) or family justice counsellor (at the justice access centre) in your area.

- **LawLINE:** This free telephone service provides general legal information and, in some cases, advice. It is a service for people who cannot afford a lawyer but do not qualify for legal aid. LawLINE is staffed with lawyers and paralegals. Interpreters are available.

Lower Mainland: 604-408-2172

Outside the Lower Mainland: 1-866-577-2525
(call no charge)

Hours: 9:00 a.m. – 4:00 p.m. Monday, Tuesday,
Thursday, and Friday;

9:00 a.m. – 2:30 p.m. Wednesday

- **Lawyer Referral:** If you do not know a lawyer, call the Lawyer Referral Service. They will give you the name of a lawyer you can call for a half-hour appointment that costs \$25 plus tax. You can find out whether you want to hire the lawyer and how much it would cost. This service is not available in all areas of the province.

Lower Mainland: 604-687-3221

Outside the Lower Mainland: 1-800-663-1919
(call no charge)

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

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