

Emergency Intervention Orders

This booklet explains how victims of intimate partner violence in New Brunswick can seek temporary orders for enhancing their safety

This booklet was produced by the Public Legal Education and Information Service of New Brunswick (PLEIS-NB). PLEIS-NB is a non-profit, charitable organization whose goal is to educate and inform the public about the law and legal processes. PLEIS-NB receives core funding and in-kind support from the Department of Justice Canada, the New Brunswick Law Foundation, and the New Brunswick Office of the Attorney General.

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This booklet does not contain a complete statement of the law in this area and laws change from time to time. Anyone needing advice on his or her specific legal position should consult a lawyer.

In 2018, New Brunswick enacted a law called the *Intimate Partner Violence Intervention Act*. This new law permits individuals experiencing intimate partner violence to apply for Emergency Intervention Orders.

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An Overview of Emergency Intervention Orders

What is an Emergency Intervention Order?

An **Emergency Intervention Order (EIO)** is an order made under the *Intimate Partner Violence Intervention Act* on application of someone experiencing intimate partner violence. These orders may contain a variety of temporary conditions to enhance the safety of victims. They may include, for example, provisions for the applicant to temporarily stay in the **family residence** (apartment, house, mobile home, etc.) while the partner (respondent) must move out.

Emergency Intervention Orders are intended for situations where intimate partner violence has occurred or is likely to occur, and the situation is serious enough to require an immediate response.

Does an Emergency Intervention Order replace existing court orders?

Emergency Intervention Orders are not intended to replace other existing family law and criminal law responses to intimate partner violence. However, if the conditions

of the Order are in conflict with orders made under the *Family Services Act* or *Divorce Act*, the conditions of the Emergency Intervention Order will take priority where they are necessary for the safety of the applicant and any child.

What if the couple are not living together when the application is made?

That doesn't matter. The applicant and respondent do not have to live together at the time of an application in order to request an Emergency Intervention Order. The Emergency Adjudicative Officer would not automatically reject an application for that reason.

Similarly, the application would not be denied just because the couple has reconciled or continued to live together after an act of intimate partner violence.

Who can apply for an Emergency Intervention Order (EIO)?

Individuals experiencing abuse or violence in an “intimate personal relationship” would be able to apply for an Emergency Intervention Order. The Act defines intimate personal relationship as:

- individuals who are, or have been, married to each other;
- individuals who are, or have been, in a common-law relationship with one another; or
- individuals who are, or have been, in a dating or romantic relationship with each other even if they have never lived together.


Does an Emergency Intervention Order affect ownership of the home or personal property?

No. The Order does not in any way affect the title or ownership of the home. Although the Order may grant temporary exclusive use of property, it does not affect ownership of any personal property held together or by one of you. If the home is leased by the respondent, the landlord may not evict the applicant just because their name is not on the lease. Eventually, the applicant and respondent will have to settle the division of their home and property through the family law system.

If they cannot come to an agreement, they will have to apply to the court and a Judge would decide.

How long may the Order last?

An Emergency Intervention Order may last up to 180 days. Although the conditions are temporary, they may offer some safety and stability while the applicant explores more permanent solutions to intimate partner violence. If necessary, the Order may be extended.



How does the Act define violence?

- abusive, threatening, harassing or violent behaviour,
- withholding food, clothing, and medical attention from their partner,
- restricting shelter, transportation and other necessities of life as a way to psychologically, physically, sexually or financially coerce, dominate and control their partner.

Conditions that can be included in an Emergency Intervention Order

The Order may include a number of temporary conditions such as:


- **Temporary exclusive occupation of the residence:**

This means the applicant gets to stay temporarily in the family residence (apartment, house, mobile home) while the partner (called the respondent) must move out. Even if the applicant's name is not on the lease, the landlord could not evict the applicant.

- **Provision to stop the respondent from shutting off basic utilities for the residence.**

- **Temporary possession and exclusive use of personal property by the applicant or respondent:**

This means that specific personal property could be set out in the Order for exclusive use of either the applicant or the respondent. For example, it could say who will take possession of the pets. As well, the Order could say who can use a vehicle, furniture, and so on. It might provide exclusive access to an individual's "tools of the trade".



Terms used to describe
Intimate Partner Violence

Over the years, service providers, researchers, police and others, have used various terms to describe violence between individuals in an intimate personal relationship. You may have heard terms such as spousal abuse, family violence, and domestic violence. This booklet will use the term in the Act - **intimate partner violence (IPV)**.

- **Provision to prevent the destruction of property:**

This means the respondent would not be permitted to take or damage property in which the applicant may have an interest.

- **Removal of property in the presence of a police officer or deputy sheriff:**

This means that a police officer or deputy sheriff would be directed to go to the residence with a person named in the Order to supervise the removal of specific personal belongs. The officer will standby to keep the peace while belongings set out in the Order are removed. The officer will not assist with packing up and removing belongings – so be sure to bring some helpers if necessary.

- **Removal of the respondent from the residence:**

This means, if there is an Order for exclusive occupation of the **residence**, a police officer may be directed to remove the respondent from the home.

- **No-contact provisions:**

This means the respondent would not be permitted to communicate, directly or indirectly with the applicant or other specified persons. As well the respondent could not go near the applicant.

- **Temporary custody of children to the applicant:**

If it is considered to be in the best interests of any children who are in the care and custody of the applicant or respondent, the Order may grant temporary custody to the applicant.


- **Seizure of weapons from the respondent:**

This means that the Order could include a provision for the police to seize the respondent's weapons, ammunition, and documents related to the firearms.

- **Provision to protect the applicant's privacy:**

This means the Order may prohibit the publication of the name and address of the applicant or a child as well as other identifying information.

- **Provision requiring the respondent to stop further acts of intimate partner violence.**

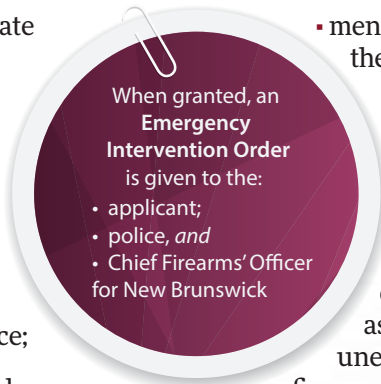


AND,
any other provision
considered necessary
for the immediate safety
of the applicant.

Factors considered in Granting an Order

When considering whether or not to grant an Emergency Intervention Order, the following factors must be considered:

- any history of intimate partner violence between the parties and whether it has been happening repeatedly and getting more violent;
- the nature and impact of the violence;
- whether there is evidence of the respondent using coercive or controlling behaviour;
- whether other family members, such as children, are affected by the violence;
- mental health concerns of the respondent;
- the relationship status of the parties (are they together or separated), and;
- other circumstances of the respondent such as substance abuse, unemployment, access to firearms and release from jail.
- any factor that may increase the applicant's risk of being harmed. This could include factors such as pregnancy, age, health and family support.



Did You Know?

Existing orders such as family court restraining orders, peace bonds or criminal charges with no contact orders against the respondent **do not** prevent the applicant from getting an Emergency Intervention Order.

Steps in Applying for an Emergency Intervention Order

The applicant can use the online application form to start the process. Or, they can get a hard copy of the application form from any of the designated service providers or at the courthouse. However, they cannot submit the application themselves. Only the service provider can do that.

STEP
1

Victim contacts a service provider

To start the process of getting an Emergency Intervention Order, the victim would have to contact a service provider for assistance. The Act indicates that only the following service providers can assist:

- police officers,
- victim services (both provincial Victim Services and police based victim/witness programs can assist their clients),
- transition houses,
- second stage housing,
- domestic violence outreach workers, or
- Department of Social Development social workers can assist their clients.

STEP
2

Victim makes an Application

The service provider will assist the victim who is referred to as the “applicant” to fill out the application form. In certain circumstances the applicant may consent to have the service provider prepare the application on their behalf.

STEP
3

Service Provider Submits the Application

Once the application has been completed, the service provider will send it electronically to a person called an “**Emergency Adjudicative Officer (EAO)**” to arrange a hearing by telephone. Since they are dealing with emergency situations, this hearing will take place within hours. This is done on an *ex parte* basis which means the other party referred to as the “respondent” will not be notified or participate at this point. The EAO has 24 hours to grant or deny an Emergency Intervention Order. If the order is granted, it is effective immediately.

Emergency Adjudicative Officer (EAO) is a lawyer with experience and special training on granting an Emergency Intervention Order.

STEP
4

Police Officer or Deputy Sheriff serves the Order on the respondent

A police officer or sheriff will personally notify the respondent as soon as possible by “serving” the Order on the respondent. Although the Order is in effect immediately, the respondent cannot be charged with breaching the conditions of the Order until they have been served.

STEP
5

Court review of the Order

Within 2 days of granting an Emergency Intervention Order, the EAO will send it to the Court of Queen’s Bench, Family Division for review. Within five (5) business days of receiving it the court will either confirm or vary it. If the court has questions about the Order, it will hold a hearing to review it. If the court schedules a hearing, the applicant and the respondent may wish to seek legal advice or consult with the Family Legal Aid “duty counsel” at the courthouse the day of the hearing.

After an Emergency Intervention Order is Granted

What if the respondent violates the Order?

Emergency Intervention Orders are civil remedies so the violation of an order does not result in a criminal record. Still, breaking the conditions set out in the Order is serious. The respondent would be subject to punishment (under Part II of the *Provincial Offences Procedure Act*). Penalties for violating an Emergency Intervention Order may include fines between \$500 and \$200,000 or higher and jail.

To enforce an Emergency Intervention Order the applicant can call the police. The police can remove the respondent from the residence if there is an exclusive occupation provision. **The police can also arrest the respondent without a warrant for breaching the Order.**

If the Order is granted, will the applicant's identity and contact information become public?

When applying for an Emergency Intervention Order, the applicant may request that their name, home and business contact information of

the applicant be kept private. This protects the privacy of applicants who are concerned about a negative reaction by family, friends or their partner.

What if one or both parties want to change or end the order?

If the applicant or respondent wants to change or end the order, they must apply to the court within 21 days of the order being served on the respondent. Or, they may apply at any time before or after this period if there has been a material change in circumstances.

Both the party that is asking for the change, and the responding party, can apply to Legal Aid for representation at the hearing. They must meet all the various eligibility requirements. If either of the parties is unrepresented, they can access the free Legal Aid "duty counsel" services at the courthouse the day of the hearing.

Can the applicant ask to have the order extended?

Yes, the applicant can apply to the court for an extension. They do not have to go back and ask the service provider to submit it. As with an application to change the Order, both the applicant and the respondent may apply to Legal Aid for representation. Either unrepresented party may consult duty counsel on the day of the hearing.

What if the Order contradicts the provisions of a family court order, such as access to the children?

The Act clarifies the relationship between civil orders and orders for emergency intervention under the *Intimate Partner Violence Intervention Act*. Where there is an existing Order under the family law system that contradicts conditions in an emergency intervention order, with the exception of child protection matters, the conditions of the EIO must be followed to ensure the immediate safety of the applicant and any child.

If the Order is granted, should applicants take further steps for their safety?

To ensure their safety, it is a good idea for the applicant to take further precautions for their safety. Even though the Order gives the applicant right of temporary exclusive occupation of the home after the respondent (the partner) has been given notice, this is not a guarantee of safety. Consider creating a safety plan, for example:

- *Living in an Abusive Relationship: Strategies for Staying Safer*, available in hard copy, on the Internet and in the form of an App;
- *Leaving in an Emergency*;
- *My Safety Plan: Safety After Leaving*;
- *My Safety Plan: On the Internet*; and
- *My Child's Safety Plan: Someone is Hurting my Mom*.

You can access safety planning tools and information about other remedies for intimate partner violence at: www.legal-info-legale.nb.ca click on "abuse and violence" – then go to Emergency Intervention Orders.



In an Emergency,
Call 911.

Other methods for Getting Protection

There are a variety of options that victims of intimate partner violence may take in addition to, or instead of, getting an Emergency Intervention Order. Since the significant majority of individuals experiencing intimate partner violence are women, some of these resources listed below are targeted for women and their children. The options may differ depending on whether there is in an emergency situation or an ongoing problem. Some of the actions include:

- Call the police and make a statement about the violence
- Go to a transition house (with children) for a period of time
- Seek help from a local service provider
- Talk to a domestic violence outreach worker
- Report damage of your property to the police
- Cooperate with the police and get help from Victim Services
- Make a safety plan (*Strategies for Staying Safer; Safety on the Internet; Safety for my Children; Leaving in an Emergency; Staying Safe After Leaving*)
- Ask a service provider for help with safety planning
- Move out
- Get law information and legal advice
- Apply for other civil remedies in Family Court (such as exclusive possession of the marital home)
- Get a restraining order in Family Court (under the *Family Services Act*) to deal with harassment that happens related to custody and access of the children
- Contact the police to apply for a Peace Bond in Provincial Court
- Apply for an Emergency Protection Order in Family Court if the couple is living on-reserve

To help victims find resources for dealing with related personal, social, emotional, legal, and healthcare issues, encourage them to check out: **Directory of Services for Victims of Abuse**. They can also find contact information for the service providers who can assist them.

Service Providers under the Act who Can Assist Applicants

Transition Houses, Domestic Violence Services, and Other Services

L'Accueil Sainte-Famille Inc.

PO Box 3685, Stn Main
Tracadie-Sheila, NB E1X 1G5
T: 506-395-1500
T: 506-395-6233 (For women who
need services but do not need a place
to stay)
www.accueilstefamille.com

Crossroads for Women

PO Box 1247
Moncton, NB E1C 8P9
T: 506-853-0811 (Crisis Line)
T: 506-857-8028
www.crossroadsforwomen.ca

L'Escale MadaVic

PO Box 411
Edmundston, NB E3V 3L1
T: 506-739-6265
www.escalemadavic.com

Fundy Region Transition House

PO Box 73
St Stephen, NB E3L 2W9
T: 506-466-4485 (Crisis Line)
T: 506-466-4590
frth@nb.aibn.com
www.fundyregiontransitionhouse.com

Gignoo Transition House

PO Box 1143 Stn A
Fredericton, NB E3A 5H2
T: 1-800-565-6878 (Crisis Line)
T: 506-458-1236
www.gignoohouse.ca

Hestia House Inc.

PO Box 7135, Stn A
Saint John, NB E2L 4S5
T: 506-634-7570 (Crisis Line)
T: 506-634-7571
www.hestiahouse.ca

Maison Notre Dame

PO Box 158
Campbellton, NB E3N 3G4
T: 506-753-4703
maisonnotredame@nb.aibn.com

Miramichi Emergency Centre for Women

PO Box 249
Miramichi, NB E1V 3M3
T: 506-622-8865 OR 1-888-836-1016
506-622-8861
www.mecw40.wixsite.com/mec4w

Passage House

PO Box 1284
Bathurst, NB E2A 4J1
T: 506-546-9540
passagehouse@nb.aibn.com

Serenity House

Kent County, NB
T: 506-743-1530

Sussex Vale Transition House

PO Box 4862
Sussex, NB E4E 5L9
T: 506-432-6999 (Crisis Line)
T: 506-433-1649
www.sussexvaletransitionhouse.com

Women in Transition House

PO Box 1143
Fredericton, NB E3B 5C2
T: 506-459-2300 (Crisis Line)
T: 506-457-2770
transhouse@nb.aibn.com

Woodstock Sanctuary House

PO Box 4294
Woodstock, NB E7M 6B7
T: 506-325-9452 or 1-866-377-3577
sanctuary@nb.aibn.com or
KOHSCC@gmail.com

Second-Stage Housing

Crossroads for Women, Second Stage

PO Box 1247
Moncton, NB E1C 8P9
T: 506-857-8028
www.crossroadsforwomen.ca

Oasis House, Kent Centre for the Prevention of Violence

Kent County
T: 506-743-5449
centre@preventionviolencekent.com
www.preventionviolencekent.com

Liberty Lane Inc

PO Box 1441 Stn A
Fredericton, NB E3B 5G2
T: 506-451-2120
lf.fiona@bellaliant.com
www.libertylane.ca

Second Stage Safe Haven

PO Box 27122
Saint John, NB E2M 5S8
T: 506-632-9289
refuge@nb.aibn.com

Domestic Violence Outreach Offices:

Acadian Peninsula 395-6233

Chaleur Region 545-8952

Charlotte County 469-5544

Edmundston 263-0888

Fredericton 458-9774

Kennebecasis Valley 847-6277

Kent County 743-5449

Miramichi 778-6496

Moncton 855-7222

Restigouche County 790-1178

Saint John 632-5616 / 649-2580

Shediac 533-9100

Sussex 433-6579

Woodstock 328-9680

L'Escale MadaVic

PO Box 411
Edmundston, NB E3V 3L1
T: 506-739-6265
www.escalemadavic.com

Residence of Hope, Beauséjour Family Crisis Resource Centre

432 Main Street
Shediac, NB E4P 2G5
T: 506-533-9100
crcfb@nb.aibn.com
www.healingstartshere.ca

Social Development

Acadian Peninsula

3514 Principale St
Tracadie-Sheila, NB E1X 1C9
T: 1-866-441-4149

Chaleur

Harbourview Pl, Floor: 2
275 Main St, Suite 200
Bathurst, NB E2A 1A9
T: 1-866-441-4341

Edmundston

Carrefour Assomption
121 de l'Église St
Edmundston, NB E3V 1J9
T: 1-866-441-4249

Fredericton

460 Two Nations Crossing
Fredericton, NB E3A 0X9
T: 1-866-444-8838

Miramichi

360 Pleasant St
Miramichi, NB E1V 2N3
T: 1-866-441-4246

Moncton

770 Main St
Moncton, NB E1C 8R3
T: 1-866-426-5191

Restigouche

157 Water St
Campbellton, NB E3N 3H5
T: 1-866-441-4245

Saint John

1 Agar Pl
Saint John, NB E2L 5A3
T: 1-866-441-4340

Victim Services Offices Justice and Public Safety

Bathurst 506-547-2924

Campbellton 506-789-2388

Caraquet 506-726-2417

Edmundston 506-735-2543

**Elsipogtog
First Nation** 506-523-4747

Fredericton 506-453-2768

Grand Falls 506-473-7706

Miramichi 506-627-4065

Moncton 506-856-2875

Saint John 506-658-3742

St. Stephen 506-466-7414

Tracadie-Sheila 506-394-3690

Woodstock 506-325-4422

RCMP

Bathurst RCMP

900 Vanier Blvd
Bathurst, NB E2A 3N2
T: 506-548-7771

Blackville RCMP

243 Main St
Blackville, NB E9B 2J1
T: 506-843-9400

Campbellton RCMP

6A Arran St
Campbellton, NB E3N 1K4
T: 506-789-6000

Caraquet RCMP

50 Saint-Pierre Blvd W
Caraquet, NB E1W 1B6
T: 506-726-5222

Codiac Regional RCMP

520 Main St
Moncton, NB E1C 8P2
T: 506-857-2400

Doaktown RCMP

368 Main St
Doaktown, NB E9C 1E4
T: 506-365-4700

Elsipogtog First Nation RCMP

206 Big Cove Rd
Elsipogtog First Nation,
NB E4W 2S4
T: 506-523-8282

Grand Bay-Westfield RCMP

21 Chestnut Dr
Grand Bay-Westfield, NB E5K 3M1
T: 506-757-1020

Grand Manan RCMP

1269 Rte 776
Grand Manan, NB E5G 1G2
T: 506-662-1210

Hampton RCMP

530 Main St
Hampton, NB E5N 6C3
T: 506-832-5566

Lamèque RCMP

61 rue du Parc
Lamèque, NB E8T 1J1
T: 506-344-2006

McAdam RCMP

32 Harvey Rd, Units 1 & 2
McAdam, NB E6J 1A8
T: 506-784-1205

Minto RCMP

280 Main St
Minto, NB E4B 3R7
T: 506-327-1820

Nackawic RCMP

95 Otis Dr
Nackawic, NB E6G 1G8
T: 506-575-6200

Neguac RCMP

638 Principale St
Neguac, NB E9G 1N3
T: 506-776-3000

Oromocto RCMP

4 Doyle Dr
Oromocto, NB E2V 2V3
T: 506-357-4300

Perth-Andover RCMP

3 Uplands View Cres
Perth-Andover, NB E7H 5C4
T: 506-273-5000

Richibucto RCMP

16 Park Dr
Richibucto, NB E4W 5G9
T: 506-523-4611

Sackville RCMP

31 Main St
Sackville, NB E4L 1G6
T: 506-364-5023

Saint-Quentin RCMP

371 Canada St
Saint-Quentin, NB E8A 1K4
T: 506-235-2149

Shediac RCMP

77 Ohio Rd
Shediac, NB E4P 2J8
T: 506-533-5151

St. George RCMP

77 Mount Pleasant Rd
St George, NB E5C 3K3
T: 506-755-1130

St. Stephen RCMP

16 Hawthorne St
St Stephen, NB E3L 1W4
T: 506-466-7030

Sunny Corner RCMP

30 Tozer Ln
Sunny Corner, NB E9E 1S6
T: 506-836-6000

Sussex RCMP

43 Leonard Dr
Sussex, NB E4E 2P8
T: 506-433-7700

Tobique First Nation RCMP

278A Main St
Tobique First Nation,
NB E7H 2Y8
T: 506-273-5003

Tracadie-Sheila RCMP

485 rue du Moulin Main Stn
Tracadie-Sheila, NB E1X 1G5
T: 506-393-3000

Woodstock RCMP

410 Connell St
Woodstock, NB E7M 5G9
T: 506-325-3000

Municipal Police

Bathurst Police Force

Roussell / O'Neil Complex
285 King Ave
Bathurst, NB E2A 1N9
T: 506-548-0420
F: 506-548-0707
city.police@bathurst.ca
www.bathurst.ca

Beresford, Nigadoo, Petit-Rocher & Pointe-Verte

(BNPP Regional Police Force)
398 Principale St
Nigadoo, NB E8K 3M8
T: 506-542-2666
F: 506-542-2629
bnpp@nb.aibn.com
www.bnpppolice.ca

Edmundston Police Force

15 Church St, Ste 101
Edmundston, NB E3V 1J3
T: 506-739-2100
police@edmundston.ca

Fredericton Police Force

311 Queen St
Fredericton, NB E3B 1B1
T: 506-460-2300
www.fredericton.ca/en/fredericton-police

Grand Falls Police Force

131 Pleasant St, Ste 100
Grand Falls, NB E3Z 1G6
T: 506-475-7767
www.grandfalls.com

Miramichi Police Force

Beaverbrook Centre
1820 Water St
Miramichi, NB E1N 1B7
T: 506-623-2124

Kennebecasis Regional Police Force

126 Millennium Drive
Quispamsis NB E2E 6E6
T: 506-847-6300
www.kennebecasisregionalpolice.com

Saint John Police Force

1 Peel Plaza
Saint John, NB E2L 0E1
T: 506-648-3333
police@saintjohn.ca
www.saintjohn.ca/en/home/cityhall/publicsafety/police/default.aspx

Woodstock Police Force

822 Main Street
Woodstock, NB E7M 2E8
T: 506-325-4601
wpcfchief@nbpolice.ca
town.woodstock.nb.ca/police_department.htm