

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

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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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and

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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;

- When granted, an
  Emergency
  Intervention Order
  is given to the:
- applicant;
- police, and
- Chief Firearms' Officer for New Brunswick

- 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.



# 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.



# 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.



# 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 grant or dany an Emergency Intervention of

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

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.



# 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.



## 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
- · 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.

# Other methods for Getting Protection

In an Emergency,
Call 911.

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) accueil.lepersonnel@bellaliant.net

#### **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.

## **Gignoo Transition House**

PO Box 3385 Stn B Fredericton, NB E3A 5H2 T: 1-800-565-6878 (Crisis Line) T: 506-458-1236

1: 506-458-1236 gignoo@nbnet.nb.ca

#### Hestia House Inc.

PO Box 22080 Saint John, NB E2K 4T7 T: 506-634-7570 (Distress Line) 506-633-2182 (Family Resource Centre)

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 mecwstaff@nb.aibn.com

## **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.

#### **Women in Transition House**

PO Box 1143 Fredericton, NB E3B 5C2 T: 506-459-2300 (Crisis Line) T: 506-457-2770 transhouse1@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, Violence Prevention Centre

P.O. Box 511
Sainte-Anne-de-Kent, NB E4S 5G2
T: 506-743-5449
centre@preventionviolencekent.com
www.centrepreventionviolence.com

## **Liberty Lane Inc**

PO Box 1441 Stn A Fredericton, NB E3B 5G2 T: 506-451-2120 Ilf.alyson@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	506-395-6233
<b>Chaleur Region</b>	506-545-8952
<b>Charlotte County</b>	506-469-5544
Edmundston	506-740-4888
Fredericton	506-458-9774
Kennebecasis Valley	506-847-6277
Kent County	506-743-5449
Miramichi	506-778-6496
Moncton	506-855-7222
Restigouche County	506-790-1178
Saint John	506-566-5960
Shediac	506-533-9100
Sussex	506-433-6579

## 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

66 Calder Street
Shediac, NB
E4P 1K8
T: 506-533-9100
crcfb@nb.aibn.com
www.healingstartshere.ca

## **Social Development**

#### **Acadian Peninsula**

3514 Principale St Tracadie-Sheila, NB E1X 1C9 T: 1-833-733-7835

#### Chaleur

Harbourview Pl, Floor: 2 275 Main St, Suite 200 Bathurst, NB E2A 1A9 T: 1-833-733-7835

#### Edmundston

Carrefour Assomption 121 de l'Église St Edmundston, NB E3V 1J9 T: 1-833-733-7835

#### **Fredericton**

460 Two Nations Crossing Fredericton, NB E3A 0X9 T: 1-833-733-7835

#### Miramichi

360 Pleasant St Miramichi, NB E1V 2N3 T: 1-833-733-7835

#### Moncton

770 Main St Moncton, NB E1C 8R3 T: 1-833-733-7835

## Restigouche

157 Water St Campbellton, NB E3N 3H5 T: 1-833-733-7835

#### Saint John

1 Agar Pl Saint John, NB E2L 5A3 T: 1-833-733-7835

# Victim Services Offices Department of Public Safety

Bathurst	506-547-2824
Campbellton	506-789-2388
Edmundston	506-735-2543
Fredericton	506-453-2768
<b>Grand Falls</b>	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-Ouentin 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/frederictonpolice

#### **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 wpfchief@nbpolice.ca town.woodstock.nb.ca/police\_ department.htm