

## Peace Bonds

Prepared by the Canadian Resource Centre for Victims of Crime

### What is a peace bond?

A peace bond is a criminal court order that sets out specific conditions to protect the safety of others or property. It can be ordered where there is a reasonable fear that another person will cause personal injury to them or their family, will damage his/her property, or where there is a reasonable fear that another person will commit a sexual offence against them. A peace bond may be issued under section 810 of the *Criminal Code*.

Section 810.1 for example outlines pedophile peace bonds. There are two other specific types of peace bonds - Section 810.1 deals with fear of sex offences (usually used by police for high-risk offenders) and s.810.2 deals with fear of serious personal injury.

Peace bonds are often used in cases of family violence and stalking. They include specific terms that may, for example, forbid the defendant from calling, contacting or visiting the applicant's home or workplace, forbid them from carrying firearms or ammunition, or require that they go to counselling. A Peace Bond does not cost anything and you do not need a lawyer to get one.

### How can you get a peace bond?

Only a judge, Justice of the Peace, or a magistrate can issue a peace bond. If you live in Manitoba, Newfoundland, Nova Scotia, or Ontario you can apply directly for a peace bond at a Provincial Court. If there is no Provincial Court in your community, go to your local police station. If you live in Alberta, British Columbia, New Brunswick, Northwest Territories, Prince Edward Island, Quebec, Saskatchewan, or the Yukon you can go to the police.

Once you have told the police or the Provincial Court that you want a peace bond, they will summons the other party and tell them when to go to court. The applicant must also appear in court on that day.

### What happens in court?

You must show that you have a reasonable fear the defendant will harm you or your family, or will damage your property. You will give evidence under oath describing why you are in need of the Peace Bond. You cannot make emotional pleas without evidence; therefore, you should:

- ✍ document every time the person stalked you or threatened you;
- ✍ keep any evidence of abuse such as hospital records, photographs, etc.;
- ✍ in the case of a partner/ex-partner, if applicable, evidence of his mistreatment of your children; and
- ✍ document every time the person damaged your property or threatened to; take photographs, if possible.

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If the judge believes, on reasonable grounds, that an order should be made, terms of the order will be decided. The defendant will then be asked to enter into the bond. If he/she agrees, the peace bond will be ordered. If he/she refuses, there will be a hearing where the judge will hear both sides, and then decide on ordering the peace bond. If the defendant still refuses to sign it, they can face up to twelve months imprisonment.

### **What should I do if asked to sign a 'mutual' peace bond?**

If possible, avoid signing a mutual peace bond. Sometimes, the person you are trying to protect yourself against will tell the court that they need to be protected from you. Or, they will refuse to sign the peace bond unless you do so as well.

In such cases, the justice of the peace or judge may issue a mutual peace bond requiring that you cannot seek out your partner/ex-partner, as well. This suggests that you have done something to provoke the harassment, which is not often the case. Also, your partner/ex-partner may try to set you up to break the mutual peace bond. The CRCVC strongly recommends speaking to a lawyer before signing anything like a peace bond.

### **What must be proved?**

A peace bond may be available if you:

- ✍ have been threatened;
- ✍ have a reasonable fear for the safety of yourself, your spouse or your child; or
- ✍ have a reasonable fear that someone will damage your property.

You do not need to prove that an assault has been committed.

### **How long will it take?**

A weakness of the peace bond process is that it usually takes a long time, approximately two to three months. If you are in immediate danger, temporary terms can be made until the hearing.

### **Do I need a lawyer?**

You do not need a lawyer. You can present your case to the court without a lawyer. If you wish, you may hire a lawyer or you may be able to get Legal Aid. If there is a hearing, depending on where you live, either a Crown Attorney will be appointed, or you may have to tell the court about your own case.

### **Will the defendant get a criminal record?**

The defendant will not get a criminal record just for signing the peace bond. If, however, it is found that a term has been breached, they may get a criminal record.

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### **What can you do if the terms are broken?**

Go to a safe place. Make sure that you retain an official copy of the order and keep it with you at all times. If a term is breached call the police. If you are in immediate danger, call 911. The person may be arrested and criminal charges may be brought against them.

It is important to note that the police may not always respond positively in enforcing peace bonds. If the officer responding to your call does not provide an effective remedy, you should talk to his/her supervisor. You should also talk to the Victim-Witness Assistance Program staff about what should happen next time the order is broken.

### **Can the terms be changed?**

Yes, the terms can be changed. They can only, however, be changed by a judge or Justice of the Peace and this process is complicated and difficult. If you would like to change the terms, contact the police or Provincial Court.

### **How long is it in effect?**

Peace bonds can only last for up to twelve months. They are not renewable. If you need another one, you must make a new application.

### **What are the limitations of peace bonds?**

One of the limits of a peace bond is that it cannot necessarily prevent anyone from breaking the law. A peace bond may not deter some people who engage in threatening or violent behaviour. Peace bonds do however facilitate more effective police and court action after a violation of a term of the bond.

### **What is the difference between a peace bond and a restraining order?**

Restraining orders are non-criminal court orders that have certain conditions such as prohibiting contact. They are usually made in connection with a custody or separation action in a Family Court. If you and the defendant are married, living common-law, separated, divorced, or if you are a parent of a child that is involved in the proceeding you may also apply for a restraining order. To get a restraining order however, you will probably need a lawyer.