

Standing Committee on
Social Development



Report on Bill 27: *An Act to Amend the Protection Against Family Violence Act*

20th Northwest Territories Legislative Assembly

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**STANDING COMMITTEE ON
SOCIAL DEVELOPMENT**

**REPORT ON BILL 27: *AN ACT TO AMEND THE PROTECTION AGAINST FAMILY
VIOLENCE ACT***

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STANDING COMMITTEE ON SOCIAL DEVELOPMENT

REPORT ON BILL 27: *AN ACT TO AMEND THE PROTECTION AGAINST FAMILY VIOLENCE ACT*

EXECUTIVE SUMMARY

The Protection Against Family Violence Act (PAFVA or “the Act”) has been in place in the Northwest Territories since 2005, offering emergency and long-term legal measures to support individuals experiencing family violence. These protections go beyond what is available under the federal *Criminal Code*. The Act outlines what constitutes family violence and specifies who is eligible to apply for an Emergency Protection Order (EPO), which can be issued at any time by a Justice of the Peace when there is evidence of violence or imminent risk.

Bill 27 proposed changes to improve access to EPOs and to address both physical and online forms of harassment. The amendments expand the definition of who qualifies for protection to include individuals in ongoing dating relationships, those in dependent care arrangements, and people who may reasonably be considered family. The Bill also introduces a definition of stalking, complete with examples, and formally includes stalking as a recognized form of family violence under the Act.

Additionally, the proposed changes would allow the RCMP to support victims by identifying individuals responsible for stalking and sharing that information with those affected. The Bill also introduces a new civil legal option, establishing a tort of stalking that enables victims to pursue legal action through the courts.

Bill 27 was read in the Northwest Territories Legislative Assembly for the second time on May 27, 2025, and referred to the Standing Committee on Social Development (“Committee”) for further study. Committee has undertaken extensive study on the Bill and moved five motions at the clause-by-clause review to improve the Bill. Additionally, Committee presents fifteen recommendations to the Government of the Northwest Territories:

Recommendation 1: The Standing Committee on Social Development recommends the Government of the Northwest Territories provide a detailed overview of what funds are currently available for culturally appropriate social programs, frontline services, and capital infrastructure designed to prevent or mitigate family violence in the Northwest Territories.

Recommendation 2: The Standing Committee on Social Development recommends the Government of the Northwest Territories develop and make public a costed, measurable, and time-bound strategy for addressing each of the pillars listed in the *Reclaiming the Capable Person: We are all Capable Persons when we have Community: A Strategic Framework for Addressing Family Violence in the Northwest Territories* by the end of the 2026 fiscal year.

Recommendation 3: The Standing Committee on Social Development recommends that the Government of the Northwest Territories allocate significant new funding to support the provision and expansion of domestic violence shelters and safe homes across the Northwest Territories. This investment is necessary in light of the recent expansion of eligibility for Emergency Protection Orders. The Standing Committee on Social Development further recommends that these funds be included in the 2026–2027 Main Estimates and Business Planning Process.

Recommendation 4: The Standing Committee on Social Development recommends the Government of the Northwest Territories expand transitional housing and shelter supports for men (e.g. providing multi-year funding to the Bailey House at the Salvation Army – Yellowknife) who are removed from homes due to Emergency Protection Orders and who are seeking to recover from violent behaviours, including supporting group housing models in small communities, similar to those initiated by Fort Good Hope.

Recommendation 5: The Standing Committee on Social Development recommends the Government of the Northwest Territories, specifically the departments of Health and Social Services, Education, Culture and Employment, and Justice, increase education for young people and parents about the long-term impacts of family violence and the limitations of short-term legal interventions such as Emergency Protection Orders. This should be achieved through innovative age-appropriate education for children, early intervention programs for young people, integration of family violence education into Career and Life Management classes or the Healthy Family Programs, or other community-based education methods.

Recommendation 6: The Standing Committee on Social Development recommends the Government of the Northwest Territories provide new funds to non-profit and charitable organizations in the Northwest Territories for developing and distributing education materials to communities on the use of Emergency Protection Orders and Protection Orders and long-term solutions to addressing family violence.

Recommendation 7: The Standing Committee on Social Development recommends the Government of the Northwest Territories initiate a comprehensive review of the entire Emergency Protection Order and Protection Order system using Section 16.1 of the *Protection Against Family Violence Act*.

Recommendation 8: The Standing Committee on Social Development recommends the Government of the Northwest Territories formally respond to each of the recommendations of the 2020 case study done by the YWCA on the effectiveness of Emergency Protection Orders in the NWT, including:

1. Improve EPO service delivery and consistency through the development of EPO training which shall include NWT specific education and awareness of EPOs, for service providers including lawyers, RCMP and Justices of the Peace.
2. Improve risk assessment tools for repeat severe and violent offenders to establish the best form of protection, particularly in remote communities without police presence.
3. Develop an effective tracking system for EPOs that are breached, the circumstances surrounding the breach, outcome and consequences of the breach.
4. Strengthen effective safety planning strategies that include trauma-informed training for lawyers, RCMP, Justices of the Peace and Victim Service Workers, particularly in remote communities without police presence.
5. Provide an effective tracking system for EPO breaches, the circumstances surrounding breaches and the outcomes, to improve the current system.
6. Explore legal advice or representation for EPOs.

The Standing Committee on Social Development further recommends that the Government of the Northwest Territories share details about the progress, timelines, milestones, and funding required to address and implement these recommendations with Committee.

Recommendation 9: The Standing Committee on Social Development recommends the Government of the Northwest Territories deliver regular, interactive training on the Emergency Protection Order system and other components of the *Protection Against Family Violence Act*. This training should:

1. Be trauma-informed and culturally aware.
2. Be provided bi-annually to key system stakeholders, including Justices of the Peace, RCMP, the YWCA Northwest Territories, and others.
3. Include guidance on the types of evidence accepted to prove a breach of an Order, and how to clearly communicate this to Applicants.
4. Incorporate survivor and advocate perspectives, with a focus on the lived realities in rural and remote communities.

Recommendation 10: The Standing Committee on Social Development recommends the Government of the Northwest Territories conduct research on the appropriate duration and flexibility of Emergency Protection Orders under the *Protection Against Family Violence Act*, and in alignment with the Government of the Northwest Territories' recommendation in the Reclaiming the Capable Person: We are all Capable Persons when we have Community: A Strategic Framework for Addressing Family Violence in the Northwest Territories to allow for Emergency Protection Orders to be amended extrajudicially and make any necessary legislative amendments without delay. The Standing committee on Social Development further recommends that provisions and measures be developed to prevent Emergency Protection Order variations from being made under duress or intimidation, drawing on practices in other jurisdictions such as Manitoba and Nunavut.

Recommendation 11: The Standing Committee on Social Development recommends the Government of the Northwest Territories expand the authority to issue Emergency Protection Orders to a wider range of designated Officers and to add more Officers to cover critical delivery gaps in communities. This change is intended to improve timely access to Emergency Protection Orders for individuals who need immediate protection.

Recommendation 12: The Standing Committee on Social Development recommends the Government of the Northwest Territories conduct a comprehensive review of elder abuse, including research to understand its scope, analysis of the existing legislative framework, and development of an appropriate legislative framework to address identified gaps. This may include introducing a dedicated *Adult Protection Act* to ensure that elders receive timely and appropriate protection.

Recommendation 13: The Standing Committee on Social Development recommends that the Government of the Northwest Territories review the current limitation to the tort of stalking which is six years, and determine an appropriate limitation period for the tort of stalking and make any necessary legislative amendments.

Recommendation 14: The Standing Committee on Social Development recommends that the Government of the Northwest Territories collaborate with the Northwest Territories judiciary to assess whether Emergency Protection Orders are being reviewed within the legislated three-day timeframe. If reviews are not occurring as required, the Committee recommends that corrective measures be implemented without delay and that any identified interventions be reported back to the Committee. This assessment should include data collection and analysis to determine the extent of delays, their underlying causes, and appropriate solutions.

Recommendation 15: The Standing Committee on Social Development recommends the Government of the Northwest Territories provide a response to this report within 120 days.

INTRODUCTION AND BACKGROUND

Bill 27: *An Act to Amend the Protection Against Family Violence Act* (Bill 27) was read in the Northwest Territories (NWT) Legislative Assembly for the second time on May 27, 2025, and referred to the Standing Committee on Social Development (“Committee”) for further study.

The Protection Against Family Violence Act (SNWT 2003, c. 24) (“PAFVA” or “the Act”) came into force in 2005 to provide both emergency and longer-term legal protections for individuals experiencing family violence, supplementing existing remedies under the *Criminal Code* (Canada, RSC, 1985, c. C-46). The Act defines “family violence” and sets out eligibility criteria for someone to obtain an Emergency Protection Order (EPO) or a long-term Protection Order. These protection orders may be issued at any time by a Justice of the Peace (JP) upon determining that family violence has occurred or that there is an immediate risk. EPOs are available 24 hours a day, seven days a week. A person can apply for an EPO at any time by contacting a local Royal Canadian Mounted Police (RCMP) detachment or by calling YWCA Alison McAteer House in Yellowknife.

An EPO is a legal order that provides emergency protection that lasts up to 90 days; whereas a Protection Order can last for longer but must be issued by a judge. Either of these Orders can order the abusive person to stay away from someone and their children; allow someone to stay in their home without the abusive person being there; and/or require the RCMP to take away any weapons the abusive person may have¹. Prior to the COVID-19 pandemic, an average of about 65 EPO cases were being judicially confirmed each year². During the 2020–2021 fiscal year, the NWT experienced a notable increase in the use of EPOs, with 100 applications filed and 89 confirmed by a JP. The RCMP made 169 referrals to safety programming, including EPOs, in 2023–24. This trend shows the increased role for EPOs in the NWT.

A 2020 report by the YWCA NWT provided insight into the views of applicants for EPOs and facilitators that found that EPOs were not as effective as they need to be in the NWT, and their enforcement and use have been inconsistent, highlighting the need for a careful and context-specific approach to domestic violence policies in the territory.³ This research provided valuable insights to Committee to inform the study of Bill 27.

Announced in 2023⁴, the Government of the Northwest Territories developed a Family Violence Strategic Framework (called *Reclaiming the Capable Person: We are all Capable Persons When We Have Community*) aimed at addressing the concerning rates of family violence in the NWT⁵. It is unclear how or to what extent this Framework has been implemented so far. The NWT has some of the highest rates of intimate partner violence in Canada. According to data from Statistics Canada, in 2022, the territory’s rate of intimate partner violence per 100,000 people was 4,139, the second highest in the country, compared to a national average of 346⁶. Moreover, police reported data are likely conservative estimates, as family violence is underreported according to the Canadian Centre for Justice Statistics.

As drafted, Bill 27 proposes amendments to the PAFVA to expand the definition of “family” and thereby expand access to EPOs, and it clarifies that both physical and online harassment (stalking and cyber-stalking) can be considered forms of family violence. The definition of eligible applicants would be broadened to include individuals in dating (intimate personal) relationships of some permanence, those in care relationships involving daily dependence, and persons reasonably considered to be related in any way, whether they have ever lived together.

The bill also introduces a statutory definition of “stalking,” including examples, and adds stalking to the list of behaviours constituting family violence under the Act. It also authorizes the RCMP to assist victims by identifying anonymous alleged stalkers and sharing relevant information to support applications for protection. Finally, the bill establishes a new civil remedy by creating a tort of stalking, allowing victims to initiate legal action without needing to prove damages.

This report summarizes Committee’s review of Bill 27, starting with public engagement. This report also describes Committee’s efforts to review and strengthen Bill 27, including 5 motions to amend Bill 27, all of which were concurred with by the Minister at the clause-by-clause review. The report also presents 15 recommendations for consideration by the GNWT.

PUBLIC ENGAGEMENT

On August 19, 2025, Committee hosted a public hearing, during which the Committee was briefed on the Bill by the Minister of Justice. The Minister’s presentation is included in Appendix A. A few members of the public attended this hearing, and two members of the public spoke to the bill.

Between May 2025 and August 2025, Committee engaged the public and sought written submissions on the bill. Committee received written submissions from the YWCA NWT (June 20, 2025, and August 25, 2025), the Royal Canadian Mounted Police (RCMP) (June 23, 2025), Nightingale Law Office (August 28, 2025), and a group of five NWT lawyers (August 27, 2025). Additionally, Committee sent correspondence as necessary to the respondents, requesting further clarification and posing questions regarding the content of their submissions.

The written submissions are included in Appendix A.

Committee extends its appreciation to all individuals and organizations who participated in public meetings and submitted written feedback. Contributors provided thoughtful input on the bill and proposed amendments, and raised important considerations related to family violence. Their perspectives informed Committee’s deliberations and helped identify areas for improvement within the proposed legislation. Committee especially acknowledges the courage of victims and survivors of family

violence. Their experiences added critical insight and helped ground Committee's work in the lived realities of those most affected.

Committee categorized public comments received into five themes: Addressing family violence in the NWT; Challenges within the EPO system; Expansion of who can apply for an Order; Stalking, and; Orders reviewed in court. Committee has made a total of 15 recommendations across these themes.

1. Addressing family violence in the Northwest Territories

Public submissions emphasized that effectively addressing family violence in the NWT requires a comprehensive, whole-of-government approach. While legislative tools like the PAFVA play an important role, they are not sufficient on their own. Participants highlighted the need for coordinated strategies that include expanded services, sustained funding, culturally relevant supports, education, and improved systemic responses. Committee acknowledges that EPOs are one tool among many, and that meaningful progress depends on long-term investment in social infrastructure and broader policy reform.

Committee wishes to emphasize the words of the YWCA NWT from their second submission to Committee:

"Let us be clear: the Protection Against Family Violence Act and the measures it legislates alone will not eradicate family violence in the territory. EPOs and Protection Orders are helpful to have in our toolbox, but they cannot address this issue in all its complexity – nor is that their purpose. If Members are committed to addressing family violence then they need to push for significant, long-term investment in the social infrastructure. This means safe, affordable and accessible housing; community-based and culturally relevant supports for survivors; stable funding for trauma-informed frontline services; and improved systemic responses that break silos and promote collaboration, among other things. Such investments will not only make legislation like the Protection Against Family Violence Act more effective but will more fulsomely reduce family violence in the territory."

Committee also notes that the GNWT's draft strategic framework to address family violence in the NWT states that the framework has been developed to "meet the safety needs of survivors and the rehabilitative needs of perpetrators by providing equitable access to a continuum of integrated GNWT services that are preventative, supportive, and rehabilitative, while building strong partnerships with community organizations to strengthen the overall service provision for Northerners."⁷ Specifically, the framework outlines a holistic approach that focuses on five pillars:

1. Support for victims, survivors, and families that is immediate, responsive, competent, stable, equitable, trauma-informed, and culturally appropriate.
2. Prevention that reduces barriers to getting help and the normalization of family violence by educating children and communities on family violence issues, providing trauma-informed training for professionals, and engaging men and boys in gender-based violence preventative programming.
3. A responsive justice system that addresses the underlying factors that lead to family violence and adjusts standard practices that can retraumatize survivors.
4. Indigenous-led approaches that address the ongoing effects of colonization in the NWT and allows individuals to take control of their own healing.
5. Social infrastructure and enabling environments that focus on equitable person-centred service delivery.

However, since the draft framework was made public in 2023, it is unclear what progress the GNWT has made on implementation.

Committee therefore makes the following six recommendations:

Recommendation 1: The Standing Committee on Social Development recommends the Government of the Northwest Territories provide a detailed overview of what funds are currently available for culturally appropriate social programs, frontline services, and capital infrastructure designed to prevent or mitigate family violence in the Northwest Territories.

Recommendation 2: The Standing Committee on Social Development recommends the Government of the Northwest Territories develop and make public a costed, measurable, and time-bound strategy for addressing each of the pillars listed in the *Reclaiming the Capable Person: We are all Capable Persons when we have Community: A Strategic Framework for Addressing Family Violence in the Northwest Territories* by the end of the 2026 fiscal year.

Recommendation 3: The Standing Committee on Social Development recommends that the Government of the Northwest Territories allocate significant new funding to support the provision and expansion of domestic violence shelters and safe homes across the Northwest Territories. This investment is necessary in light of the recent expansion of eligibility for Emergency Protection Orders. The Standing Committee on Social Development further recommends that these funds be included in the 2026–2027 Main Estimates and Business Planning Process.

Recommendation 4: The Standing Committee on Social Development recommends the Government of the Northwest Territories expand transitional housing and shelter supports for men (e.g. providing multi-year funding to the Bailey House at the Salvation Army – Yellowknife) who are removed from homes due to Emergency Protection Orders and who are seeking to recover from violent behaviours, including supporting group housing models in small communities, similar to those initiated by Fort Good Hope.

Recommendation 5: The Standing Committee on Social Development recommends the Government of the Northwest Territories, specifically the departments of Health and Social Services, Education, Culture and Employment, and Justice, increase education for young people and parents about the long-term impacts of family violence and the limitations of short-term legal interventions such as Emergency Protection Orders. This should be achieved through innovative age-appropriate education for children, early intervention programs for young people, integration of family violence education into Career and Life Management classes or the Healthy Family Programs, or other community-based education methods.

Recommendation 6: The Standing Committee on Social Development recommends the Government of the Northwest Territories provide new funds to non-profit and charitable organizations in the Northwest Territories for developing and distributing education materials to communities on the use of Emergency Protection Orders and Protection Orders and long-term solutions to addressing family violence.

2. Challenges within the Emergency Protection Order System

While legislative amendments under Bill 27 aim to strengthen protections for survivors of family violence, public submissions and expert feedback highlight the need to assess the current EPO system more comprehensively. The effectiveness of EPOs depends not only on legislative design but on how the system functions in practice. A thorough review of the EPO process, as contemplated under section 16.1 of the PAFVA¹ and previously recommended in the GNWT's response to the Missing and Murdered Indigenous Women and Girls (MMIWG) Report, remains outstanding.

Committee takes note of this feedback and presents the following recommendation:

Recommendation 7: The Standing Committee on Social Development recommends the Government of the Northwest Territories initiate a comprehensive review of the entire Emergency Protection Order and Protection Order system using Section 16.1 of the *Protection Against Family Violence Act*.

In 2020, the YWCA published a case study titled “*The Nature of Emergency Protection Orders (EPOs) in the Northwest Territories, Canada: A Case Study*”, which examined the effectiveness of EPOs in the NWT. The research involved interviews, transcript reviews, and data analysis to explore EPO processes, usage, benefits, and challenges.

¹ **16.1.** The Minister or his or her delegate may, with the consent of the court, access court files and review transcripts of emergency protection order applications for research, evaluation, or training purposes where appropriate, provided there is no public disclosure of

(a) any information that could identify an applicant, respondent, or any child of or in the care of an applicant or respondent; or

(b) any matter prohibited from disclosure by an order made under subsection 3(3).

The report highlighted barriers faced by victims of intimate partner violence, especially in remote communities with limited resources and police presence. It identified inconsistencies in enforcement, judicial decision-making, and awareness of EPOs among victims and frontline workers. The study was completed independently of the GNWT and funded by the RCMP National Crime Prevention Services.

To Committee's knowledge, no comprehensive review has been conducted to assess key aspects such as the training and knowledge of JPs, reasons for EPO application denials, timelines for court reviews, court record-keeping practices, frequency and outcomes of EPO cancellations, appeals and renewals, or the use of protection orders through the court. Without subject-matter expertise and broader consultation, legislative reform risks being symbolic rather than substantive. Addressing systemic gaps, improving procedural fairness, and ensuring survivor access to protection require coordinated evaluation, legal clarity, and investment in supportive infrastructure from the GNWT.

Therefore, Committee subsequently recommends that the GNWT adopt and formally respond to each of the YWCA's recommendations:

Recommendation 8: The Standing Committee on Social Development recommends the Government of the Northwest Territories formally respond to each of the recommendations of the 2020 case study done by the YWCA on the effectiveness of Emergency Protection Orders in the NWT, including:

1. Improve EPO service delivery and consistency through the development of EPO training which shall include NWT specific education and awareness of EPOs, for service providers including lawyers, RCMP and Justices of the Peace.
2. Improve risk assessment tools for repeat severe and violent offenders to establish the best form of protection, particularly in remote communities without police presence.
3. Develop an effective tracking system for EPOs that are breached, the circumstances surrounding the breach, outcome and consequences of the breach.
4. Strengthen effective safety planning strategies that include trauma-informed training for lawyers, RCMP, Justices of the Peace and Victim Service Workers, particularly in remote communities without police presence.
5. Provide an effective tracking system for EPO breaches, the circumstances surrounding breaches and the outcomes, to improve the current system.
6. Explore legal advice or representation for EPOs.

The Standing Committee on Social Development further recommends that the Government of the Northwest Territories share details about the progress, timelines, milestones, and funding required to address and implement these recommendations with Committee.

Submissions from legal professionals and service providers identified ongoing gaps in understanding and applying the PAFVA, particularly within the EPO system. Concerns were raised regarding inconsistent interpretation by JPs, limited awareness among frontline workers, and barriers faced by applicants due to gatekeeping. Without regular, interactive training for key stakeholders such as JPs, RCMP, and shelter and safe home staff, the legislation's effectiveness is reduced. It perpetuates further traumatization and alienation of victims from the justice system, further reducing the efficacy of EPOs. Targeted education is necessary to ensure trauma-informed, consistent, and legally sound implementation of the Act.

Committee therefore recommends:

Recommendation 9: The Standing Committee on Social Development recommends the Government of the Northwest Territories deliver regular, interactive training on the Emergency Protection Order system and other components of the *Protection Against Family Violence Act*. This training should:

1. Be trauma-informed and culturally aware.
2. Be provided bi-annually to key system stakeholders, including Justices of the Peace, RCMP, the YWCA Northwest Territories, and others.
3. Include guidance on the types of evidence accepted to prove a breach of an Order, and how to clearly communicate this to Applicants.
4. Incorporate survivor and advocate perspectives, with a focus on the lived realities in rural and remote communities.

Some submissions highlighted situations where EPOs may not reflect the evolving needs of applicants, particularly when safety concerns change and other forms of support become more urgent. One lawyer reported multiple cases where women sought to vary the terms of their EPOs due to shifting circumstances, such as financial or caregiving needs. These concerns highlight the importance of understanding how orders are used and when modifications may be necessary. While these issues are significant, addressing them through amendments would fall outside the scope of Bill 27. However, they underscore the need for further review to ensure the system remains responsive and effective.

Committee therefore recommends the following:

Recommendation 10: The Standing Committee on Social Development recommends the Government of the Northwest conduct research on the appropriate duration and flexibility of Emergency Protection Orders under the *Protection Against Family Violence Act*, and in alignment with the Government of the Northwest Territories' recommendation in the Reclaiming the Capable Person: We are all Capable Persons when we have Community: A Strategic Framework for Addressing Family Violence in the Northwest Territories to allow for Emergency Protection Orders to be amended extrajudicially and make any necessary legislative amendments without delay. The Standing committee on Social Development further recommends that provisions and measures be developed to prevent Emergency Protection Order variations from being made under duress or intimidation, drawing on practices in other jurisdictions such as Manitoba and Nunavut.

Committee has also heard of cases where there have been challenges for individuals who are in need of an Emergency Protection Order cannot obtain one. This is particularly problematic in small communities outside of regional centers who do not have RCMP or Officers who are able to provide these services.

To ensure that vital protective services can be expanded to all those who need them, Committee recommends:

Recommendation 11: The Standing Committee on Social Development recommends the Government of the Northwest Territories expand the authority to issue Emergency Protection Orders to a wider range of designated Officers and to add more Officers to cover critical delivery gaps in communities. This change is intended to improve timely access to Emergency Protection Orders for individuals who need immediate protection.

3. Expanding who can apply for an Order

Bill 27 proposes to broaden eligibility for EPOs under the PAFVA by including individuals in dating relationships, care relationships, and other non-traditional family connections. This change addresses gaps identified in case law, such as *M.W. v B.J.*, 2022 NWTSC 25, where an applicant was denied protection because they did not meet the definition of a qualifying relationship. While the proposed amendments aim to reflect the diversity of relationships in the NWT, stakeholders raised concerns about the clarity of definitions and the potential for confusion among those responsible for interpreting and applying the Act. There were discussions that questioned whether the Act remains the appropriate legislative tool if the focus shifts away from family violence, and whether other legal remedies, such as peace bonds or civil restraining orders, may be more suitable in certain cases. Committee members noted that expanding eligibility for orders could increase demand on enforcement and support systems. This highlights the need for further research, clear legislative guidance, and appropriate funding to support coordinated strategies, including expanded services, sustained resources, culturally

relevant supports, education, and improved systemic responses, as recommended in earlier sections of this report.

“Care relationships” and elder abuse

Bill 27 proposes to expand eligibility for EPOs to include individuals in “care relationships,” defined as relationships where one person relies on another for daily assistance due to disability, illness, aging, or impairment. This addition is intended to extend protection to vulnerable individuals, including seniors, who may be at risk of abuse by caregivers.

Committee’s deliberations and written submissions raised substantive concerns regarding the scope and suitability of the PAFVA as a legislative tool to address elder abuse. While the Act permits certain elders to seek protection orders, it may not adequately cover situations where harm is caused by extended family members or individuals within the broader community. This limitation is particularly evident in cases where the alleged abuser is not a child or grandchild.

Committee members emphasized that elder abuse is a serious and growing concern. Although Bill 27 introduces provisions related to care relationships, this approach does not fully capture the diverse circumstances in which elder abuse occurs, including various types of financial abuse. The current legislative framework may therefore leave significant gaps in protection. To address these concerns, the GNWT should undertake targeted research to assess the prevalence and nature of elder abuse across the territory. This research should inform a comprehensive evaluation of existing legal mechanisms and explore alternative approaches. One such option may be the development of a dedicated *Adult Protection Act*, like what is found in other Canadian jurisdictions such as Nova Scotia, Newfoundland and Labrador, or Prince Edward Island, designed to ensure timely and appropriate responses to elder abuse in all its forms.

Jurisdictional Scan:

In examining approaches to the protection of vulnerable adults and elders across Canada, the Committee notes that several jurisdictions have enacted comprehensive adult protection legislation that extends beyond family or caregiving relationships. These legal frameworks establish clear authority for public bodies to investigate and intervene in cases of abuse, neglect, or self-neglect, regardless of the relationship between the alleged abuser and the affected adult.

For example, British Columbia’s *Adult Guardianship Act* (Part 3)⁸ designates specific agencies to receive and investigate reports of abuse or neglect and to take protective actions, including seeking court orders to safeguard an adult’s safety and access to support services. Nova Scotia’s *Adult Protection Act*⁹ similarly authorizes intervention

when an adult is subjected to or at risk of abuse or neglect and cannot protect themselves due to physical or mental incapacity. Newfoundland and Labrador's *Adult Protection Act*¹⁰ provides comparable mechanisms, allowing investigations and protective measures for adults unable to safeguard themselves from harm. Prince Edward Island¹¹ and Yukon¹² have adopted similar frameworks, enabling the investigation of suspected abuse and the execution of court-directed protective responses.

By contrast, some jurisdictions, such as Ontario, Manitoba, and Saskatchewan, lack standalone adult protection statutes. Instead, these provinces rely on sector-specific frameworks like Ontario's *Long-Term Care Homes Act*¹³ and Manitoba's *Protection for Persons in Care Act*¹⁴, which establish mandatory reporting and investigation procedures for abuse occurring within institutional or care settings. While these tools offer important safeguards, they are generally limited to formal care environments and may not extend to circumstances involving informal caregiving or community-based abuse.

Overall, these examples demonstrate that a comprehensive, actor-neutral approach to adult protection, as seen in British Columbia, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, and Yukon, offers broader and more adaptable protection than legislation limited to family or close relationships. The Committee notes that such models could serve as useful guidance if the GNWT considers developing a dedicated *Adult Protection Act* or similar legislative mechanism to ensure consistent and timely responses to elder abuse and the protection of vulnerable adults across all settings.

To support a comprehensive response to protecting seniors and preventing elder abuse, Committee recommends the following:

Recommendation 12: The Standing Committee on Social Development recommends the Government of the Northwest Territories conduct a comprehensive review of elder abuse, including research to understand its scope, analysis of the existing legislative framework, and development of an appropriate legislative framework to address identified gaps. This may include introducing a dedicated *Adult Protection Act* to ensure that elders receive timely and appropriate protection.

4. Stalking

In 2003, the Standing Committee on Social Programs concluded that the PAFVA was broad enough to include stalking within the definition of family violence. The Committee emphasized that the Act should focus on the impact of behaviour, specifically whether it causes fear, rather than listing every possible action. At that time, the Committee declined to pursue a motion to explicitly include stalking, stating that the conduct was already covered and that discretion in administration was essential.

Amendments introduced through Bill 27 now define stalking and include it as grounds for seeking an EPO. This change reflects a growing recognition of stalking as a form of coercive control, the increasing prevalence of online harassment, and aligns the NWT with other jurisdictions. Some of the written submissions expressed support for the inclusion of stalking in both physical and electronic forms as a meaningful step toward stronger protections for survivors.

Committee discussed the inclusion of the term “reasonably” in the definition of stalking and supports its use. This standard is consistent with other provincial and federal legislation, where stalking is defined as conduct that causes a person to reasonably fear for their safety. Committee further noted that courts regularly interpret reasonableness and that this threshold is commonly applied in decisions related to EPOs. While other forms of family violence in the Act do not include a reasonableness test, Committee sees value in applying it to stalking to help ensure appropriate use of the provision and to filter out meritless complaints. Committee does not recommend amendments currently but notes that jurisdictions such as Manitoba and Nunavut include the term throughout their legislation. This may be beneficial to consider in future updates to improve consistency across definitions.

Tort of Stalking

Bill 27 introduces a civil remedy allowing individuals to sue for damages under a newly created tort of stalking. This provision would enable applicants to seek financial compensation through the courts, separate from the emergency protection order process. Committee noted that only Manitoba and Nunavut have similar provisions and questioned whether this remedy has been used effectively in those jurisdictions. There is ongoing legal debate about whether such torts must be created by legislation or can be interpreted from existing common law.

Committee raised concerns about the practical accessibility of this remedy. Civil lawsuits are complex and often require legal representation, which may be financially out of reach for many applicants. It is unclear whether Legal Aid would support such claims or whether the potential compensation would justify the cost of litigation. Additionally, Committee considered that most civil claims are subject to time limits, which vary depending on the nature of the harm. The default period in the NWT is six years, but this may not be suitable for stalking-related claims, which often involve complex circumstances and delayed reporting. A shorter period may improve clarity and consistency, but any change should be informed by legal analysis and stakeholder input.

Committee supports retaining the tort provision in Bill 27 and encourages further study to ensure the limitation period reflects the realities of family violence and civil litigation in the territory. Therefore, Committee recommends:

Recommendation 13: The Standing Committee on Social Development recommends that the Government of the Northwest Territories review the current limitation to the tort of stalking which is six years, and determine an appropriate limitation period for the tort of stalking and make any necessary legislative amendments.

5. Orders Reviewed in Court

Section 5(2) of the *Protection Against Family Violence Act* requires that EPOs be reviewed by the court within three working days of receipt, or as soon as a judge becomes available. This review is intended to serve as a critical safeguard, particularly in cases where the order results in eviction from the home or restricts parenting access.

Committee heard concerns from legal professionals and service providers that these reviews may not be occurring within the mandated timeframe. Some participants described delays that raise questions about procedural fairness and the potential misuse of EPOs. The Department of Justice confirmed that the responsibility for conducting reviews lies with the independent judiciary and that it does not collect data on the timeliness of these reviews. As a result, the government has not take steps to verify whether the three-day requirement is being met. Committee also noted that not all parties may be notified of the review, and that the process lacks transparency. Given the serious implications of EPOs, automatic court review with notice to all parties should be standard practice.

Committee maintains that this further emphasizes the need for a thorough review of the EPO process to be done under section 16.1 of the PAFVA to access this critical data, determine if the system is functioning effectively and efficiently, and to make necessary changes without delay.

To supplement Recommendation 7 which recommends that the GNWT undertake a comprehensive review using section 16.1 of the PAFVA, Committee recommends the following:

Recommendation 14: The Standing Committee on Social Development recommends that the Government of the Northwest Territories collaborate with the Northwest Territories judiciary to assess whether Emergency Protection Orders are being reviewed within the legislated three-day timeframe. If reviews are not occurring as required, the Committee recommends that corrective measures be implemented without delay and that any identified interventions be reported back to the Committee. This assessment should include data collection and analysis to determine the extent of delays, their underlying causes, and appropriate solutions.

AMENDMENTS

Committee put forward five draft motions to amend Bill 27. These are included in Appendix B of this report.

Motion 1

Committee supports including stalking as grounds for protection but recommends amending the definition to specify “repeated conduct.” This change would improve clarity and align the Act with legal standards consistent with other Canadian jurisdictions. Committee therefore moved to amend paragraph 2(1)(b) of Bill 27 by amending the definition of “stalking” from “conduct” to “repeated conduct.”

The motion was carried during the clause-by-clause review with the Minister’s concurrence.

Motion 2

To align the language within the PAFVA and make its provisions consistent, Committee moved to amend subclause 2(3) be amended by striking out the word “repeatedly” in subsections a and b. This amendment was proposed to complement the amendments presented in motion 1.

The motion was carried during the clause-by-clause review of the bill with the Minister’s concurrence.

Motion 3

During the study, Committee noted that the concept of “dating” is a poorly understood or not commonly used term in Indigenous cultures and experiences. Committee moved to amend subclause 3(1) of Bill 27 to remove the reference to “dating relationship” and making the reference more general so as to capture a wide variety of intimate personal relationships that would align with cultural norms and traditions. The motion was carried during the clause-by-clause review of the bill with the Minister’s concurrence.

Motion 4

As with Motion 3, Committee moved to amend subclause 3(1) of Bill 27 by striking out “a dating relationship” in proposed paragraph 2(1.1) and substituting “an intimate personal relationship.”

The motion was carried during the clause-by-clause review of the bill with the Minister’s concurrence.

Motion 5

Section 2(5) of Bill 27 proposes a new provision that would allow the RCMP to disclose the identity of a suspected individual to an applicant, but only under specific conditions. The provision applies when an applicant suspects they are being stalked and requests information from the RCMP to support an application for an Emergency Protection Order (EPO). Disclosure is permitted only if the RCMP already possess the identity of the suspected individual and suspect that the applicant is being stalked. This provision is intended to assist applicants who are considering applying for an EPO but do not know the identity of the person they believe is stalking them.

Committee moved to amend subclause 3(3) of Bill 27 to elevate the standard for disclosure from “suspected” to “reasonably believed” in subsection a and b. Furthermore, Committee moved in motion 5 to include a new provision as section 6 that would protect the RCMP from any concerns under the federal *Privacy Act* if the disclosure is made in good faith and is consistent with the *Privacy Act*.

The motion was carried during the clause-by-clause review of the bill with the Minister’s concurrence.

All motions put forth by Committee were concurred with by the Minister.

CONCLUSION

On October 20, 2025, Committee held a clause-by-clause review for Bill 27. Committee passed a motion to report Bill 27, as amended, to the Legislative Assembly as ready for consideration in Committee of the Whole.

This concludes the Standing Committee on Social Development’s review of Bill 27: An Act to Amend the Protection Against Family Violence Act.

Recommendation 15: The Standing Committee on Social Development recommends the Government of the Northwest Territories provide a response to this report within 120 days.

ENDNOTES

¹ <https://www.ntlegislativeassembly.ca/sites/default/files/taled-documents/2024-11/TD%20220-20%281%29%20RCMP%20Territorial%20Police%20Service%20Agreement%20-%20RCMP%20Annual%20Report%202023-2024.pdf>

² https://www.eia.gov.nt.ca/sites/eia/files/16352_gnwt_mmiwg_action_plan_8.5x11in_web.pdf

³ https://e6d09ef7-254a-4da6-ac43-bf5916977530.filesusr.com/ugd/1eb237_63f4369eb061487e816ae8dc502c1c05.pdf

⁴ <https://www.gov.nt.ca/en/newsroom/caroline-wawzonek-reclaiming-capable-person-strategic-framework-addressing-family-violence>

⁵ https://www.ntlegislativeassembly.ca/sites/default/files/legacy/td1024-192_-_sow_-_reclaiming_the_capable_person_-_we_are_all_capable_persons_when_we_have_community.pdf

⁶ <https://cabinradio.ca/172934/news/justice/nwt-needs-to-do-better-when-partners-become-violent/#:~:text=Sarah%20believes%20the%20institutions%20responsible,the%20NWT%20aren't%20working.>

⁷ Reclaiming the Capable Person: We are all Capable Persons when we have Community: A Strategic Framework for Addressing Family Violence in the Northwest Territories. Page iii.

⁸ https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96006_01

⁹ <https://nslegislature.ca/sites/default/files/legc/statutes/adult%20protection.pdf>

¹⁰ <https://www.assembly.nl.ca/legislation/sr/statutes/a04-02.htm>

¹¹ [A-05-Adult Protection Act.pdf](#)

¹² [2003-021A.pdf](#)

¹³ <https://www.ontario.ca/laws/statute/07I08>

¹⁴ [Manitoba's Protection for Persons in Care Act](#)

APPENDIX A: SUBMISSIONS and PRESENTATIONS

BILL 27: An Act to Amend the Protection Against Family Violence Act

A Response

Submitted by: Margo Nightingale
Idowu Ohioze
Erin George
Sukham Dhindsa
Renée Fougere

August 8, 2025

Amended Aug. 27, 2025¹

¹ This has been amended to correct errors identified in the original since it's submission, and some additional recommendations. Changes have been reviewed and approved.

BACKGROUND:

Violence remains a serious societal problem in the NWT as shown in reported rates of violent crime in 2023.² According to national statistics to 2022, rates of reported “family violence” and “intimate partner violence” have increased since 2014 and are more than ten times the national average. Only Nunavut has higher rates of violence.³

The criminal law is one means of responding to family violence, but it has been described as slow, uninformed, rigid and a system that is neither available to all in northern communities nor empowering to complainants.

Aware of several shortcomings in the criminal process, the Protection Against Family Violence Act (“PAFVA”) was introduced in the NWT in 2005. It provides quicker and more direct ways to provide safety to people experiencing family violence. Application for an Order can be made over the phone with no notice to an alleged offender (called a “respondent” in the Act).

This NWT legislation allows emergency hearings, usually within 24 hours, without giving the potential offender (the “respondent”) notice that this is going to happen. If a court agrees to an order, the court can make a no-contact order, require the RCMP to remove a respondent from their home, give an applicant sole possession of a home, prohibit the respondent from possessing firearms and other terms designed to protect an applicant who has developed a fear for their or their child’s safety, or they fear damage to their property.

The Act was created to address a specific gap in the law with significant input from a coalition of organizations concerned about family violence. That coalition included the NWT Seniors Society and the Status of Women Council.

Despite much hope for this legislation, and many successful applications under Act, there have been several problems noted in the application of the law. Lawyers have become aware of situations where the Respondent (who is usually the spouse or other family member) disputes that violence occurred (historically or otherwise) or that the situation required an emergency order that evicted them from their home, or stopped them from seeing their children. The judicial review time can be lengthy and it is not always clear that the materials provided to the Supreme Court are adequate to allow an appropriate review. We do not know how many Orders are set aside when they are reviewed by the Supreme Court, or how many are varied or ended if requests are made to end or change the Orders.

² [NWT Bureau of Statistics | Justice - Police Reported Crime](#)

³ [Victims of police-reported family violence and intimate partner violence, by type of violence, selected year and province or territory, 2014, 2019, 2020, 2021 and 2022](#)

Some lawyers complain that Justices of the Peace are inadequately trained to make these Orders and that they often interfere with parenting time when the children have not been shown to be at risk of harm.

Some believe there is a litigation advantage to the person who gets an EPO as it usually involves one spouse getting primary use of the home and sole parenting time, which can create a new “status quo” during a separation. There is also concern that many EPOs remain in effect longer than an emergency exists and that participants are required to file new documents in court to request changes, which can create daunting access to justice barriers. That can be said of both applicants and respondents (see “Anecdotes” for examples).

The GNWT has proposed changes to this legislation in Bill 27. According to the government’s “engagement” document, and the plain language summary of the Bill, the GNWT seeks to change the PAFVA to:

1. Expanding the definition of who can apply under the Act to include:
 - a. people who are “dating” but not living together
 - b. people in a “care relationship”; and
 - c. people who are “deemed” to be related.
2. Address physical and online stalking ⁴

The YWCA has noted that “stalking” has not been specifically included in the Act and recommends its inclusion as a specific basis for an application.⁵ The basis for the other proposed changes are unknown and there is no evidence or information about the problem or gap these proposed changes are intended to address and therefore, nothing to suggest the proposed changes are needed.

Expanding who can apply for an Order?

New applicants are identified and defined in s.3(1) of Bill 27 to include:

- Anyone in a “dating relationship” ⁶
- Anyone with a “family relationship”
- Anyone in a “care relationship”

⁴ Taken from the public document “Engagement on the Protection Against Family Violence Act” issued by the Department of Justice in December 2024 and the plain language summary of Bill 27, tabled in the Legislative Assembly on May 28, 2025.

⁵ “The Nature of Emergency Protection Orders (EPOs) in the Northwest Territories: A Case Study” Aug. 2020, [1eb237_63f4369eb061487e816ae8dc502c1c05.pdf](https://www150.computerscanada.ca/1eb237_63f4369eb061487e816ae8dc502c1c05.pdf) at page 62. See also pp. 7-8, 55, 60.

⁶ This and other terms in quotations have definitions in Bill 27.

Although the Act currently focusses on protecting people who have an ongoing family relationship, and often share a home, the amendments change that and would allow orders in cases where there is no family relationship. In taking this approach, the Bill not only expands the types of applicants, but diverts the focus away from “family violence”.

Expanding the categories of applicants in the proposal also risks confusing those who must interpret and apply this Act. The definitions of each new category of applicant in Bill 27 are dense and confusing.

If the changes in Bill 27 are accepted, s. 2(1)(b) is deleted and replaced by an applicant in a “dating relationship”. The change, if accepted, not only adds a new category of applicant but also eliminates a category as the previous clause allowed an applicant who lived with someone they feared but they hadn’t lived together long enough to meet the definition of a “spouse or former spouse”.⁷ The original s. 2(1)(b) should remain within the Act.

For an applicant to qualify as having a “dating relationship”, the proposed definition will require that there be evidence of an “intimate relationship of some permanence”. This is similar to recent changes in the Divorce Act, but in those changes the relationship still had a family-like appearance or connection. Comparisons should be made to decide whether the proposed amendments in Bill 27 are necessary or address “family violence”.

Legislators should also consider how someone establishes “intimacy” and how much time together establishes “permanence”. Legislators will also need to consider if both intimacy and permanence are required (as currently proposed) and if these changes are required because using peace bonds or other civil restraining orders have not been appropriate.

Other questions arise. If the category of applicants is extended and “family” violence is no longer the concern, is the PAFVA the appropriate legislative tool? Is a non-family situation (like that arising from a “care relationship”) something that warrants an emergency order without notice to the alleged perpetrator? Could the concerning situations be better addressed through other existing tools like a peace bond or other civil restraining order?

More thought is needed to determine whether allowing a person in a “care relationship” is necessary. Currently a person can apply for a protection order where the offender is their child or grandchild and in this way, some elder abuse is addressed. While the current language may limit when an elder or senior citizen can seek protection, there is no evidence that people are being abused by their caregivers. There is, however, concern about extended family and other community members abusing the elderly but those situations will not be addressed by the proposed amendments.

⁷ To qualify as a spouse, a couple must either marry or have lived together for more than 2 years, or a shorter time if they have a child together and are in a relationship of “some permanence”.

Stalking: is the new definition necessary?

Bill 27 proposes to specifically include and define “stalking” as a form of family violence that may justify the issuance of an order.

In October 2003, it was agreed that the language of the Act was broad and flexible to ensure the emphasis was on the impact of a person’s behaviour – that the behaviour caused fear – rather than a listing of all the many types of actions that could create fear. At that time it was discussed and agreed that “stalking” was already included in the definition of “violence”. This point was made on behalf of the Standing Committee on Social Programs in 2003, when the Assembly was told:

The committee agrees that flexibility and appropriate discretion will be critical to the proper administration of the act and that the conduct [of stalking] is already covered in the definition of family violence. It [the Committee] is, therefore, not pursuing a motion to specifically include stalking behaviour as part of the definition of family violence.⁸

This description has not been proved wrong, or inadequate. If applications are being denied, which we have no evidence has occurred, the solution is more likely to be in appropriate training for frontline workers or JPs than new terminology in the Act. We recommend that the term and its definitions be deleted.

If the government decides it must include “stalking”, it must consider the proposed definitions.

Stalking implies actions that are benign unless they are repeated and are performed in such a way as to induce fear. In Bill 27, s. 2(1) and 2(2)(f) do not mention or require repeated conduct. This is a problem. In general, the definitions of “stalking” in sections 2(1), 2(2) and 2(3) of Bill 27 should also be deleted as they provide no additional clarity.

Legislators should also be aware that that:

- In Bill 27, s. 1(3) says that a minor or a mentally incompetent person is “**deemed** to have” fear if another person in the same circumstances would “reasonably” feel fear. This is not necessary in the NWT because only the Applicant’s fear is relevant and neither a child, nor a mentally incompetent person can apply under the Act. This section should be deleted.
- In the existing PAFVA, behaviours defined as “violence” are established if a person feels fear. It is a personal, subjective assessment or feeling. In Bill 27, it is proposed that a person’s fear of being stalked must be “reasonable” which requires the decision maker to agree (which is an objective assessment). If accepted, an

⁸ Hansard, Oct 1, 2003, p. 1129 – comments by Brendan Bell on behalf of the Standing Committee on Social Programs.

Order based on evidence of stalking will require a more strict test than other acts of violence.

- In Bill 27, s. 2(4) proposes a new section that allows the RCMP to tell an applicant if the RCMP “reasonably believe” an applicant is being stalked, and to give the applicant the name of the person the RCMP thinks is the stalker. If the RCMP have this belief, they should lay a criminal charge, not pass responsibility for action to a private citizen who the police believe is at risk of harm. This section should be deleted.

In general, lawyers are seeing more misuse of the EPO system:

- JPs don’t always understand the Act or how to implement it. They can misunderstand the definition of “violence” and the test for making an EPO. They appear to require regular interactive training about the Act.
- There are gate keepers (i.e. police and shelter workers) that don’t always seem to understand the Act, who may apply and why. Again, regular interactive training should be given.
- There are too few community supports for people trying to end the cycle of violence. Too often women are seeking a variation or end to an EPO because they need help from the Respondent / potential abuser.

Tort of stalking

A tort is a civil wrong, other than breach of contract, that causes a claimant to suffer loss or harm, resulting in legal liability for the person who commits the [tort]. ...[T]ort law aims to compensate individuals who suffer harm as a result of the actions of others. ...⁹

There is disagreement in the law about whether a tort of stalking or harassment (which is broader and includes stalking) must be created by legislation or if new torts can be interpreted into the existing torts of harms.¹⁰

To get the benefit of this new tort, a person will need to sue someone by starting a separate civil law suit in court. This can be a complicated legal process that is likely to require a lawyer’s advice and assistance. Are there lawyers willing and able to take this work? Could an applicant likely afford the resulting legal fees? Will legal aid extend its eligibility to support low income applicants? Is an award for a successful lawsuit going to be high enough to encourage lawyers to do this work under a contingency agreement (where they are paid out of the compensation that a court orders a perpetrator to pay)? Would a person

⁹ <https://en.wikipedia.org/wiki/Tort> Internal references have been deleted.

¹⁰ See the discussion in: [GoBack | “That Is Not How the Common Law Works”: Paths to Tort Liability for Harassment | CanLII](#)

found responsible for a tort have enough financial resources to make this kind of legal action financially worthwhile?

Only Manitoba and Nunavut have created a tort of stalking. Has it been used? If so, is it filling an obvious gap and providing needed relief that is new to our existing tools?

If the government decides a tort is a helpful tool, other changes may be needed to create the tort. There may need to be a determination of the kind of tort it is (because different kinds of torts have different standards of proof). Most torts are also limited in the time someone can bring a court action, called a limitation period. Some “torts” have to be started within 2 years, some within 6, some ten years and others could be longer. Choosing a limitation period would require a specific amendment in the NWT Limitations Act.

Other:

If this Act is amended, other amendments would be more helpful. For example:

1. a clearer distinction should be made between an EPO and a PO. Both can be made without notice to the Respondent (offender). However, there are other significant differences:
 - a. An “emergency protection order” must be made by a “designated judge” (i.e. a JP), must convince the JP that there has been family violence and there is immediate danger of further violence such that the order should be made urgently. The EPO can last up to 90 days.
 - b. A “protection order” must be made by the Supreme Court if a judge is convinced there has been family violence. There does not need to be urgency or proof of immediate danger. Further, the Supreme Court can Order additional things like financial compensation for any damages caused already, requiring the Respondent to attend counselling, and requiring the Respondent to pay for a child to attend counselling. There is no end date to this Order.

It would also be helpful to note that an emergency order can be the first Order that becomes a longer term (protection) order.

2. Some thought should be given to people who seek a new EPO when the previous order expires. Should this be allowed? Should legislation limit repeated use of the EPO? Should legislation require notice for extensions?
3. Should there be a review role for Territorial Court judges?

4. Courts have said the Act is silent on the criteria to be used on review hearings. In that silence, judges have decided to use the same criteria as is used in the initial hearing (but without always having the transcript of the hearing itself). See *L(C) v A(T)*, 2024 NWTSC 21, para 9 with reference to *Richardson v Golchert*, 2013 NWTSC 86 at paragraph 12. It may be helpful to confirm or revise that approach in amendments to the Act.
5. We would like to know whether materials referred to in s. 5 of the existing Act ("supporting records including his or her own notes") are adequate to avoid misuse of the applications and procedural unfairness.
6. A transcript of each application should be prepared immediately after each application and provided to the review Judge and to any participant on request without cost or delay.
7. EPOs should not be used as a means of affecting parenting time except in the circumstances where there is reasonable evidence that a child's safety is at risk. This may also trigger an obligation to make a report to Child Protection authorities under the *Child & Family Services Act*.
8. No child should be rendered homeless by the issuance of an EPO.
9. More interactive training on this and other aspects of the law are required on a regular basis. The law could require that training be given to any new JP and all system stakeholders on a bi-annual basis.
10. We would like to know if Judges are able to do the mandated reviews within the 3 day window within the existing legislation. From what our clients say, this process is taking too long, facilitating misuse and procedural unfairness.
11. All orders should automatically be reviewed in court on notice to all parties, particularly, where the Orders create barriers to parenting or where a person is evicted from the home.
12. The Department should undertake a s. 16.1 review.
13. The Department should identify the evaluation framework for the existing Act and any amended Act to determine its impact, particularly its impact on increasing personal safety and reducing family violence.

14. The Department or Committee should consider whether the remedies under the Act remain relevant and appropriate if new applicants are included.

While not affected by legislation, communities need more supports for successfully applicants who need financial or other assistance to end the relationship with their abuser.

Counsel Anecdotes:

One lawyer spoke with a senior citizen in a community who felt afraid of a nephew. He said this nephew was financially and physically harassing him. When asked if there was a law against elder abuse, counsel told him there was not, and that he could not apply under the PAFVA because the person he feared was not his child or grandchild. **The proposed expansion of “family relationships” in Bill 27 may help him, but this definition remains overly broad.**

One lawyer had taken several calls from women who sought to vary their EPOs saying they were too long. Generally, the reason they wanted the terms reduced was because they no longer felt fear but had a greater need for the financial or physical help from the Respondent (father of their children) because no one else in their community or in their extended families would help them. Nothing in the proposed amendments in Bill 27 would address this problem.

One NWT lawyer shared that she had left the NWT to avoid a serious threat of harm from her spouse. After leaving, she called Alison McAteer House to apply for an EPO but was told she could not apply until she had returned to the NWT. As a lawyer herself, she found it extremely frustrating that she was denied assistance and wondered how non-lawyers navigated the system.

One lawyer had a case that highlighted significant concerns about process and its impact on youth. In this case:

- There was a multi-generational household, including a youth under 19 who was reliant on the home for shelter and care.
- A family member living in the household got an EPO against the youth, barring the youth from being at the home and from contacting all other occupants, including those who owned the home, who were the caregivers for this youth.
- When the EPO was made, the youth became homeless. He had no notice or an opportunity to be heard by the court.
- When the RCMP served the youth with the EPO, the youth had to leave the home with only a few personal belongings and little ability to return to collect more of their items.

- The youth attempted to vary the EPO to see one of the family members who had cared for the youth and was very ill.
- The matter could be heard quickly but the youth had problems getting a lawyer on short notice. Although some duty counsel assistance was given, the youth was unsuccessful in varying the application.
- The family member passed away the night of the application, and the youth was unable to say goodbye.
- The person who passed away was not the one who got the EPO and there was no direct evidence that person feared the youth.

One lawyer spoke about concerns that front line support workers (victim's advocates and the RCMP) need additional training as they have recently rejected requests by applicants for hearings. The lawyer said they ended up arranging the hearings for clients and in both cases, the EPO was granted.

August 28, 2025

Standing Committee on Social Development
Legislative Assembly
Yellowknife, NT

BY EMAIL

Re: Bill 27, An Act to amend the Protection Against Family Violence Act

Thank you for the chance to provide these supplementary comments, in addition to the written submission by multiple counsel dated August 8, 2025 (and revised August 27, 2025).

At the Committee hearing on August 19th, I was struck by the genuine concern of legislators for improving safety in the NWT. This is commendable and an important responsibility. Members raised thoughtful issues:

- **Shauna Morgan** asked about the intent and impact of some parts of the proposal.
- **Chair Jane Weyallon Armstrong** expressed concern about violence against youth, noting that ignoring it would amount to condoning it.
- **George Nerysoo** highlighted the need to protect elders.
- **Robert Hawkins** focused on workplace intimidation.
- **Keiran Testart** questioned whether there were adequate RCMP resources
- **A private citizen** said it was essential that people in violent dating relationships should be able to get Emergency Protection Orders.

Seeking to reduce violence is a valid concern in the North, but the proposed changes to the **Protection Against Family Violence Act (PAFVA)** may not be the best way to address this. Other legal tools already exist but were recognized during discussion. A helpful YWCA resource from 2015 called “Legal Pathways: Spousal Violence in the NWT, A Resource for Women” is attached to this email.

Limits of Expanding the PAFVA

The PAFVA cannot be a “catch-all” solution. Over-expansion risks constitutional challenges—costly for taxpayers, embarrassing for legislators and harmful to survivors if the law is struck down.

Addressing violence requires a broader strategy: multiple laws¹ or a cross government assessment of how their laws and policies can better support survivors and a reduction in violence; expanded services; reliable funding; training; and proper evaluation tools. Education and social change is also needed to make violence in or out of relationships wholly unacceptable. Meaningful change also requires an understanding of the other existing tools (like peace bonds and restraining orders).

When the PAFVA was introduced in 2005, the Committee carefully analyzed its exceptional nature. They discussed the Act at length as you can see here from Hansard Oct 1, 2003 at pages 1128-1131. This extract has also been attached for your convenience.

Courts have also assessed the legislation and articulated numerous important principles, including these:

- Orders under the PAFVA are for **urgent emergencies** where Applicants need immediate protection from domestic violence.
- Domestic violence includes a wide range of conduct, not just physical harm. The definitions are broad but not all violence falls under the PAFVA.
- The PAFVA is intended to provide “a zone of safety for abused spouses in those cases where there is a realistic threat of immediate harm to the spouse or child.”
- Courts apply the rule of law which requires fairness balanced by any need for urgency: hearings without notice imply urgency and require strict safeguards.
- Applicants have a duty to disclose all important facts, even unfavourable facts.
- Emergency Protection Orders (EPOs) are not meant for discomfort or difficult relationships—they require a real risk of harm.
- The PAFVA is meant for “true emergencies.”²

Legislators should not ignore these principles when amending the NWT Act.

Need for Proper Review and Consultation

Although legislation has been developed, to determine if proposed amendments will improve safety for survivors of domestic violence, it is important to assess the existing realities. The Department should first conduct a thorough review of the EPO process, as outlined in s. 16.1 of the existing Act, and as the GNWT recommended it would in its response to the Report of the MMIWG.³ The Department should share the results of that review with legislators, stakeholders, and practicing lawyers.

In the absence of subject-matter expertise within the Department and Committee, broader and meaningful consultation is essential. Hiring knowledgeable contractors

¹ Like changes to the Employment Act to allow family violence leave, amendments to the Public Guardian and Trustee Acts to ensure people under care are better protected and new legislation that addresses cyber-bullying and elder abuse.

² From: *P.G. v. A.G.*, 2024 NSSC 293 para 26 (CanLII)

³ “Changing the Relationship: An Action Plan in response to the calls for justice on murdered and missing Indigenous women, girls and 2SLGBTQIA+ people”, Action 83, p. 115

may also be necessary. Without knowledgeable advice, legislative changes risk being symbolic rather than effective.⁴

Key Questions for Consideration

- Given how different the legislation, does taking isolated provisions from Nunavut or Manitoba (e.g. “tort of stalking”) improve the NWT Act?
- ADM Patzer claimed the tort of stalking has been used by others. What case law or other evidence supports this?
- Will definitions of new Applicants ensure a continued focus on family violence?
- Are EPOs better than other remedies (peace bonds, restraining orders, bail conditions) when parties don’t live together? If so, why?
- Should other laws/programs (e.g., anti-bullying, elder abuse) also be considered?
- Do all relevant NWT laws address family violence in a survivor-supportive way (education act, public education, employment law, guardianship, trusteeship)?
- What additional initiatives—education, prevention, funding—can help achieve real social change and reduce tolerance of violence?
- What resources are available for training on the existing Act and any amendments?

While the desire to amend the PAFVA appears driven by a desire to reduce violence, other tools already exist when other forms of violence and intimidation occur. While it is important to strive for increased safety for all, amendments to the PAFVA should be laser focused on proven deficiencies in the Act. The proposed changes don’t have this focus and other tools may need to be applied or created.

If you want to discuss this further, please contact me.

Sincerely,

NIGHTINGALE LAW OFFICE



per: Margo L. Nightingale

⁴ A general letter that summarizes the kinds of changes is not real or valuable consultation.

Legal Pathways

Spousal Violence in the NWT

A Resource for Women

Written by Lani Cooke

Published by the YWCA Yellowknife, 2015.

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The Department of Justice, GNWT publication, Family Law in the NWT, provided valuable information.

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Introduction

CHAPTER ONE



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CHAPTER ONE

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What is family violence?*

- ▶ When your intimate partner physically hurts you ...
- ▶ When you are frightened for your safety ...
- ▶ When you are frightened for the safety of your children
- ▶ When your children are frightened for their safety ...
- ▶ When you or your children are sexually abused ...
- ▶ When you are forced into confinement or restricted from coming and going freely...
- ▶ When you are harmed or frightened psychologically, emotionally, or financially ...
- ▶ When you are harassed through repeated hostility on the internet or with a cellphone...

This is family violence*

There are many types of family violence including spousal/partner abuse, elder abuse, and child abuse; family violence also includes violence among brothers and sisters, uncles and aunties.

All violence is unacceptable. Laws are in place to protect you and your children. This book provides NWT women with available legal options.

This book does not provide legal advice.
If you need legal advice you must talk with a lawyer.

NWT has the second highest rate of reported spousal assaults in Canada

The rate of reported spousal assaults in the NWT is 9 to 12 times more than the average in southern Canadian provinces.¹ Only Nunavut has a higher rate of reported spousal assaults. It is estimated that men commit most of this violence against their wives/common-laws. However, in some cases women are violent to their husbands/common-laws, and gay couples also experience violence. This manual is written to support women who are victims of abuse and family violence. It is written from the perspective that women are the victims and men are the abusers.

Spousal violence is often not reported to police because many communities have unspoken rules to keep the violence secret. The secrecy shrouds the violence creating the illusion that it is normal and is to be ignored.

D. Lockhart, a researcher, reports that here are community social pressures that “serve to keep people quiet about these issues, especially in communities in which violence is condoned as an appropriate way to solve problems and sanctions against abusers are low.”²

No one needs to live with violence. There are laws and legal options that can protect you from violence.

¹ Johnson, H. (2006) Measuring violence against women: Statistical trends 2006. Ottawa: Statistics Canada

² Lockhart, D. “Spousal Violence in the Northwest Territories: Implications for Health Care Providers.” EpiNorth, Vol. 19, Issue 1, 2007, p. 11. Govt. of the NWT Dept. of Health and Social Services.

Seek Safety

Seek Safe Shelter for You and Your Children

Whenever family violence is taking place, you are encouraged to seek shelter. Friends, relatives, and supportive community members may be able to provide you and/or your children with shelter in situations of violence. Designated shelters for women and children who are experiencing family violence are located in the following NWT communities:

- ▶ Alison McAteer House Yellowknife
1-867-873-8257
Toll Free: 1-866-223-7775
- ▶ Family Support Centre Hay River
1-867-874-6626
- ▶ Sutherland House Fort Smith
1-867-872-4133
Toll Free: 1-877-872-5925
- ▶ Aimayunga Women's Emergency Foster
Care Shelter Tuktoyaktuk
1-867-977-2000
- ▶ Inuvik Transition House Inuvik
1-867-777-3877

When you are experiencing violence you may phone (collect or toll free) to any of the above shelters for support. Shelter workers will give you information about how to get you and your children to the safety offered by the shelter. If you have to travel, health and social services will provide funding support. Please refer to Chapter Seven of this manual for more contact information.



Safety Planning

Most victims of family violence do many things to protect themselves and their children from abuse. You may have observed your violent partner carefully over time and recognize some of the warning signs that violence may take place. You might have a friend or relative who you and your children may stay with when you suspect that your partner is about to be violent. When you plan to protect yourself and your children, these ideas are called a safety plan.

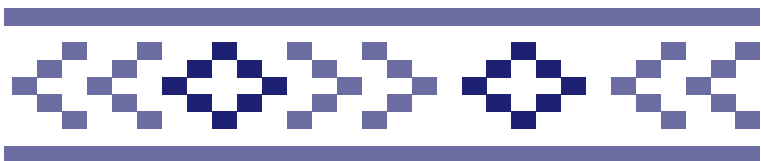
You do not have to wait for the violence to start. You can prepare your safety plan if you suspect that your partner is about to become violent or if you have experienced violence from your partner before. You may have your safety plan written down or you may have it memorized.

Here are some questions that may arise as you begin your safety plan:

- ▶ What can I do when he has hit me and is getting more and more angry? How do I react to this so that my children and I can get away from him quickly? What do I say to him?
.....
- ▶ How easy is it to leave the house quickly? What is in the way of our leaving? What do I do if he blocks the exit to the room we are in?
.....
- ▶ Is there anything I can do ahead of time to help me and the children leave the home safely when he is getting violent?
.....
- ▶ Are there some rooms in my home that are safer than others; rooms with windows or outside doors? Can I get to these areas in my house quickly?
.....
- ▶ I will talk to my children and explain to them that when I yell "LEAVE the HOUSE" that they are to leave immediately, and go to a place that I have arranged for our safety.
.....



- ▶ Are there times when he is away from the home when I can take my children and leave him?
.....
- ▶ Where is the closest shelter? Which are the safest homes for me and my children? Have I talked with my friends and relatives about coming to their homes when there is violence in our home?
.....
- ▶ Do I have a friend that I can turn to when I am afraid of violence?
.....
- ▶ I will develop a system with my friend so that she knows when there may be violence happening in my home. If my friend phones I will say "I am ordering a new rug from the catalogue", and she will know that violence is taking place.
.....
- ▶ I will talk to my friend about what I want her to do if she phones and I indicate that there is violence taking place.
.....
- ▶ I will try to keep some extra cash hidden and have my identification, driver's license, truck keys, bank cards readily available if I have to leave the house in a hurry.
.....
- ▶ What role do I want the closest shelter to play in my safety plan? I might decide to phone the shelter and discuss my safety plan with staff there.
.....
- ▶ Am I ready to call the police to charge him in situations of family violence?
.....
- ▶ Am I able to keep a written record of the times that my partner is violent to me?
.....



Legal Options

Getting to safety is the first part of looking after yourself in situations of family violence. Once safe you have a number of legal options that you can take to keep yourself and your children safe.

This manual provides information about the following legal options for women experiencing family violence :

Emergency Protection Order (EPO)

- ▶ EPO's provide a variety of ways to be safe. One type of EPO can be granted very quickly if you are in immediate danger. You may be granted an EPO by a justice of the peace which allows you to stay in the home without the violent partner and without a criminal charge against him. Police may escort him from the house and he will get charged if he breaks the rules of the EPO. Details about emergency protection orders (EPO's) are in Chapter Two of this manual.

Other Protection Orders, Restraining Orders, Peace Bonds

- ▶ Details about other protection orders are also presented in Chapter Two of this manual.

Criminal Justice Process

- ▶ A woman may call the police to her home because she needs protection from a violent partner. A police officer will come immediately to your home, ensure that you and your children are safe, and investigate. Depending on the situation, some of the charges that could be laid against the violent partner include assault, sexual assault, assault/sexual assault with a weapon, forcible confinement, attempted murder, and murder.
- ▶ Details about the many different aspects of criminal law proceedings are detailed in Chapter Four of this manual.

Child Protection

- ▶ It is harmful to children when they see violence taking place in their homes. Therefore a child may be “in need of protection” if he or she has witnessed repeated violence taking place.
- ▶ According to the law everyone has “a duty to report” if they have reason to believe a child has been neglected, abused or has witnessed family violence.
- ▶ If a child protection worker does an investigation and your children are apprehended (taken away from you) **it is important to get legal advice as soon as possible**. Legal aid is available for people who are unable to afford the costs of a lawyer.
- ▶ There are many steps in the child protection process and many ways for parents to respond. Details about the child protection system are explained in Chapter Three of this manual.

Housing and Income Assistance

- ▶ A woman who is experiencing violence may need income assistance and housing support. If she chooses to leave her home and her abusive partner she may no longer have a place to live and no longer have a source of income.
- ▶ The Government of the NWT has supports and services that address people's needs for income and housing.
- ▶ Income assistance is designed to provide food, shelter, clothing, some household effects for women and their families.
- ▶ Due to a housing shortage in many NWT communities, it may be very difficult for women who are leaving a violent relationship to find housing for themselves and their children.
- ▶ More information about housing and income assistance is in Chapter Five of this manual.

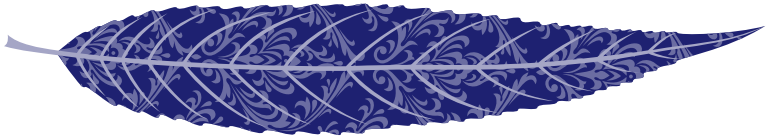
Family Law

Family law covers family relationships including:

- ▶ marriage and common-law relationships
- ▶ divorce
- ▶ child protection
- ▶ child custody
- ▶ child support
- ▶ spousal support
- ▶ division of property

Information about family law is provided in Chapter Six of this manual.





The Importance of Support Workers & Advocates

Organizations that support women who flee from violence provide service as well as advocacy. Shelter workers in the NWT received training in legal options for women experiencing family violence in February 2013.³

Shelter workers, victim support workers, relatives, and advocates are important supports to women who experience family violence. These people listen and offer supports so you will not feel as alone and helpless in situations of family violence.

For example, a support person can accompany you to meetings with child protection, income assistance, and housing. Victim support workers and crown witness coordinators may accompany you to the courtroom when you are a victim and help you to write a victim impact statement.

Information about the role of support workers and advocates is provided throughout the chapters of this book. Contact information for support workers and advocates is provided in Chapter Seven.



³YWCA-Canada sponsored the February 2013 Legal Options Workshop with participation of lawyers, RCMP's, staff from the Department of Justice and Health and Social Services, GNWT, and workers from five shelters for women and children fleeing violence.



Protection Orders

CHAPTER TWO



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CHAPTER TWO

Emergency Protection Orders

- ▶ What is an “emergency protection order” (EPO)?
- ▶ Enforcement of emergency protection orders
- ▶ How do you get an emergency protection order?
- ▶ How to explain your situation to the justice of the peace
- ▶ Supreme Court Review of EPO's
- ▶ Obeying the EPO

Other Protection Orders and Peace Bonds

- ▶ What is a “Protection Order”?
- ▶ What is a “Restraining Order”?
- ▶ What is a “Peace Bond”?

Differences of Various Protection Orders and Peace Bonds

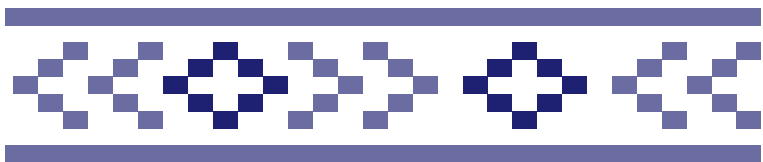
What is An Emergency Protection Order (EPO)?

If your partner is being abusive and you are immediately concerned for your safety, you may apply for an emergency protection order (EPO). An EPO will force him to leave the family home and allow you and your children to stay. You can apply for an EPO very quickly and only you (and not your abusive partner) have to provide information to a justice of the peace (JP), who will consider the application and decide whether or not to grant the EPO.

The EPO is available under the NWT Protection Against Family Violence Act, which was passed in 2005, to increase awareness of family violence, to improve access to emergency protection, and to improve protection for victims of family violence.

If the JP grants an EPO your abusive partner will have to leave the home for up to 90 days. Often police will escort him allowing him first to collect some of his personal belongings. The EPO may also indicate that the abuser may not communicate with you, cannot damage, sell, or take property, and may be required to turn over to the police any weapons that he owns.

Your partner will not be arrested or charged with a criminal offence. However, if he does not obey the emergency protection order he can be charged under the Protection Against Family Violence Act. If found guilty of an offence under this act the punishment is a fine, or possibly a term of imprisonment, or both.



Enforcement of an Emergency Protection Order

The police enforce EPO's, making sure that your abusive partner obeys the order. If you live in a small community where there are no permanently stationed RCMP officers it may be difficult to enforce the EPO.



How do you get an Emergency Protection Order?

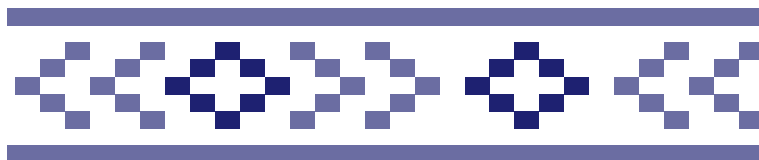
If you are frightened for your immediate safety and/or for the safety of your children you can telephone the RCMP or Alison McAteer House (family violence shelter) in Yellowknife at any time – 24 hours a day, seven days a week to apply for an EPO. An RCMP officer or a staff of Alison McAteer House will listen to concerns for your safety and the safety of your children and can connect you by phone to apply for an EPO to a specially trained justice of the peace (JP).

In a very short time (usually not more than four hours and often less) you will be asked to give evidence to a justice of the peace during a telephone hearing, or, in some situations, a hearing in person. You explain your situation and answer the questions that the JP asks you. Your abusive partner will not be informed about the EPO hearing and therefore he will not be asked to present any information.

If the JP feels that you (and your children) need immediate protection from your abusive partner an EPO will be issued. It is effective immediately. The JP will decide on the length of time for the protection order which can be up to 90 days.

The police will serve your partner with the EPO, often on the same day, although they have up to three days to serve EPO's. Although your abusive partner is not arrested or charged with a criminal offence, the RCMP often escort him from the home.

You do not need a lawyer to get an EPO.



Support to Obtain an EPO

You can phone the RCMP or a staff of the Alison McAteer House in Yellowknife at any time, 24 hours a day, seven days a week, and seek advice about getting an EPO. The police or Alison McAteer staff will listen to concerns for your (and your children's) safety and will connect you by phone to a justice of the peace who can grant the EPO.

RCMP Phone Numbers are the first three numbers of your community plus 1111. For example:

▶ Fort McPherson RCMP	867-952-1111
▶ Alison McAteer House Yellowknife	867-873-8257
Toll Free	1-866-223-7775

How to explain your situation during the EPO Hearing

It is very important that you give accurate information in an organized way during the EPO hearing with the justice of the peace. This may be difficult if you have just gone through an experience of spousal violence. The staff of Alison McAteer House will support you to collect your thoughts and focus on the important facts that the JP needs to know in order to grant the EPO.

Some tips for explaining your situation to the JP are:

- ▶ Be as factual as possible; try to control your emotions
- ▶ Give the details about who is in your family
- ▶ Start with the most recent violence and then describe the history of the violence in the relationship
- ▶ If the abuse has been getting worse, explain this
- ▶ Describe why it is an emergency
- ▶ Answer respectfully any of the questions that the JP asks

The following fictional story is about an NWT woman in a situation of family violence. Following the story are two ways that she can explain her situation to a justice of the peace during a telephone EPO hearing. One of these ways of explaining her situation is better than the other.



Story of Irene and Frank

Irene and Frank got together in high school, having grown up together in a small community of the NWT. They had their first child, Jacob, when they were in the last year of high school. They were able to finish school because Irene's mother looked after Jacob.

In Grade 12 there was a tragedy in Frank's family. Frank's youngest brother, who he loved very much, died in a skidoo accident. Other members of Frank's extended family had suffered violent deaths and Frank had worked through his grief, but this time he couldn't cope. He started to binge drink and became violent and abusive in the home.

When drunk he would shout and scream that Irene was a bad mother and wife. He would demand that she hand over her money, which he would use to buy bootleg alcohol. If she didn't relent, he would push, shove, and even hit her. Once he grabbed his loaded hunting rifle and waved it at Irene. All of this often occurred in front of the child.

One Friday night Irene was working late at the community store and Frank was looking after their son. He called her at work and Irene

could tell that he had been drinking. Irene left work in a rush and found the kitchen in a shambles. Dishes were everywhere and her son was hiding in the corner in tears.

Frank demanded money from Irene. She refused. Frank lunged at her but Irene grabbed her son and made it to the door. As she was leaving Frank threatened that if she didn't give him money he would burn the house down.

Irene was terrified that Frank would not be able to control his anger and grief and might carry through on the threat. She decided to call Alison McAteer House in Yellowknife and apply for an EPO. She really wants Frank to stay away from her when he's dangerous and she hopes that he will be able to ask for the help that he needs. Irene also believes that it is important that Frank's gun be taken away from him until he is in better health.

Number 1 Version:



Irene explaining her Situation to the JP during the Telephone EPO Hearing

I am so upset. I just don't know what to do anymore. My common-law spouse, Frank, is having a really hard time. His baby brother died and now he binges all the time and he shouts at me, and hits me, and demands money from me. I know he loves me, but when he gets like that, I'm really scared. He says these terrible things about me in front of our son, Jacob. He's thrown things at me, too. Also in front of Jacob.

He's a really good person at heart. I know it. He's just going through a really bad time. I love him and want him to get better, but I need to protect myself and my son.

I think an EPO will help shake some sense into Frank. He has threatened to kill Jacob in the past, but I know deep down, even when he's blasted, he would never want to lose Jacob.

I think an EPO will help keep Frank away from us until he sobers up. He's always so sorry when he's sober. He's so ashamed and I think he's scared too. I think it would be good if Frank didn't have his gun for awhile.



Number 2 Version:

Irene explaining her Situation to the JP during the Telephone EPO Hearing

Frank is my common-law husband. We have been together for four years. We have one child together, named Jacob, who is three years old.

Last year Frank's brother died in a skidoo accident and Frank has had a really hard time coping. He started drinking and the drinking has gotten worse. When Frank drinks he becomes physically and verbally violent and emotionally abusive.

Tonight Frank really scared me. I'm worried that he's going to completely lose control and harm me, my child, or our home. I was at work and Frank was at home looking after Jacob. He called me at 7 pm and was drunk, and shouting, and breaking dishes. I ran home and the place was a disaster, and my son was cowering in the corner. Frank demanded money from me to buy more alcohol, and when I refused, he lunged at me and tried to punch me.

Tonight I ran out the door with Jacob. As we were leaving Frank said he would burn the house down if we didn't come back, and if I didn't give him money.

This isn't the first time he has done this. This is the third such incident in three months, and things are getting worse. Last month he pushed me up against the wall, and put his hands around my neck, threatening to kill me if I didn't give him money. About two months ago he threatened to put us all out of our misery. On that occasion he took a loaded rifle and waved it in my face. On both of these occasions, he also shouted and swore at me, in front of our son, that I'm a terrible mother and wife.

Frank needs help. Before his brother died Frank was a good father and husband. But right now Frank is dangerous to us. For a period of time, while he sobers up and gets serious about healing, he needs to stay away from me and Jacob, especially our home, and where I work, and Jacob's day home. I want him to have the counselling he so badly needs. I also want his gun seized. When he is binge drinking you don't know what he might do.

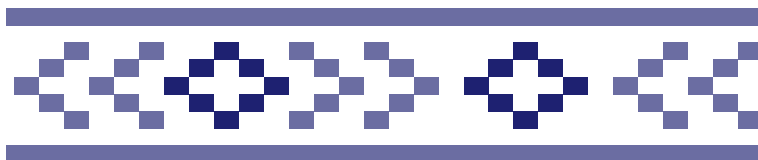
What the JP must consider before granting an EPO

According to the NWT Protection Against Family Violence Act, when the justice of the peace is considering whether to issue an EPO he/she must take into account:

- ▶ the nature of the family violence
- ▶ the history of family violence by the violent partner
- ▶ is there immediate danger to people or property?
- ▶ what are the best interests of the woman applying for the EPO?

Number 2 Version is Best

The Number 2 Version of Irene's situation gives a justice of the peace clear information about the kind of family violence that has taken place, the history of the violence, the fact that there is an immediate danger to Irene and her child, and that it is in the best interests of Irene to get an EPO.



Supreme Court Review of EPO's

The EPO is effective as soon as the justice of the peace issues it. However, all EPO's must be reviewed by the Supreme Court of the NWT - usually within three days. The Supreme Court can agree with the decision of the justice of the peace and confirm the EPO, making it an order of the Supreme Court.

If the Supreme Court Judge does not agree with issuing the EPO, or finds some question about the evidence, the Judge can call for a hearing about the matter. Everyone involved will be given notice of the hearing date and time and will have the opportunity to participate.

The original EPO stays in effect until the Supreme Court either confirms it, changes parts, or all of it, or cancels the EPO.

It is a good idea to get a lawyer immediately if the Supreme Court is requiring a hearing about an EPO that has been granted for your protection. You may get a legal aid lawyer if you do not have a large income.



What is a “Protection Order”?

If you do not have an emergency and immediate need for protection, but there are difficulties with family violence in your home, you can apply for a protection order. It can take up to two weeks to get a protection order. Under the NWT Protection Against Family Violence Act protection orders can be issued for longer than 90 days and can deal with a variety of matters regarding the violence in your home. It is helpful to have a lawyer because the application has to be made at a hearing, in front of a Judge.

The Judge making a protection order can order the same conditions as an EPO (such as restrict the abusive partner from coming into the home, no communication, removal of firearms) as well as other conditions. For example, the Judge could order your abusive partner to go to counselling, pay for medical and dental costs, repair or replace items that he has destroyed, pay for your counselling.

You do not have to go to Court to get a protection order. Your lawyer can bring the application on your behalf before a Judge.

Your abusive partner does not have to be present at the hearing, however, the protection order is not effective until he is given a copy of the order granted at the hearing.

The police are not usually involved in protection orders. However, your abusive partner can be charged by the police with an offence under the Protection Against Family Violence Act if he does not obey the conditions of the protection order.



What is a Restraining Order?

Most people apply for a restraining order at the same time as they are in Court dealing with a marriage breakdown and child custody issues. This type of order is issued under the NWT Family Law Act or the NWT Children's Law Act and it can take you a fair bit of time to get a restraining order.

If you have experienced family violence but you are not in an emergency situation, you can apply for a restraining order at the same time as other family law matters.

At a hearing a Judge makes decisions about your application for a restraining order, which can include very detailed and specific terms that meet your needs. A restraining order has no time limit and the Judge will set a date for the order to end. It is best to talk with a lawyer if you are thinking of applying for a restraining order.

When you make an application for a restraining order, the application must be given to your abusive husband. This means that he can attend the application hearing and tell the Judge his side of the situation and argue that the order not be granted.

A restraining order can force your abusive partner to:

- ▶ Stay away from you and children that are in your lawful custody
- ▶ Not communicate with you or the children except as the restraining order allows
- ▶ Surrender any weapons to authorities
- ▶ Keep from possessing certain property

The police are not usually involved in restraining orders. However, your abusive partner can be charged by the police with an offence under the Family Law Act or the Children's Law Act, if he does not obey the conditions of the restraining order.



What is a Peace Bond?

A peace bond can be used when you are afraid for your safety, your children's safety, or the safety of your property. It is issued under section 810 of the Criminal Code of Canada. A peace bond can be issued against anyone, and is not restricted to family or family violence issues. It can take weeks or possibly months to get a peace bond and they can last for up to one year.

In order to get a peace bond you need to make a formal complaint to the RCMP. Then you have to swear to a statement giving the details of why you are afraid for your safety.

The RCMP will direct the rest of the process. You will need to go to Court and give evidence, most often in a JP Court in your community. Your abusive partner will be informed about the application for a peace bond although he is not required to attend the first appearance in Court. If your abusive partner wants to argue against the issuing of a peace bond then a hearing will be held and he may be asked to provide evidence.

You do not need a lawyer to apply for a peace bond. The RCMP will do the application for you and the crown prosecutor will be in the Court. There are no fees to apply and the peace bond is enforceable anywhere in Canada.

Emergency protection order

What Legislation? Issued under the *NWT Protection Against Family Violence Act* (PAFV)

How is it issued? Issued by a justice of the peace, often by teleconference, anytime day or night

How long does it take to get issued? Takes a few hours to get

Who can apply for it? Anyone who is abused by any family member

In what situations is this order issued? In emergency situations where family violence has occurred and the victim needs immediate assistance

Involvement of Abuser? Does not require that the abuser know that the application is being made. Police often escort abuser out of the home

What conditions can this order include? Not being allowed in the home; not being allowed to contact you; giving up firearms; conditions can be very specific

Is a lawyer required? Does not require a lawyer

Does it cost any money? No costs

Will the police be involved? The police may escort the abuser from the home. (NOTE: Police are involved if the abuser does not abide by the Conditions of the Order)

How long can this order last? Maximum of 90 days

Where is it enforceable? Not enforceable outside the NWT unless there is a jurisdictional agreement between the NWT and another Territory and/or province

Protection order

What Legislation? Issued under the *NWT Protection Against Family Violence Act* (PAFV)

How is it issued? Issued by a Judge in a hearing

How long does it take to get issued? Can take up to two weeks

Who can apply for it? Anyone who is abused by any family member

In what situations is this order issued? When family violence has occurred and there is time for longer term planning to put protection in place

Involvement of Abuser? The abuser does not need to know about the Court hearing. The protection order is not valid until it is served to the abuser

What conditions can this order include? Can include all conditions of an EPO; can also include requiring abuser to go to counselling; require abuser to pay damages on the home; require abuser to pay for medical and dental expenses

Is a lawyer required? Requires a lawyer

Does it cost any money? Requires you to pay the lawyer's fees unless you qualify for legal aid

Will the police be involved? No, except for enforcement

How long can this order last? No time limit unless stated in the order

Where is it enforceable? Not enforceable outside the NWT unless there is a jurisdictional agreement between the NWT and another Territory and/or province

Restraining Order

What Legislation? *NWT Family Law Act or Children's Law Act*

How is it issued? Issued by a Judge in Family Court

How long does it take to get issued? Takes some time to get

Who can apply for it? Anyone who has been in a relationship with the person they are afraid of (married, common-law, or have had a child with)

In what situations is this order issued? If the applicant is afraid for her safety or is being harassed, usually as part of divorce or custody proceedings

Involvement of Abuser? Requires that the abuser know about the application. He could appear in court and present evidence

What conditions can this order include? Can include very detailed conditions that you ask for

Is a lawyer required? Requires a lawyer to make the application. Usually happens at the same time as other family law matters

Does it cost any money? Requires you to pay the lawyer's fees unless you qualify for legal aid

Will the police be involved? No, except for enforcement

How long can this order last? Has no time limit – the Judge will set a date for the order

Where is it enforceable? Not enforceable outside of the NWT. You will have to reapply if you move out of the NWT

Peace bond

What Legislation? *Criminal Code of Canada*

How is it issued? Issued by a Judge in Criminal Court

How long does it take to get issued? A peace bond can be issued fairly quickly but it takes longer than an EPO

Who can apply for it? Anyone who is fearful of their safety, their children's safety or the safety of their property

In what situations is this order issued? Issued to an applicant who has reasonable grounds to believe that another person will harm her, her children or property. Not necessarily connected to family violence

Involvement of Abuser? Requires that the abuser know about the application. He could appear in court and present evidence

What conditions can this order include? Can include conditions such as to be on good behaviour; keep the peace; no contact with you, the victim

Is a lawyer required? Does not require a lawyer

Will the police be Involved? RCMP make the application before the Judge. Crown attorneys are present in court as well

Does it cost any money? No costs

Will the police be Involved? You must talk to the police to begin this process. The police look after the Court process.

How long can this order last? Will end after 12 months

Where is it enforceable? Is enforceable anywhere in Canada



Child Protection

CHAPTER THREE



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CHAPTER THREE

Children Who Witness Violence in Their Home

Child Protection Services

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Dealing with Child Protection Services

Children who witness violence in their home

It is harmful to children when they see violence in their homes. Many children who witness family violence see and listen to assaults upon their mothers.

Children experiencing family violence are more likely to miss school and cannot concentrate because they are worried about what may happen to their mother (or other family member being abused). They often feel that they are to blame for the violence in their family, causing them to have low self-esteem and difficulty in developing healthy and trusting friendships. As they get older they may do harm to themselves and misuse alcohol and drugs.

Children who are abused by violent parents may have problems throughout their lives. The abuse may lead to behavioral, academic, sexual, interpersonal, self-esteem, and spiritual problems.

All children have a right to live free from abuse, harm, and neglect. Repeated exposure to family violence is considered to be child abuse.



Protection of Children

The *NWT Child and Family Services Act* governs the protection of children and can offer voluntary services to families.

The Act recognizes that each of us has a responsibility for the well-being of children. Anyone under the age of 16 years is considered to be a child. Anyone who has information about a child being abused must report the matter to a child protection worker (social worker) or a police officer. This is called the "duty to report". Repeated exposure to family violence, even if the violence is not directly aimed at the child, is considered to be child abuse.



Seeking Safe Shelter for You and Your Children

Women are encouraged to seek shelter away from the violence for themselves and their children. Friends, relatives, and supportive community members may be able to provide you and/or your children with shelter in situations of violence. Designated shelters for women and children who are experiencing family violence are located in Yellowknife, Hay River, Fort Smith, Inuvik, and Tuktoyaktuk. Please refer to shelter information in Chapter One and contact information in Chapter Seven.



Calling the RCMP

When the police are called to a home where there is family violence taking place they are responsible for restoring order, protecting victims (most often women and children), and investigating and gathering evidence. They may arrest the abuser and take him into custody. If they have enough evidence that a crime has been committed they will charge the abuser. In Chapter Four you will find more information about the various steps you, as a victim, will have to go through within the criminal justice system.

Police also have a "duty to report" to child protection authorities if they believe that children in the home have been victims of abuse or neglect or are exposed to abuse or neglect.

What happens when Child Protection Services gets involved?

Investigation

- ▶ Every report to child protection services must be investigated. A child protection worker (social worker) may interview you and your child, talk to other family members, talk to teachers, visit your home and visit the school. The child protection worker can talk to your child without telling you. Parents, however, have a right to know about any report that has been made about them to child protection services.
- ▶ The child protection worker may find that there are no child protection concerns in your home and nothing further will happen. The complaint will be listed as "unfounded" and the investigation file will be closed.
- ▶ If the child protection worker finds there are child protection concerns in your home but the risk to your child is not significant then the worker will encourage your family to get help.
- ▶ You may contact child protection services if you feel that you and your family need help. You do not have to wait until a social worker comes to investigate a child protection concern.

Voluntary Support Services Agreement

- ▶ The child protection worker may find that the child is not in need of protection but they feel that there is still a problem in your home. Then the child protection worker will encourage the family to address the problem under a voluntary support service agreement or through community resources.
- ▶ A voluntary support services agreement can last up to six months at a time. After six months you review it with the child protection worker and decide if it should be renewed, modified, or ended. You can end a voluntary services agreement at any time by informing the social worker that you no longer want to be a part of the agreement.
- ▶ A voluntary support services agreement can help to provide services to your family. Services that can be offered include:
 - Counselling
 - Respite care
 - Parenting programs
 - Drug and alcohol treatment
 - Payment of some housing costs to ensure that you are not evicted from your home
- ▶ **Women may feel pressured into entering into a voluntary**





services agreement. Some women may feel that if they do not enter into a voluntary service agreement child protection services may decide to apprehend their children. **The social worker cannot apprehend your children just because you have decided to end a voluntary support services agreement. There would have to be other reasons for the apprehension.**

- ▶ It is recommended that women get legal advice before signing any contracts or agreements, including the "voluntary service agreements". Many parents are unable to make informed decisions because they do not have a clear understanding of the agreements they are being asked to sign.
- ▶ If you are concerned or feel pressured to sign a voluntary support services agreement, contact the NWT Legal Aid Outreach Clinic at 867-920-3365 (you may call collect) to speak with a lawyer.
- ▶ The voluntary support services agreement should include support ideas that are unique and appropriate for the woman and her family.

If you do not understand what you are signing



with Child Protection Services it is important to talk to a lawyer. Contact the NWT Legal Aid Outreach Clinic at (867) 920-3365, Call Collect.

The role of the Child Protection Worker (Social Worker)

The *Child and Family Services Act* is an NWT law designed to protect children. This is known as the "paramount" objective. Sometimes women may think that the child protection social worker is working for them, and that he or she is a friend. **This is not the role of a child protection (social) worker.**

Although the child protection worker will support families to keep their children at home, ultimately the legal obligation of these workers is to protect the child. This may cause the parents some discomfort.

The child protection worker may appear to be building a trust relationship with a mother while at the same time the worker has the power to take her children away.

The role of the Support Worker, Friend, and Advocate

People who work in shelters for women fleeing family violence are important supports to women in their dealings with the child protection system. An advocate may be a legal aid lawyer or a friend who have some understanding of the child protection system. Support workers, friends, and advocates are all very important to women who are dealing with child protection.

If you are going through a child protection investigation you may feel:

- ▶ overwhelmed
- ▶ frightened that you may lose your children
- ▶ intimidated
- ▶ alone and isolated
- ▶ guilty about the violence in your home even though you have been abused
- ▶ confused about what child protection is trying to do

A shelter worker, friend, or advocate can:

- ▶ help you to identify and contact people who can be of support including your family members, elders, community wellness workers, counsellors
- ▶ help you to understand the different steps in the child protection system
- ▶ help you to prepare for an interview with the child protection (social) worker
- ▶ sit in on the meeting with you and the child protection (social) worker
- ▶ help you realize that it is normal to be frightened and overwhelmed in this situation
- ▶ talk with you about the agreements and/or plans of care that the child protection worker wants you to sign
- ▶ help you to focus on your strengths and help you to identify realistic and achievable steps towards healing
- ▶ help you to get a lawyer
- ▶ help you to deal with your emotions and tell your story to the lawyer in a factual way
- ▶ make sure that you understand what the lawyer is telling you
- ▶ if you disagree with the lawyer's advice, help you to understand what exactly you disagree with and how you want the lawyer to approach your situation differently
- ▶ make sure that interpreting services are available should you require them
- ▶ identify support programs that are available to you





What Happens if there is a Problem identified in the Child Protection Investigation?

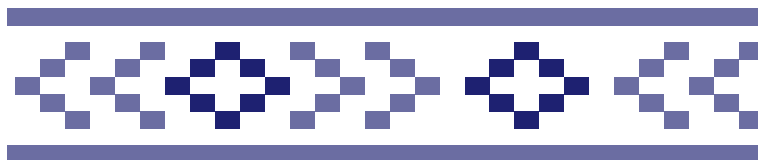
If the child protection worker investigates and believes that the child needs protection and that the child's health and safety is in danger, the child protection worker can do a number of things.

For Example:

If a caregiver is looking after your children while you are out make sure to tell them where you are going, when you will be back, and your phone number.

If you will be late getting home let the caregiver know. If you have been drinking and you return home, do not let the caregiver leave until you are able to look after your children.

If the caregiver calls child protection services because they cannot find you and no longer want to look after your children, the child protection worker will apprehend your children.



You should speak with a lawyer before signing a Plan of Care Agreement. Contact the NWT Legal Aid Outreach Clinic (867) 920-3365 Call Collect

Plan of Care Agreement

If a child protection worker finds that there are serious problems in the home and, as parents, you acknowledge that you need help, you and the child protection worker can enter into a plan of care agreement.

This is a binding contract and you should speak to a lawyer before signing it. A child protection lawyer at the NWT Legal Aid Outreach Clinic can answer your questions.

You cannot be forced to sign a plan of care agreement. You should discuss it with a lawyer or a friend to see if the conditions are realistic and achievable. You have the right to make suggestions about what you would like to see in the plan of care agreement.

You may end a plan of care agreement by a letter. Ten days after the social worker receives your written request the plan of care agreement can be ended.

Child Apprehension

If a child protection worker finds that there are serious problems in your home then he or she can immediately remove the child from your (the parent's) care. This is called an apprehension. Apprehensions occur if the child protection worker feels that the child's health or well being is in immediate danger and the parents are unable or unwilling to protect the child.

The Child is Returned to her/his Family

After the apprehension the child protection worker may discover additional information that causes the worker to decide to return the child to his/her parents, usually within three days of the apprehension.



The Child is Not Returned to her/his Family – Apprehension Hearing

If the child is not returned to his/her family within three days then an application to confirm the child apprehension must be filed in the Territorial Court. The child protection worker must be prepared to go to court for a hearing within 14 days after the child has been apprehended.

The test during the court hearing, that has to be passed to confirm a child apprehension, is to answer "Yes" to the following two questions: (Note that the Part 2 question is usually asked first by the Judge followed by the Part 1 question.)

Part 2: Is the child in need of protection today? (date of hearing)

Part 1: If the answer to Part 2 (above) is yes, then the Judge considers whether, on the day of the apprehension, the child protection (social) worker had reasonable grounds to believe that the child was in need of protection.

If both Part 1 and Part 2 of the test are answered "Yes", the Judge will confirm the apprehension.

If either Part 1 or Part 2 is answered "No" then the Judge will dismiss the order and the child/children must be returned to the parents.

If child protection still feels that the children are in need of protection, they will have to return the children to their family and then re-apprehend the children and go through the court process again.

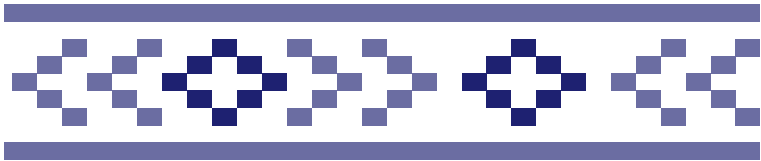


Plan of Care – after an Apprehension

It is possible to sign a plan of care agreement after your child has been apprehended but before the apprehension hearing. Once the plan of care agreement is signed you will have to go to court to ask the Judge to withdraw the apprehension application.

An apprehension order issued by the court is only valid for 45 days from the date of the apprehension of your child/children. Within 23 days of the apprehension the child protection worker must have a plan of care agreement signed with you. The child protection worker sets up a "plan of care committee" to help develop the plan of care for the child/children.

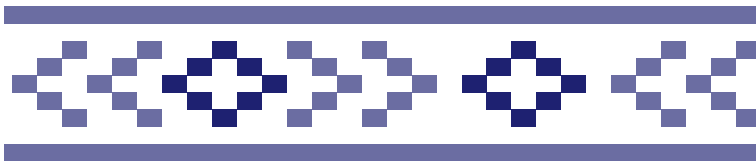
The plan of care agreement is a signed agreement between you and the child protection worker (social worker) to deal with the risks and dangers to your child.



Who is on the Plan of Care Committee?

This plan of care committee is made up of:

- ▶ the child's parent or parents,
- ▶ the child (if the child is 12 years old or older),
- ▶ a member of your community's child and family services committee (if you have this committee in your community),
- ▶ the child protection (social) worker,
- ▶ sometimes a member of the child's extended family or other person who may be able to help the family,
- ▶ you may ask for other people such as your lawyer and a shelter worker to attend committee meetings to support you.



What is in a Plan of Care Agreement?

A plan of care agreement may include the following items:

- ▶ where the child will live and with whom,
- ▶ how to make the parental home safer for the child,
- ▶ counselling for the child and/or for the parents,
- ▶ how much time each of the parents will be able to spend with the child,
- ▶ recreation, education, and social activities of the child.

Plans of care agreements are usually in place for six months. They can last for twelve months, and can be renewed for up to another twelve months.

If you feel that you are looking after your children well and you no longer want to be in a plan of care agreement then you can talk with your child protection worker explaining why you no longer want to work with the agreement. Your worker can help you make changes to the plan of care so that it is easier for you to follow.

Or you may end a plan of care agreement by a letter. Ten days after the social worker receives your written request the plan of care agreement will be ended.

If the child protection worker still feels that there are problems in the home the worker can take you to court. (see Court Hearing below)

Temporary or Permanent Custody for Children

When parents sign a plan of care agreement they are signing a contract in which they acknowledge that if they do not comply with the contract then their child can be apprehended without a formal apprehension hearing taking place. If the child protection worker feels that you are not following the plan of care agreement and your children are not being properly cared for the worker will give you a letter that tells you that she is taking you to court. At the court hearing the child protection worker applies directly for a custody order that could lead to the child being permanently or temporarily taken away from her/his parents. (permanent or temporary custody).

Court Hearing

The child protection (social) worker will have to take the matter to court if:

- ▶ the child protection (social) worker decides that the child cannot be returned to the parents,
- ▶ the parents will not participate in the plan of care agreement committee process and refuse to sign a plan of care agreement,
- ▶ there is no plan of care agreement signed within 23 days of the original child apprehension.

The following people are notified about the matter going to court:

- ▶ parents,
- ▶ the child (if 12 years of age or older)
- ▶ the chair person of a plan of care committee and the community child and family services committee (if there is one in your community),
- ▶ the band of the child if she/he is of aboriginal descent.



In court the child protection worker (through a lawyer) will give reasons why the child was removed from the home and will outline the following:

- ▶ where the child will live
- ▶ who the child will live with
- ▶ support services to make the child's home safe for the child
- ▶ counselling
- ▶ visits with the child by a parent
- ▶ child's education
- ▶ child's social and recreational activities
- ▶ any other matter the Judge thinks is necessary for the best interests of the child

Parents Need to Have Legal Advice for the Court Hearing

Parents have the right to be represented by a lawyer, give evidence, and call witnesses to give evidence for them. **Because court proceedings are very serious, you should always seek legal advice.** Legal aid is available for legal matters involving child protection. Call 867-920-3365 collect to speak with a child protection lawyer at the NWT Legal Aid Outreach Clinic.

It is very important that you show up in court for a child protection hearing. If you are unable to show up make sure that your lawyer is present for you and explains why you are not in the courtroom. If parents do not show up in court and do not have lawyers to represent them then it is thought that they are giving consent to having their children taken away.

Children who are older than 12 years may take part in the court proceedings and the court may sometimes appoint a lawyer for the child from the office of the children's lawyer.

The public cannot be present in the court room during a child protection hearing so the details of your family are kept confidential.





Judge's Orders

At the court hearing a Judge will decide whether a child is in need of protection, and, if so, what orders should be made to protect the child.

A Judge may

- ▶ order that the child be returned to his/her home,
- ▶ order that the child be returned home under the supervision of child protection with conditions set by the Judge, and for as long as the Judge feels is necessary,
- ▶ order that the child be placed in the temporary custody of child protection for up to twelve months, (see Temporary Custody Order below)
- ▶ order that the child be placed in the permanent custody of child protection, (see Permanent Custody Order below)



Temporary Custody Order

If the Judge orders a temporary custody order, the director of child and family services becomes the child's guardian and is responsible for him/her. A temporary custody order can last up to twelve months. It can be extended, but it cannot continue for more than a total of 24 months.

It is hoped that while a temporary custody order is in effect, the child protection worker and the family can work together to fix the family problems.

If you are able to fix these problems before the court order ends, you or the child protection (social) worker may ask the court to end the order and allow your child to return home.

But, if the child protection worker has difficulty working with the family to fix the problems, the worker might ask the court to make the director of child and family services the permanent guardian of the child.

Permanent Custody Order

If the Judge makes a permanent custody order, the director of child and family services becomes the child's permanent guardian, taking the place of the parents.

The director, through the child protection (social) worker, will make all decisions about the child's care and may place the child for adoption.

The parents no longer have rights and responsibilities for the child. The director will give them information about the placement, education, or health of the child if it is in the best interests of the child and only until the child is adopted.

The court may order that the parents be allowed to have ongoing contact with the child up to the time of adoption.

If your child is adopted by another family you may or may not be able to keep in contact with your child. This decision is almost always left up to the adoptive parents.

Decisions Made by Parents about the Care of their Children

Custom Adoptions

Parents may decide to do a "custom adoption" in which they give their child up to be adopted by relatives or friends that they choose. An aboriginal custom adoption is a traditional way that northern people have taken care of each other's children. Today, the Government of the NWT has created forms and steps so that parents can choose a relative or a friend, who is also of aboriginal descent, to adopt their child or children in accordance with aboriginal customs.

The advantages of a custom adoption are that you will always know where your children are and usually you will have some contact and involvement with them.

Each community has a custom adoption commissioner who has been chosen by the community and appointed by the Minister of Health and Social Services because of their knowledge of the community's customs of adoption.

To arrange a custom adoption the natural parent(s) and the custom adopting parent(s) meet with the custom adoption commissioner who will talk with them, listen, and ask questions. If the custom adoption commissioner is satisfied that a custom adoption has occurred in accordance with the local customs then the commissioner files a certificate with the Supreme Court.

Communities may have different customs about these adoptions so it is important to talk with your local custom adoption commissioner.

Parents voluntarily giving consent for the purpose of adoption

Sometimes parents may want to place their child (children) in the care of the director of child and family services in order to find a good home where their child can be adopted. Parents must sign a consent form which gives the director permanent care of their child. The consent form is followed by a ten day waiting period before you can give final consent for the adoption. This allows you to think over this decision and fully realize that this is a final decision.

The director (possibly through the child protection worker) must be sure that you know about all other ways that the department can help you to provide a good home for your child and what services and assistance are available to you and your child.

Talk with a lawyer before making a final decision to give up your child for adoption.

Both parents must sign a consent form to give up their children. Sometimes only one parent will give consent and then the director may have to ask the court to make an order saying that the other parent's consent is not needed.

Adoption is final. Once the adoption is completed it cannot be reversed and birth parents may no longer have any rights to see their child (children).



Important Tips and Information if you are dealing with Child Protection Services

- ▶ speak up for yourself and your rights while remembering to work with the child protection workers in a respectful and collaborative way
- ▶ keep involved with your children as much as possible
- ▶ keep your appointments with the child protection worker, answer the telephone, participate in meetings with child protection. If you do not participate child protection and the court may interpret this as not caring about your children or not being capable of parenting

If your child or children are apprehended:

- ▶ Contact a lawyer as soon as possible. You can call collect to the NWT Legal Aid Outreach Centre – 867-920-3365
- ▶ Get a support worker you trust (a friend, advocate, shelter worker).
- ▶ Bring your support person to meetings and court hearings.
- ▶ Show up in court, be prepared for what will happen in court, and answer questions politely.
- ▶ Ask for translation if needed.
- ▶ Make sure that any terms in a plan of care agreement or other agreement are clear and make sense. Don't agree to sign an agreement that you know you cannot fulfill.
- ▶ **Do not give up hope that you will get your children back.**
- ▶ Get as much access and time with your children as possible under the terms that child protection has set.
- ▶ In many cases it is good to ask for the maximum access to your children. This shows that you care about your children and that you will spend as much time with them as possible. This will help you to prove your commitment to looking after your children.
- ▶ If you are unable to make a meeting with child protection or a court hearing call your child protection worker to let them know. Your support person may also call child protection for you in this situation.



Criminal Justice

CHAPTER FOUR



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CHAPTER FOUR

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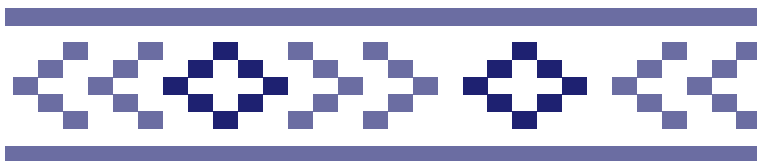
Call to the Police for Help

The first three numbers followed by 1111 are the emergency phone numbers for the police in all communities of the NWT. Whati 573-1111 Tuktoyaktuk 977-1111, Fort Simpson 695-1111

If you are beaten up by your husband or your common law, and you are able to get to a phone, call the police for help. In the Northwest Territories the emergency number for the police is the first three numbers used in your community followed by 1111. For example, in Tulita the police emergency number is 588-1111.

When called to a family violence incident the RCMP officers are responsible to restore order, protect the victims, and investigate and gather evidence. The police officer will ask you questions about what has taken place and write up a police report. The police will also help you to get medical attention if you need it.

Often in the NWT the police will bring a child protection (social) worker to the home if children are present. (see Chapter Three for more information about child protection.)



You are the Victim - also called the Complainant

A woman who has been abused, is known as the "victim" or the "complainant" throughout the criminal justice process.

He is the Offender – also called the Accused

The abusive partner may be called the "offender". If he is charged with a criminal act he is also called the "accused".

Police Investigation Will the Police Lay Charges?

- ▶ Once there has been a thorough investigation of the incident, the police officer has to decide whether there is enough evidence to lay a criminal charge. Depending on the situation, some of the charges that could be laid against your violent partner include assault, sexual assault, assault/sexual assault with a weapon, uttering threats, forcible confinement, and attempted murder. The question that the police officer asks when considering whether or not to lay charges is: "Do I have reasonable and probable grounds that an offence has been committed?"
- ▶ As the victim of the violence you cannot make the decision about whether or not your partner will be charged. Police officers will get information from you and they will listen to your opinion, but it is police policy to lay charges when there are reasonable and probable grounds to believe that an offence has been committed.

Your Statement to the Police

The police will interview you and all other people who have knowledge about the abusive incident. Often, as the complainant, you will be required to give an audio / videotaped statement under oath describing what happened. This is called a "KGB statement."

The police will ask the complainant to give the videotaped statement at the police station, or another location if there is not a detachment in the community.

It is important for the police to get an accurate account of the victim's memory of the incident. Support workers are not usually allowed in the interview room because police investigators are working to get a "pure version" of what happened – a description of the incident that is not influenced by others.

Support workers can be nearby to offer support to the victim after the statement is complete.

A KGB audio / videotaped statement by the complainant will be introduced by the police using words like these:

This statement will be taken under oath, solemn affirmation, or solemn declaration and will be videotaped. (Your name), we are investigating an allegation of assault (or other charge such as confinement, assault with a weapon) that took place on (date).

As part of our investigation we would like to interview you on videotape and under oath and that is why we have asked you to come here today.

Your statement is an important part of the police investigation. You should understand that it is a serious criminal offence to make a false statement to the police. If you make a false statement you can be charged with a number of serious criminal offences, including perjury and obstruction of justice. You must understand that your statement might be used against you if you are charged with one of these offences.

Lastly, it is important that you understand the statement you provide may also be used at trial for the incident being discussed today.

Are you voluntarily providing this statement today on video?



What Supports are available to you during the Criminal Law Investigation?

When the police are still investigating and deciding whether or not to lay charges, most often shelter workers and community support people are not present. But if the investigation takes a number of days, and you decide to stay in a family violence shelter, then the shelter workers can provide support.

Shelter workers and community support people can be present when the RCMP officer is questioning you, although it is not encouraged during audio / videotaped statements. These support people must be careful not to speak on your behalf. It is very important that you, the victim, give the information to the police during their investigation.

Shelter workers and other support people will explain to you that the RCMP need to know facts such as what happened and when, and details about who was there and what was said. It is important that you remember, as clearly as possible, the order of events that happened during the violent incident.

As a victim you may feel intimidated and may not ask for an interpreter, even if that would help you to understand. Shelter workers and other support workers can help you during the investigation by explaining that you can ask for an interpreter, you can ask questions when you don't understand, and take a break when you feel you need one.



Mandatory Charging Policy

The RCMP are required to lay charges in all when reasonable and probable grounds exist that there has been an assault against a spouse. This is called the “mandatory charging policy”.

The reasons for this policy are:

- ▶ to address the safety of the victim
- ▶ to remove the responsibility from the victim for laying charges - it's not your fault that he was charged - it is the law!
- ▶ to send a message to the offender that it is unacceptable to abuse his partner: family violence is always a criminal offence;
- ▶ to provide police with the ability to remove the offender from the home to protect the victim from further harm;
- ▶ to increase the chances that the victim will cooperate with the court processes;
- ▶ to prevent offenders from pressuring women to “drop” the charges because you do not have the power to drop the charges

Why women may not want their partner charged

Women may be reluctant to report spousal violence to the police if they know that their partner will be charged and possibly sent to jail. Here are some reasons:

- ▶ fear of retaliation from your partner or his family
- ▶ fear that child protection will take your children away
- ▶ concern about your loss of income and housing;
- ▶ concern that the children will be separated from their father;
- ▶ fear that your community will isolate or punish you and your children if your partner is charged

If your partner is charged, as the victim, you will be going through the criminal justice system. This book provides you with important information about what you can expect in this system.

Canada's Criminal Justice System

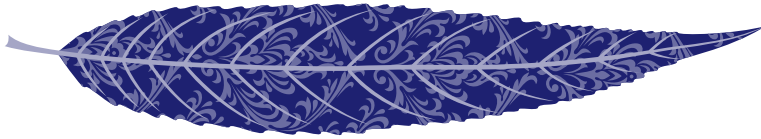
Criminal laws are the same everywhere in Canada. These criminal laws are in place for the following reasons:

- ▶ To promote public safety and protect the public
- ▶ To prevent people from committing crimes
- ▶ To hold people responsible by punishing them when they have committed crimes
- ▶ To rehabilitate offenders so that they can return to a crime free life in their communities

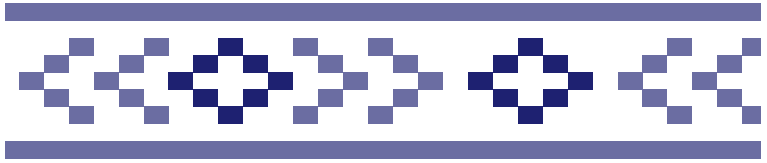


Key People in the Criminal Justice System

- ▶ **Victim** The person who has been abused is the victim also known as the complainant
- ▶ **Accused** The person who is charged with a crime of family violence is the accused also known as the offender
- ▶ **RCMP** In the NWT, the Royal Canadian Mounted Police (RCMP) is the only criminal law police force
- ▶ **Crown Prosecutor** The crown prosecutor is the lawyer for the government. The crown works for the “public interest”. It is important for you to understand that the crown is not the victim's lawyer. The criminal justice system in Canada does not provide a lawyer for the victim
- ▶ **Crown Witness Coordinator** If you are required to go to court to testify as the victim of spousal violence, a crown witness coordinator will meet with you, keep you informed about the date of the court case, inform you about the appearances of the accused and whether he has pled guilty or not guilty, and be in the court room as your support when you testify.



- ▶ **Defense Counsel** The defense counsel is the lawyer for the accused (your partner who has been charged with a crime of family violence).
- ▶ **Duty Counsel** If the accused is unable to afford a lawyer he will be assigned a duty counsel who will help him at a bail hearing, and to set a date for a court appearance. Duty counsel lawyers do not defend people at trials. If the matter goes to trial, the accused may make an application to legal aid to get a lawyer to defend him.
- ▶ **Judge** If the accused has pled "not guilty" then a trial will be held. The Judge presides over the trial and listens to the evidence about the family violence incident from the police and from witnesses. The crown prosecutor and the defense counsel (the lawyers) will question the witnesses. The victim will likely be asked to be a witness at the trial. The Judge must decide if the accused is "guilty" or "not guilty". In some cases the accused may ask to have a jury decide if he is "guilty" or "not guilty".
- ▶ **Justice of the Peace** The justice of the peace holds bail hearings to decide if the accused will be released from jail before court is held.
- ▶ **Victim Services Workers** Victim services workers provide assistance and support for victims of crime. Often the RCMP gives the victim information about how to get in touch with a victim services worker. You can get help from a worker at the time of the offence, throughout the court process, and afterwards, as long as you need support. Victim services workers provide information about being a witness, the court process, shelters in the NWT, and safety planning. Please refer to Chapter Seven for contact information about victim services in the NWT.

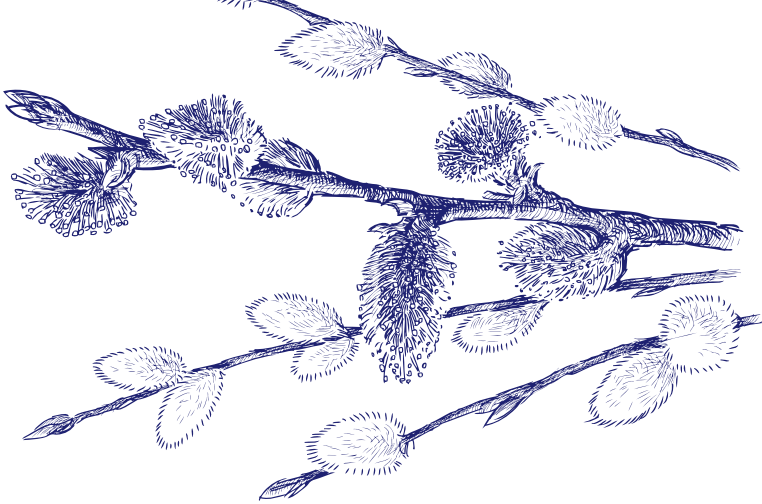


Steps in the Criminal Justice Process

Once the accused has been charged the following steps take place:

- The accused is arrested and taken to jail, or the accused is released with conditions of release
- If the accused is kept in jail then he must be brought before a justice of the peace within 24 hours . If he is not released he may apply for a bail hearing.
- Disclosure: The accused is provided with all of the evidence that will be used against him in the court case
- First appearance in court
- Plea bargaining
- Preliminary inquiry and trial
- Testifying at the trial
- Verdict - guilty or not guilty
- Victim impact statement
- Sentencing





Accused – goes to jail or is released

The accused may be arrested and taken to jail immediately. The accused may be released with a “promise to appear” in court at a later date. He is usually required to sign an “undertaking” to the officer in charge with a list of conditions.

Some of the common conditions of release in cases that involve spousal violence include:

- ▶ No communication with the victim (directly, or indirectly)
- ▶ Restricted from going to the victim's home, her place of work, or her school
- ▶ An outline of ways that the accused can have access to the children with minimal contact with the victim
- ▶ Restricted from carrying weapons
- ▶ Restricted on the use of alcohol and drugs (if drugs and alcohol have been issues)
- ▶ Possibly restricted from using cellphones

In the Northwest Territories the RCMP officer often discusses a possible release and the conditions of a possible release with the victim. If you indicate that your abusive partner is likely to harass and be violent with you if he is released, even with conditions, then it is likely that the accused will be kept in jail until a bail hearing is held.

Bail

By law the accused has the right to appear before a justice of the peace, or a Judge for a bail hearing which is usually held within 24 hours.

At a bail hearing the justice of the peace or the Judge will decide whether to keep the accused person in custody until his trial, or release the accused with or without conditions.

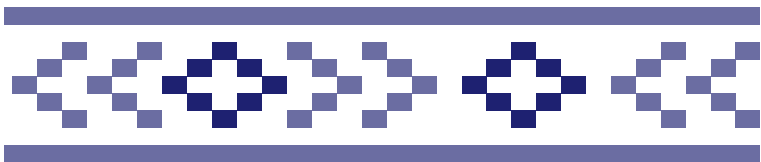
The crown prosecutor may oppose releasing the accused from jail. The crown may have spoken to the victim and may believe that she will be unsafe if the accused is released.

Usually the justice of the peace or the Judge will release an accused with conditions unless:

- ▶ the accused is a flight risk and will not show up at his next court appearance, or
- ▶ the accused is likely to commit more crimes, affecting the safety of the victim or others

Sometimes the accused is released with a "surety", which is someone who agrees to watch over the accused to ensure that he pays attention to the conditions of his bail.

Often the "surety" puts up bail money, which will not be refunded if the surety fails to properly supervise the accused.





Some typical conditions of release on bail in cases of spousal violence include:

- ▶ No direct or indirect communication with the victim
- ▶ Restricted from going to the victim's home, her place of work, or her school
- ▶ An outline of ways that the accused can have access to the children with minimal contact with the victim
- ▶ Restricted from carrying weapons
- ▶ Restricted on the use of alcohol and drugs (if drugs and alcohol have been issues)
- ▶ Live with his surety, if a surety is a condition of bail
- ▶ Possibly a curfew which may have conditions that the accused is not to leave the home, except for work, medical appointments, or to meet with the bail supervisor

If the accused is denied bail he stays in jail until his trial. While in jail he may be ordered not to communicate with the victim or other witnesses. This is important in situations where other witnesses could feel threatened or intimidated if contacted by the accused.



Disclosure

The crown prosecutor must give the accused and his lawyer all of the evidence that the crown has in the criminal law case against the accused.

Evidence that must be given to the accused includes:

- ▶ Police notes and investigation reports
- ▶ Statements from all witnesses
- ▶ Any audio / videotaped (KGB) statement given by the victim and other witnesses
- ▶ Photographs of the scene of the crime
- ▶ Medical evidence

Your personal notes, journals, and diaries

If the police ask the victim for personal notes, such as diaries or journals, be aware that these personal notes will be given to the accused before the trial. Privacy laws may protect you from giving your personal notes to the police. Get legal advice before handing over any personal records.



First Appearance in Court

If the accused has been released on bail, he will be required to be in court for his "first appearance" usually in four to six weeks. Most of the time at the first appearance, the court case is "adjourned" or the accused is "remanded", which means the case is pushed forward to a future date and the accused might be kept in jail until the next court appearance. Sometimes the accused is trying to get a lawyer, or he and his lawyer want to carefully review all the information that they have before the case is heard in court.

After the first appearance, the criminal justice process slows down and it can take weeks or months, and even sometimes years before the trial.

Victim services workers and crown witness coordinators can give you information about how long it will be before the court case is held.

Plea Bargaining

Before the trial date is set, the crown prosecutor and the defense counsel for the accused may meet. The victim and the accused are not required to attend this meeting. The lawyers will talk about the strengths and the weaknesses of the case with the possibility of coming to an agreement about the charges and the sentence. This process is called "plea bargaining". Sometimes the accused agrees to plead guilty to a less serious offense.

Even though the crown prosecutor and the defense counsel agree on a guilty plea, it is still up to the Judge at the trial to make a decision about the sentence. The Judge could decide on a harsher or lighter sentence than the lawyers had agreed upon.

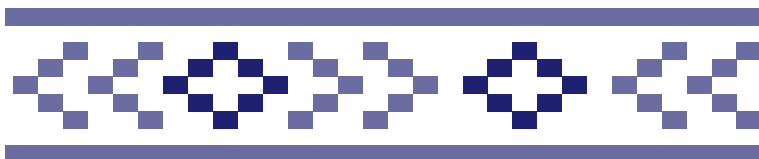


The Effect of Plea Bargains on the Victim

You might feel that your violent partner got off too easily because he pleaded guilty to a lesser crime.

However, if the accused pleads guilty to a less serious offense you will not have to testify against him in court. The accused will get a sentence and a criminal record for the guilty plea to the lesser crime.

If the lawyers do not agree on a plea bargain then the case will proceed with a not guilty plea, and the next step might possibly be a preliminary inquiry. The final step in the process is a trial before a Judge, or possibly a trial before a Judge and jury, if the accused chooses to be tried before a jury.



Preliminary Inquiry

In cases that involve serious charges, a preliminary inquiry is held before the trial. The purpose of the preliminary inquiry is to see if the crown has enough evidence for the case to go to trial. It also gives the accused and the defense lawyer a chance to hear the details of the case. As the victim, you will likely be required to testify and be cross-examined by the lawyer for the accused. You will also have to testify at the upcoming trial.

You Change Your Mind

A woman may change her mind and decide that she does not want to testify against her abusive partner as a witness in court.

You may not want to testify for a variety of reasons such as:

- ▶ You are frightened that your partner will punish you, or come after you if he's acquitted or is released;
- ▶ You love him and you want to reconcile;
- ▶ You just want the violence to stop and you don't want him to lose his job, go to jail, or have a criminal record;
- ▶ There is pressure from his family and from members of the community to let him off;
- ▶ You may rely on your partner for financial stability.

If You Change Your Mind It is Important to Talk to Victim Services and the Crown

- ▶ Talk to victim services, the crown witness coordinator, and the crown prosecutor about changing your mind. You can also tell the RCMP.
- ▶ The sooner the crown knows the better. The crown may take the opportunity to talk with you and calm your fears, and provide you with more information.
- ▶ The court system may require that you testify even though you do not want to.
- ▶ You can be served with a subpoena to be a witness at the trial – if you do not show up in court you could be arrested and possibly charged for "failure to appear".

Testifying at the Trial

Most often victims are required to testify at the trial. The accused is not required to testify at the trial.

You are not allowed into the courtroom until it is time for you to testify. When you testify you are "under oath". This can be a stressful and intimidating process. Most often the crown meets with the victim before trial and reviews the case. **But the crown is not the victim's lawyer. The crown represents the public good.** A woman, who testifies in a spousal assault case as a victim, does not have a lawyer to represent her.

Victim services workers and crown witness coordinators are available for support:

- ▶ They may take you to attend court before you have to testify so that the process is more familiar,
- ▶ They encourage you to eat a good breakfast and take snacks to court,
- ▶ They listen to your questions and make sure that you understand the answers

Once in court, the workers can help the victim by explaining that:

- ▶ you can answer a question saying "I don't know" or "I don't recall"
- ▶ you can ask for clarification of the lawyer's question when you don't understand
- ▶ you can ask for a break if you need one

Being Cross-Examined

The defense lawyer will often try to confuse you in order to create doubt about your partner's guilt. This can be a hostile experience. Defense lawyers sometimes try to:

- ▶ destabilize you while you are testifying,
- ▶ cause you to lose confidence and create doubt about your memories of the family violence,
- ▶ ask pointed questions to confuse you about the details of your testimony,
- ▶ provoke you to anger,
- ▶ suggest that you may have a motive to lie, or exaggerate what had happened

Victim services workers and crown witness coordinators can help

- ▶ explain what to expect during cross-examination,
- ▶ encourage you to stay calm and clear-headed,
- ▶ reassure you that you are able to explain what happened to you as best you can.

Guilty or Not Guilty? “Beyond a Reasonable Doubt”

The Judge and jury will carefully consider all the evidence that they have heard during the trial and will decide if the accused is guilty **“beyond a reasonable doubt”**. This is called a very high “burden”, or “standard of proof”.

The accused will be found guilty if the Judge or the jury is convinced “beyond a reasonable doubt” that he committed the crime as charged. If the Judge or jury are not convinced about the guilt of the accused, he will be found ‘not guilty’, or “acquitted”.

Sometimes offenders are acquitted because it has been difficult to prove their guilt "beyond a reasonable doubt." Even though the victim has testified honestly, in situations where there is no physical evidence, it may be hard for the court to know "beyond a reasonable doubt" what happened.

If the accused is found "not guilty", a victim may feel that the Judge and others in the court did not believe her. However, it is often the "burden of proof" – proving that he was guilty beyond a reasonable doubt – that has been too hard to overcome to convict him.

Accused is Found Guilty

If the accused is found "guilty" the Judge must choose from a range of sentences set by law. The Judge will consider:

- ▶ the circumstances of the crime
- ▶ the offender's criminal record
- ▶ the offender's personal history
- ▶ the impact of the crime on the victim
- ▶ the amount of responsibility that is taken by the offender

Victim Impact Statement

The victim impact statement is your opportunity to tell the court about how the violence of your partner has affected you emotionally, psychologically, financially, physically, or in other ways. This statement can be prepared at any time before the court sentencing.

A victim services worker can help you to write this statement. Refrain from expressing anger in your statement, but feel free to tell how the crime has impacted your life. Indicate your feelings about contact with the abuser, and if you are frightened of him.

The victim impact statement is not opened until the accused person pleads guilty or is found guilty. The statement is presented to the abuser's lawyer and to the court by the crown prosecutor. The statement is considered when the Judge sentences the accused.

You can make changes to your victim impact statement at any time before the offender is sentenced.

Sentencing the Offender

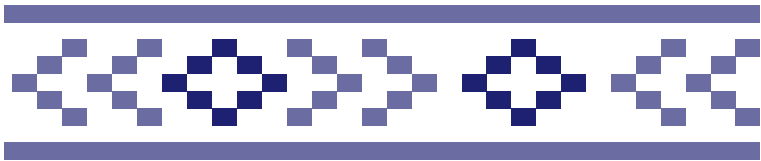
There are many types of sentencing and/or a combination of sentences that a Judge may impose on an accused who is found guilty of spousal violence including:

- ▶ Imprisonment. An offender who is sentenced to jail for less than two years stays in the NWT correctional system and may go on probation after that time. An offender may be released earlier, due to good behavior.

An offender who is sentenced for two years or more, serves his time in a federal penitentiary. After serving at least two thirds of the sentence, an offender can ask for parole. Parole allows the offender to be released from jail with strict rules and supervision until the sentence is completed. An offender on parole who does not follow the rules may be returned to jail.

- ▶ An intermittent sentence is when the offender goes to jail for blocks of time such as every weekend.
- ▶ Release on probation for a period of time. The offender must be of good behavior, and tell the probation officer of any changes of address, school, or work. Contact or no contact with the complainant may also be a term in a probation order.
- ▶ Absolute discharge – this means that an offender is found guilty, but there is no punishment for his crime. The accused will not have a criminal record with an absolute discharge.

- ▶ Conditional discharge – this means that the offender will not go to jail, but will have a sentence that requires certain conditions such as community work and/or alcohol and drug counselling. If the accused completes all of the conditions he will not have a criminal record.
- ▶ Restitution or payment of money to a victim for injuries or to replace property that has been taken or damaged.
- ▶ An offender who commits a particularly violent crime against another person may be declared a dangerous offender at a special hearing. If found to be a dangerous offender, they are sentenced to stay in a federal prison for as long as they are considered dangerous.



Domestic Violence Treatment Option (DVTO)

The DVTO process allows people who have used violence against a spouse to take responsibility for their behavior by pleading guilty and then participating in a support and counselling program before they are sentenced.

Both the crown and defense lawyers must agree before an offender can enter the domestic violence treatment option.

Following the completion of the program, the treatment team reports on the offender's progress. The Judge may review the report and information submitted by the treatment team before sentencing the offender.



Housing and Income Issues

CHAPTER FIVE



Contents

CHAPTER FIVE

A Time of Change

Income Issues

- ▶ How will I pay for the rent, groceries, and clothing?
- ▶ Income Assistance for Victims of Family Violence
- ▶ What will Income Assistance pay for?
- ▶ Information required to receive Income Assistance
- ▶ Productive Choice while on Income Assistance

Housing Issues

- ▶ Where will my children and I live?

Five Housing Challenges and Some Ideas to resolve them

- ▶ Scenario 1: Privately owned home by husband and wife
- ▶ Scenario 2: Leased accommodation – husband and wife on the lease
- ▶ Scenario 3: Rent arrears
- ▶ Scenario 4: Possible eviction
- ▶ Scenario 5: Possible relocation to Yellowknife

A Time of Change

You have decided to improve your life and the lives of your children. Though you may love your abusive common-law and he has been a good provider, you have decided that you cannot allow yourself and your children to continue to live with his violence and abuse. You will not stay with him until he gets help.

You feel good about making this decision to get away from him. Now you face new challenges:

- ▶ How will I pay for rent, groceries, and clothing?
- ▶ Where will my children and I live?

Income Issues

If you have been working in the home for many years and raising children you may lack confidence to go out looking for a job. You may not have the education and skills required for some jobs and the idea of managing a budget may be scary for you. Some women feel overwhelmed when they leave an abusive husband. "I have to find a new place to live, I have to get income assistance, I have to find child care, I have to manage the money, and he's doing whatever he wants."

How will I pay for the rent, groceries, and clothing?

Often, in the first few months of separation from an abusive partner, there are no legal directives regarding the payment of the rent or mortgage on the family home or the payment of food and clothing for you and your children. If you are employed you may have enough income to cover your household and family expenses.

If you have been working in the home and your partner has paid the household expenses you may not have any money to look after these expenses now that he is not staying with you and the children.

Income Assistance for Victims of Family Violence

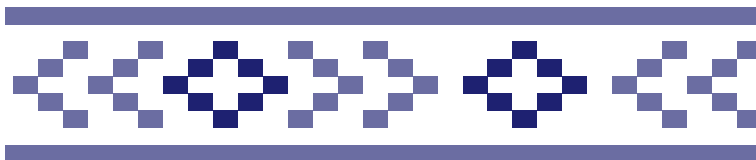


The Government of the NWT has a procedure that ensures that victims of family violence are supported financially, physically, and emotionally in an efficient and timely manner.

The client service officers who deliver income assistance are required to see a person who is a victim of family violence within 24 hours of their first visit to an income assistance office in an ECE Service Centre. A woman fleeing a violent situation can generally expect financial assistance within 24 hours (provided that you qualify). You will not be required to provide all of the documentation before you receive the assistance but you must give the documents to the client services officer within a month.

You must also prove that you are no longer living with your partner. The client services officer will give you a statutory declaration regarding marital status. You fill this form out in front of a commissioner for oaths, a notary public, or a justice of the peace. You do not need your partner to sign this form. If you have questions about this form call the Legal Aid Outreach Clinic at 867-920-3365 (call collect) to speak to a lawyer.

The client services officer must have proof that you are a victim of family violence by ensuring that you have already been seen by, or a referral has been made to the RCMP, a doctor or nurse, counselling services, a shelter for abused women, women's centre, Salvation Army, church, or social services.



What Will Income Assistance Pay For?

Income assistance in the NWT may cover basic costs for you (and your children) for the following:

- ▶ Food
- ▶ Accommodation costs (which can be rent, room and board, or a mortgage payment)
- ▶ Power, water, and sewer costs
- ▶ A fuel allowance
- ▶ A clothing allowance
- ▶ A child care allowance
- ▶ Additional money if you are disabled or if you are over 60 years of age

In order to get your accommodation costs covered you must be on a waiting list for public (subsidized) housing. If you have arrears with public housing you will not be considered for the waiting list until you sign and honour a repayment plan for a minimum of six months.

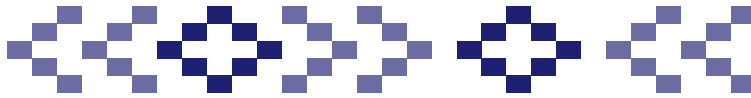
Information Required to Receive Income Assistance

People who are fleeing family violence may receive income assistance without first providing all of the documents listed below. However, these documents must be provided within a month. It is very important that you give the client services officer **all of the information that they require at the time that they require it**, otherwise you will not receive your payment.

According to the income assistance policy manual the client services officer requires the following information:

- ▶ full name, gender, address, phone number(s), birth date, ethnicity
- ▶ marital status (you will need to sign a declaration indicating that you are separated from your husband/common-law)
- ▶ education and occupation, employment history
- ▶ health care number, social insurance number

- ▶ description of any maintenance order
- ▶ explanation of why you are applying for income assistance
- ▶ monthly income
- ▶ description and estimated value of all assets
- ▶ information about money in the bank, etc
- ▶ most recent copy of your Canada child tax benefit notice



Productive Choice while on Income Assistance

You must also engage in a “productive choice” while on income assistance. Productive choices include:

- ▶ employment
- ▶ traditional activities
- ▶ education
- ▶ career planning
- ▶ wellness programs such as counselling, participating in a plan of care agreement, or addictions treatment
- ▶ parenting one child under three years or two children under six years, caring for disabled adult dependants,
- ▶ volunteering

You and your client services officer will discuss what productive choices are available in the community and decide how much time you must participate in a productive choice.

Housing Issues

Where will my children and I live?

Where are you living now?

Family Violence Shelter

If you (and your children) are staying in one of the five NWT family violence shelters located in Tuktoyaktuk, Inuvik, Yellowknife, Hay River, or Fort Smith you have a temporary home for up to six weeks. The shelters provide food and shelter for women and their children. Please refer to contact information in Chapter Seven.

In Your Family Home

If you were granted an emergency protection order (EPO) one of the conditions could be that you (and your children) are able to stay in your family home and your violent partner is restricted from coming to the home for up to 90 days.

If you called the police and they have pressed criminal charges against your husband/common-law for his violent behavior towards you there is likely an "undertaking" or a bail order with conditions that prevent him from causing more violence towards you. Conditions could include:

- ▶ No communication with you, the victim
- ▶ He is restricted from going to the family home, your place of work, or your school
- ▶ He is provided with an outline of ways that he can have access to your children with minimal contact with you
- ▶ He is restricted from carrying weapons
- ▶ He is restricted from the use of alcohol and drugs (if drugs and alcohol have been issues)
- ▶ He may be restricted from using cellphones



In a Friend's or a Relative's Home

If your home is legally owned or rented by your abusive partner you may have to temporarily move to refuge in someone else's home. You will still need money to feed and clothe yourself and your children and you will need money if you decide to rent a new home.

Five Housing Challenges and Some Ideas to Resolve Them

There are many challenges for a woman leaving her abusive partner. Finding a home that is safe and paying for it are some of the most difficult. We have developed five fictional scenarios to illustrate some challenges and some solutions.

Scenario 1:

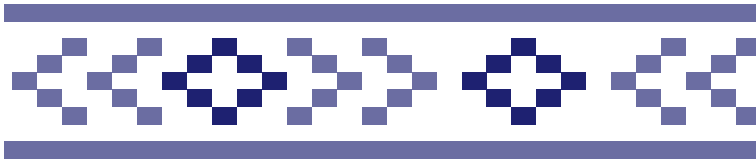
You and your three children have been staying at a family violence shelter for three weeks and you want to return to your family home. Your husband and you are employed, both of you contribute to the mortgage on the house, which is registered in both of your names. Your abusive husband is insistent that he will not leave the house. You want him to leave the home and allow you and the children to continue living there in peace. You hope that he will continue to pay half of the mortgage. You are consulting a lawyer about how to get a divorce.

Scenario 1: How to get him out of the family home

(Refer to Chapter Two of this manual for more detailed information on the protection orders and peace bond options presented below.)

- ▶ **EPO** You may apply for an emergency protection order (EPO) if there is an immediate need for protection from his violent behavior. An EPO can be obtained very quickly and can allow you and your children to stay in the family home while restricting his contact with you for a maximum of 90 days
- ▶ **Protection Order** During the 90 days with the EPO you may apply for a protection order which can take up to two weeks to get. A protection order provides you with protection from him without a time limit unless the Judge sets a limit.

- ▶ **Restraining Order** A restraining order is usually ordered by a Judge as part of divorce or custody proceeding. Because it is part of a court process it can take longer to get. The restraining order could indicate clearly that your abusive partner is not to have contact with you or the children. The Judge will set the time limit on a restraining order.
- ▶ **Peace Bond** A peace bond, which may take up to a week to get, is presented in criminal court by the RCMP and can require your abusive partner to stay away from you for up to a year.



Scenario 1: How to Get Him to Pay for Half of the Mortgage

You may apply for an “order of division of property” in the NWT Supreme Court under family law (see Chapter Six of this manual) and ask for an interim order for exclusive possession of the home. The Supreme Court Judge could also order the abusive husband to continue to pay for half of the mortgage. You can also apply for a restraining order as part of your application for the division of property.

Scenario 2:

You and your abusive partner have been renting a two bedroom apartment from a private landlord in Behchoko and both of your names are on the lease. You applied for and received an EPO so your husband is not allowed into the house. You want to continue to rent the apartment in Behchoko on your own. You need to get his name off the lease and you need to figure out how you can afford to pay the rent on your own.

Scenario 2: How to get your name off a lease with a private landlord

The Rental Officer for the NWT provides information, holds hearings, and makes decisions affecting landlords and tenants based on the *NWT Residential Tenancies Act*.

According to the Act each of the people named in a lease is responsible to pay the rent.

In the private housing market tenants can sign an "assignment agreement" which allows one tenant to sign over their rights and obligations (such as paying rent) to another tenant. You must have been living in the rental unit for at least six months and you, your abusive partner, and the landlord must sign the agreement.

In the Act there are two kinds of tenancy agreements – a "term agreement" or lease which is for a specific time most often for six months up to a year. To break this agreement a tenant must give thirty days notice before the end of the lease. If you do not communicate with the landlord before its end, the lease will automatically become a "periodic agreement".

A "periodic agreement" is a month to month agreement and the tenant can end this lease by giving 30 days notice before the next month. If two people are on the month to month agreement then both people have to give notice.



Scenario 2 – Help with your housing costs in privately rented accommodation

Transitional Rent Supplement Program

The NWT Housing Corporation has introduced the Transitional Rent Supplement Program (TRSP) to support low to moderate income residents who live in private market housing. The TRSP can provide a subsidy for individuals and families who are paying more than 30% of their income towards shelter (which includes rent, heat, electricity, and water costs). The subsidy can be up to \$500 a month and is paid directly to the landlord.

To be eligible you must have a current lease with a private landlord, you must be 19 years or older, and you must have lived in the NWT for one year, you cannot be on income assistance, and you cannot have rental arrears with a local housing organization.

Within the first six months of receiving this subsidy you must take a Financial Skills 1 – Budgeting course.

You can receive this subsidy for two years. Please refer to Chapter Seven for contact information.

Amendment to Residential Tenancies Act to address family violence

In November 2014 the Legislative Assembly passed the 2nd reading of a bill to amend the *NWT Residential Tenancies Act*. The bill will have to receive 3rd reading and assent before it is law. One of the amendments indicates that a person may apply to the rental officer for a termination of a tenancy agreement if family violence has taken place.

Under this amendment, if you have an emergency protection order, a protection order, a peace bond or any other court order which indicates that your partner may have committed family violence, the rental officer may issue an order that terminates the lease that you have with your landlord.

Scenario 3:

You and your two children have been staying at a family violence shelter in Inuvik and you and your children want to return to your home, a three bedroom house rented from the Inuvik housing authority. You and your abusive partner are both on the tenancy agreement.

You have stayed at home looking after your two young children and your husband has always paid the rent. The shelter staff has supported you in making an application to get income assistance and you will be receiving your first payment in a week.

You have signed a form at income assistance indicating that you are officially separated from your husband and you are seeking a divorce. Income assistance has required you to go to legal aid and seek child support from him.

You have done safety planning at the shelter and are prepared to call the police if he threatens or is violent with you. He has moved into another house with a friend.

You are getting packed up and the kids are excited about returning to their home. Then you receive notice that the housing association is trying to evict you because your husband has not paid rent for three months. There is a teleconference rental hearing scheduled in one week.

Scenario 3: How to deal with rent arrears

The rental officer, shelter staff, and legal aid lawyer all emphasize that it is **extremely important** to participate in the rental hearing. And, it is very valuable to have a plan in place about how you intend to deal with the arrears before the hearing.

There are a number of ways to deal with the arrears.

Both you and your abusive husband are responsible for the arrears

Because both you and your abusive husband are on the lease, each of you is responsible for paying half of the arrears.

You can use a portion of your monthly income assistance to pay off the arrears

You will be required to discuss the issue of arrears with your income assistance worker. Income assistance can make an arrangement that transfers a portion of your monthly assistance payment (probably about \$25) to the landlord to whom you owe rent.

Social Services may be able to help if you have an agreement with them

If you are working with Social Services in a voluntary service or a plan of care agreement your child protection worker may be able to access some funding from Social Services to help you pay some of the arrears.

Some charitable organizations may be able to help you

In some communities charitable organizations may be willing to help you out. They may provide some money to pay your arrears and they may also require that you have a clear budgeting plan. Family violence shelter staff can help you to contact charitable organizations and also provide you with support to do budgeting.



You may seek a referral to the “Homelessness Assistance Fund” (HAF)

You may seek funding from HAF only once. If you are in danger of becoming homeless due to the situation of your arrears you may ask a family violence shelter or other community agency to refer you to the Homelessness Assistance Fund (HAF) program. The HAF is administered by the NWT Housing Corporation, telephone 867-920-3277.

The shelter workers will fill out a detailed application form on your behalf. Application questions include details about your household income, monthly expenses, and the amount of funding requested to cover your arrears. You will have to collect many documents such as an arrears statement, proof of income (pay stub), income assistance, rental ledgers, eviction notice. The HAF may cover arrears up to \$3,000 **and for one time only**.





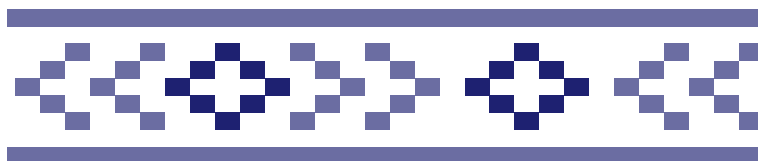
Scenario 3: How to get his name off of the Housing Authority Lease

You can apply to the local Inuvik housing authority rental officer for a termination of the joint lease. If the housing authority is assured that you and your ex will not become reconciled and want to live together in the house again, then the joint lease can be terminated and the housing authority will enter into a new lease with you.

Scenario 4

You and your common-law have been living in a rented apartment in Hay River. Only your name is on the lease. Your common-law has been very argumentative and abusive in the past six months. You got an emergency protection order and he has been out of the apartment for four weeks and cannot return for another eight weeks. You have had peace in your home, you have paid the rent yourself, and you have met with a lawyer and instructed her to write up a separation agreement.

Then, you receive a copy of an application against you that indicates that due to the noise and violent disturbances in your apartment three of the tenants in the neighbouring apartments have put in several complaints to the landlord. The landlord is seeking to terminate the lease and have the rental officer issue an eviction order. A rental hearing is taking place in Hay River in four weeks.



Scenario 4: How to deal with a possible eviction

It is very important that you attend the rental hearing. The rental officer will seek information from the landlord regarding any incidents of noise and disturbances in the past four weeks, since your violent partner has not been in the home. You will be asked how you intend to ensure that there are no more disturbances in the apartment. If the rental officer is convinced that you are determined to keep the peace in your apartment he/she may not issue an eviction order. The rental officer could issue an order that you are not to create any disturbances in the apartment.

Scenario 5

You, your common-law husband and your young child have been living in the home of your in-laws for two years in Nahanni Butte. Your in-laws often argue and, since his best friend has gone to jail three months ago, your husband has become more and more angry. You sense that he will become violent with you and you are concerned about your child being exposed to so much yelling and argument in the home.

You contact Alison McAteer House in Yellowknife and make arrangements to fly there with your child. You are safe and you feel good about getting yourself and your child away from the violence.

With support of the Alison McAteer staff you make inquiries at the Nahanni Butte housing association and realize that there is a shortage of public housing in the community and it could take up to two years before a house is available for you and your son. You decide that it might be best to try to start over in Yellowknife.



Scenario 5: Consider a move to Yellowknife very carefully

It is important that women understand that is not always easy to get affordable housing in Yellowknife. There are long waiting lists at the Yellowknife Housing Authority and at the YWCA Family Housing. Some family violence support workers advise women to try to keep the housing that they have in a smaller community if they can stay there, free from violence.



Scenario 5: Apply to “Lynn Brook’s Safe Place for Women”

In October 2014 the YWCA opened Lynn’s Place in Yellowknife, designed to provide safe housing with supports to women and women with children who have taken steps to live independently, free from abuse. Lynn’s Place provides women the opportunity to heal and grow in a cooperative, caring environment with other families who have similar experiences and are seeking a safe place free from violence and abuse.

Lynn’s Place offers two three-bedroom and ten two- bedroom apartments and six bed-sitting units (two of which are wheelchair accessible) at slightly less than the market rate. It is not permanent housing. Residents will have to find permanent housing between 24 and 36 months after moving into Lynn’s Place.

Programming is offered based on the tenants’ needs and can include cooking classes, literacy programs, sewing and crafts, parenting, budgeting, computer courses, children’s programs.

To be eligible for Lynn’s Place you must:

- ▶ be 18 years or older
- ▶ be willing to live in a housing environment without adult men
- ▶ have already made the decision to live independently from an abusive partner
- ▶ need the level of safety and security offered at Lynn’s Place
- ▶ be able to care for yourself and your children
- ▶ be willing to work with supports and participate in programming and activities offered at Lynn’s Place and in other locations
- ▶ have an adequate source of income to pay the rent

You can contact Lynn’s Place at 867-873-6170. See Chapter Seven for more contact information.



Family Law

CHAPTER SIX



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CHAPTER SIX

Family Laws in the NWT

Husband and Wife? or Common-Law?

Separation and Divorce

What's in a Separation or Divorce Agreement?

Child Custody and Access to Children

Ways to Go through the Legal System

- ▶ Write up an Agreement
- ▶ Negotiation
- ▶ Mediation
- ▶ Collaborative Approach
- ▶ The Court Process

Family Laws in the NWT

The Northwest Territories and Canada have laws about family relationships such as marriage, how to separate or divorce, and many rules that guide families when separation and divorce take place including:

- ▶ how to decide where your children will live and who will look after them,
- ▶ how to divide up the family property, and
- ▶ how the former married couple provides financial support to children and each other.

The NWT laws that are used most often for these situations are:

- ▶ *Family Law Act*
- ▶ *Children's Law Act*

The *Divorce Act* is a federal law and it applies to married people who want a divorce. It does not apply to couples who are living in common-law relationships.

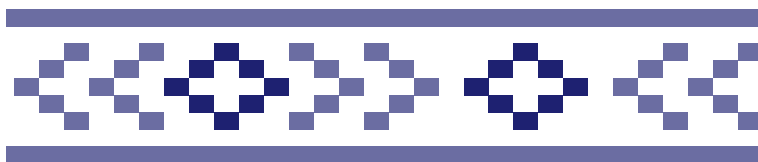


Husband and Wife? or Common-Law?

To be married you must go through a legally recognized marriage ceremony with another person. The ceremony may take place in a church or in another location that the couple chooses. A marriage commissioner, which includes ministers and priests, must perform the marriage ceremony. Once you are married you stay married until one of you dies, you divorce, or your marriage is annulled. Even if you live separately you are still legally married until you take the legal steps to formally end your marriage.

A common-law relationship is defined as two people living together as a couple for two years or a couple who has a natural or an adopted child together.

Both legally married and common-law couples have rights and obligations if the relationship ends. These include responsibilities to make sure your children are supported and cared for, rights to the property you owned together, and rights to financial support.



Separation and Divorce

When your relationship ends you can make it final with a separation agreement or a divorce. If you are legally married you will need a divorce or a separation agreement. If you have been living in a common-law relationship you will need a separation agreement. In order for a separation agreement to be legally binding it must be in writing, signed by each of the former spouses, and witnessed.

What's in a Separation or Divorce Agreement?

The separation or divorce agreement provides clear information about:

- ▶ Where the children will live (called child custody and access)
- ▶ How you and your former spouse will share the costs of raising the children (called child support)
- ▶ Whether one spouse will give money to the other to help with living costs (called spousal support)
- ▶ How the property owned by you and your former spouse will be divided

Child Custody and Access to Children

There are a number of options for child custody and access to children when parents separate or divorce. The options are:

- ▶ **Sole Custody** Sole custody means that one parent has day-to-day care of the child and makes most of the decisions about the child such as schooling and medical decisions. The other parent is normally able to spend time with the child as agreed between the parents or as ordered by a Judge.

- ▶ **Joint Custody** Joint custody means that both parents continue to have input into the major decisions that affect the child's life. The child may live with one parent or may move back and forth between the parents' homes on a regular basis, depending on what the parents agree to. The parents work together to make decisions that are important for the child and both parents must be willing to cooperate with each other to do this.

- ▶ **Shared Custody** Shared custody occurs when the child lives with each parent for about an equal amount of time. For example the child may spend two weeks with mom and then two weeks with dad. This type of custody works best when both parents live in the same community.

- ▶ **Split Custody** Split custody can happen when there are two or more children and some children live with each parent. In this situation each parent is primarily responsible for the care of at least one child.

- ▶ **Access to Children** When a child lives with one parent the other parent almost always has the right to visit or has "access" to the child. The legal system recognizes that it is most often in the best interest of the child to continue to have a relationship with both parents, even after they separate.

- **An Abusive Parent** If your former spouse has been abusive to the children it is important that this information be presented during discussions or court hearings about child custody. Sometimes parents ask for an assessment of their parenting abilities and the needs of their children. An independent professional will do the assessment and the parents will have to pay the cost. Please note that there are very few people in the NWT qualified to do this type of an assessment.

If you have decided that you want to break up with your abusive husband or your common-law there are many different ways to go through the legal system.

Write up an Agreement

If you and your husband/common-law are able to agree to the details of your separation you can write them into an agreement which you both sign. You may choose to get a lawyer to write up the formal agreement. It is a good idea for each of you to talk with your own lawyer to be sure that you each understand what your rights and responsibilities are.

Negotiation

If you cannot reach an agreement between yourselves then you may have to negotiate an agreement through lawyers. Your lawyer will work with the lawyer of your former spouse to come up with a reasonable arrangement. If you qualify for legal aid and have tried mediation with your former spouse without success, then legal aid may be able to help you with legal advice. Legal aid does not deal with property division in amounts over \$20,000.

When the lawyers are involved the negotiations are usually done through an exchange of letters suggesting ways to settle the separation/divorce. This hopefully will allow both of you to come to a compromise agreement.

**You can call collect to the NWT Legal Aid
Outreach Clinic at 867-920-3365**



Mediation

In mediation the two sides sit down with a trained mediator. The mediator does not represent you or your former spouse. The mediator cannot make decisions but offers the opportunity for separating or divorcing couples to work together to reach their own agreement. The mediator makes sure that both you and your former partner get an opportunity to tell your side of the story.

Once you have both agreed the mediator will prepare a written agreement for you to sign. Before signing it is important to take it to a lawyer to review it. Mediation is not "couples counselling" or therapy.

**The Department of Justice, GNWT will cover the
costs of some hours of mediation for parents
who are divorcing or separating and are doing
mediation to discuss issues of their children or
spousal support.**



In the collaborative approach you and your former spouse and both of your lawyers agree to work together toward a solution. Your spouse, you, and each of your lawyers hold a series of meetings and work towards a solution that does not require you to go to court.

If you cannot agree both of the lawyers involved in the collaborative process must withdraw and you will have to get another lawyer to represent you in court.

Can Collaboration or Mediation Work with an Abusive Husband?

If your husband has been abusive it may be very difficult for you to sit down with him to discuss the terms of your separation or divorce. Some mediators and lawyers trained in the collaborative approach may arrange for the meetings to be safe for you. For example you and your former spouse may be in separate rooms with the mediator going back and forth between rooms.

For a list of family lawyers who also provide



**mediation services and lawyers who have been trained in the collaborative approach, contact the Law Society of the Northwest Territories.
www.lawsociety.nt.ca 867-873-3828**



The Court Process

The Supreme Court of the NWT makes decisions on all issues under the *Divorce Act* and most other matters involving separation and divorce such as custody, child and spousal financial support, and the division of property.

If you are unable to resolve the issues with your former spouse when your relationship ends, then you may have to go to court. It is almost always better to come to an agreement without going to court because you can have some control over the decisions that are made. When you go to court you are asking the Judge to make these decisions.

Because your time in court is limited it is sometimes difficult to explain to the Judge why you think certain difficulties should be dealt with in a certain way.

A trial in court can be long, complex, and expensive. It is important that you have a lawyer.



SUPPORTS AND CONTACT

CHAPTER SEVEN



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CHAPTER SEVEN



This chapter provides contact information for the support workers and support services for women who are victims of family violence.

Emergency Protection Orders

You can phone the RCMP or Alison McAteer House in Yellowknife at any time, 24 hours a day, seven days a week, and seek advice on how to get an emergency protection order (EPO).

RCMP

If you are experiencing violence in your home

The first three numbers of your community phone number plus 1111. Examples are:

▶ RCMP in Fort McPherson	952-1111
▶ RCMP in Tuktoyaktuk	977-1111
▶ RCMP in Fort Resolution	394-1111

Shelters

For Women and Children who are Victims of Family Violence

▶ Alison McAteer House , Yellowknife Toll Free	867-873-8257 1-866-223-7775
▶ Family Support Centre , Hay River	867-874-6626
▶ Sutherland House , Fort Smith Toll Free	867-872-4133 1-877-872-5925
▶ Aimayunga Women's Emergency Foster Care , Tuktoyaktuk Shelter	867-977-2000
▶ Inuvik Transition House	867-777-3877



Travel Subsidies

For funding to travel to a shelter contact the Health and Social Services Authority (HSSA) in your region or talk to a HSSA staff in your community

▶ Beaufort-Delta HSSA	867-777-8000
▶ Sahtu HSSA	867-587-3650
▶ Dehcho HSSA	867-695-3815
▶ Yellowknife HSSA	867-873-7276
▶ Hay River HSSA	867-874-7115
▶ Tlicho Community Services Agency	867-392-3000
▶ Fort Smith HSSA	867-872-6200



Lawyers

Lawyers who can help you if you and your children are involved with child protection Services

▶ NWT Legal Aid Outreach Clinic (you may call collect)	867-920-3365
▶ Legal Aid lawyer in Inuvik	867-777-2030

Victim Services

Contacts if you are the victim of spousal violence

▶ Yellowknife	867-920-2978
▶ Hay River	867-876-2020 867-874-6701
▶ Fort Good Hope	867-598-2247
▶ Inuvik	867-777-5493
▶ Behchoko	867-392-6381 Ext: 1332
▶ Fort Smith	867-872-3520
▶ Fort Simpson	867-695-3136

Crown Witness Coordinators

if you are a victim of spousal assault and have to testify in court

▶ Call collect:	867-669-6900
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Income Assistance

Almost all communities in the NWT have an income assistance office.
Call toll free to get the contact information for your community:

▶ Toll Free	866-768-8149
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NWT Rental Officer

▶ If you are required to attend a rental hearing	867-920-8047
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Rent Subsidy

If you rent from a private landlord

Contact one of the district offices of the NWT Housing Corporation for information about the Transitional Rent Subsidy Program

- ▶ Beaufort Delta District Office, Inuvik 867-777-7271
- ▶ Nahendeh District Office, Fort Simpson 867-695-7700
- ▶ North Slave District Office, Yellowknife 867-873-7795
- ▶ Sahtu District Office, Norman Wells 867-587-5100
- ▶ South Slave District Office, Hay River 867-874-7600
Toll Free 866-956-9842

For further information contact the Transitional Rent Subsidy Program Coordinator at NWTHC_TRSP@gov.nt.ca.

Funding Help for Rental Arrears

- ▶ Homelessness Assistance Fund 867-920-3277
nwthc_Homelessness_Coordinator@gov.nt.ca

Mediation Lawyers

For a list of family lawyers who also provide mediation services

- ▶ Law Society of the NWT 867-873-3828
www.lawsociety.nt.ca



Temporary Housing

For temporary housing in Yellowknife if you have made the decision to live independently from an abusive partner contact:

► Lynn's Place
info@ywcanwt.ca

867-873-6170

MR. SPEAKER: Question has been called. All those in favour, please signify. Thank you. All those opposed? Thank you. The motion is carried.

---Carried

The report is hereby received and adopted by the Legislative Assembly. Item 11, reports of standing and special committees. The honourable Member for Yellowknife South, Mr. Bell.

Committee Report 18-14(6): Report On The Review Of Bills 21, 24 And 26

MR. BELL: Thank you, Mr. Speaker. Mr. Speaker, I have the report of the Standing Committee on Social Programs on Bill 21, Protection Against Family Violence Act; Bill 24, Midwifery Profession Act; and Bill 26, Youth Justice Act.

On June 11, 2003, Bill 21, Protection Against Family Violence Act; Bill 24, Midwifery Profession Act; and Bill 26, Youth Justice Act, were referred to the Standing Committee on Social Programs for public review.

The responses to its call for presentations and expressions of interest indicated there was sufficient interest to conduct public hearings in Fort Smith, Hay River, Wha Ti and Yellowknife.

The following is the Standing Committee on Social Program's report on Bill 21, Protection Against Family Violence Act; Bill 24, Midwifery Profession Act; and Bill 26, Youth Justice Act. It reflects the views of committee members and those of the people and organizations that took the time to appear before committee in Fort Smith on September 8th, in Hay River on September 9th, in Wha Ti on September 11th and at the hearings held September 15th through 18th, inclusive, in Yellowknife.

Bill 21: Protection Against Family Violence Act

Introduction

The Standing Committee on Social Programs is pleased to report on Bill 21, Protection Against Family Violence Act.

The committee conducted public hearings in Fort Smith on September 8, 2003, in Hay River on September 9, 2003, in Wha Ti September 11, 2003, and, as I've mentioned, in Yellowknife September 16th and 18th.

There were several presentations that raised valid concerns for committee members.

Issues

Title Of The Act

The NWT Senior's Society expressed concern with the proposed title "Family Violence Protection Act." It was felt this wording did not reflect the importance of the victim in the title. Members of the committee had previously noted a literal reading of the title could be also be interpreted as an act protecting family violence.

Committee discussions on a possible new title concentrated on reflecting the rights of victims and describing the actual intent of the new legislation.

In the end, committee members settled on renaming the Family Violence Protection Act, the "Protection Against Family Violence Act." This new title reflects the intention of the legislation to provide emergency protection for victims of family violence.

The standing committee was pleased that the department and the Minister agreed with the request and concurred with the committee amendment to change the title.

Definitions Of What Constitutes Family Violence

Many presenters were concerned with what actually constitutes family violence. The NWT Seniors' Society's presentation to committee asked that forced confinement, neglect and stalking be added to the definition of what constituted family violence. In a presentation to committee by the Status of Women Council of the Northwest Territories they also requested forced confinement and stalking be added to the definition. The Standing Committee on Social Programs also identified a need to modify the definition of sexual abuse.

Forced Confinement

The Status of Women Council stated, "It could be assumed that a justice of the peace would see forced confinement as falling under Section 1(2)(d) regarding psychological and emotional abuse, but we feel greater clarity is required."

The NWT Seniors' Society wanted to ensure the full scope of the types of abuses that seniors are subject to are covered and clearly stated in the legislation.

The committee concurred with the Status of Women Council's position that forced confinement must be abusive in nature. Members of the Standing Committee on Social Programs saw value in including forced confinement in the definition to clearly send a message that this type of abuse will not be tolerated.

The standing committee was pleased the Minister agreed with this position and concurred with the amendment.

Neglect

The NWT Seniors' Society requested that neglect be added to the list of what constitutes family violence. This recommendation was made in order to ensure that all types of abuse that seniors are subject to were included in the legislation.

The standing committee struggled with this issue. Neglect implies there is a series of actions or inaction over a period of time that cause harm to an individual. This legislation is intended to deal with emergency situations where there is a real or immediate danger of physical or emotional harm. The Standing Committee on Social Programs came to the conclusion that the inclusion of neglect on the list of what constitutes family violence would be beyond the scope of the bill. Consequently, the standing committee will not be recommending an amendment to include neglect on the list of what constitutes family violence.

The members of the standing committee are, however, alive to the issue of neglect of our elders and strongly recommend that the Department of Health and Social Services take a serious look at bringing forward legislation to address the concerns of the NWT Seniors' Society. As a government, we also need to

ensure that homecare and social workers have adequate training and resources to deal with issues of elder abuse when they are identified.

The Standing Committee on Social Programs will ensure the Members of the 15th Assembly are aware of this issue in our transition documents.

Stalking

Mr. Speaker, the inclusion of stalking on the list of what constitutes family violence was another issue that the members of the standing committee struggled with. In the proposed legislation there are provisions that allow the justices of the peace and the Supreme Court to limit or prohibit contact between the abuser and the victim. This remedy is also available through the use of peace bonds and restraining orders.

What becomes problematic to committee members is providing a definition and application of the word stalking itself. For example, in a community the size of Wha Ti, it would not be unreasonable for a person to run into someone against whom they have a restraining order or peace bond on a fairly regular basis, just through the process of daily living. Would and could this regular, unplanned contact be construed as stalking by a justice of the peace in granting an emergency protection order under the Protection Against Family Violence Act?

In addition, committee members also noted that many stalking cases do not involve persons who are cohabitating or who have lived in an intimate or family relationship and would fall outside the realm of this act.

In examining how other Canadian jurisdictions deal with the issue of stalking in their family violence legislation, it was shown that some jurisdictions, such as Manitoba, do list stalking. Others such as Ontario, describe "a series of acts which collectively cause the applicant to fear for his or her safety, including the following: contacting, communicating with, observing or recording any person."

Presenters from the Status of Women Council agreed that stalking is likely included in the present definition in the act. However, they wanted it made abundantly clear to those administering the legislation that stalking is both threatening and abusive behaviour.

The department advised that the present definition of family violence in the act includes any intentional or reckless act or omission that causes the applicant or his or her child to fear for their safety. It further specifically includes psychological and emotional abuse. The drafting of this definition was designed, the committee was advised, to cover a broad range of behaviours without the necessity of specifying each one. This allows for both discretion and flexibility in administering the act. Once various categories of violent behaviour are listed, there is a danger that some actions will be missed. In addition, violence can take many forms and a person's response is usually subjective.

The committee agrees that flexibility and appropriate discretion will be critical to the proper administration of the act and that this conduct is already covered in the definition of family violence. It is, therefore, not pursuing a motion to specifically include stalking behaviour as part of the definition of family violence.

Sexual Abuse

Committee members noted the original definition of sexual abuse was partially defined by listing who the victim of the abuse was. This list did not cover all eventualities. A simpler and cleaner definition of just "sexual abuse" puts the emphasis on the abuse itself rather than on an identified group of victims.

Committee members were pleased the Minister agreed with this analysis and concurred with the committee amendment.

Temporary Custody Of Children

It was pointed out to the Standing Committee on Social Programs, by the Status of Women Council of the Northwest Territories, there were no provisions in the proposed legislation addressing the issue of temporary custody of children as part of an emergency protection order granted by a justice of the peace. The council was concerned this omission could mean that if, for example, a man was physically abusing his wife and was the subject of an emergency protection order removing him from the family home, there would be nothing to stop him from taking custody of the children as a way to force his wife to let him back into the family home. In the absence of a custodial order, there is little the RCMP could do to force a parent to return children to another parent.

In addition, the threat of removing or taking children is often a manipulative tool in the cycle of violence. Applicants under this act need to know that specific relief is available to meet this challenge.

Committee members noted it could be argued that section 4(3)(h) speaks to this concern by stating an emergency protection order can contain "any other provision that the designated justice considers necessary for the immediate protection of the applicant or any other person at risk of harm." They also noted that a justice of the peace can order that an abuser not contact or communicate with the applicant and the children, thus effectively preventing child abduction.

The department reminded the committee that emergency protection orders are extraordinary remedies given without notice to the alleged perpetrator of violence. A custody order, even of short duration, can significantly impact the rights of parents in future custody disputes. The department was of the view that all interests must be balanced when relief is given prior to the other party having an opportunity to state his or her view of the facts.

The department also advised that a consideration of custody issues can be very complex, involving many different factors. Making decisions about custody of children would be beyond the normal duties of justices of the peace and would require significant training. Such training will also have to be provided to RCMP members and victim services workers. None of these groups have experience in this field.

The Department also reminded the committee that there is legislation in place to deal with custody issues, namely the Divorce Act, the Family Law Act and the Children's Law Act.

While training and expertise may be a concern, for Committee the larger concern is the role that using children as pawns plays in violent households. This behaviour cannot be adequately addressed if specific relief is not available in emergency situations.

The Standing Committee strongly believes such an amendment has merit.

This position is also supported by the 2003 Final Report of the Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse and Legislation, which specifically mentioned the temporary care and custody of children as one of the four components that every jurisdiction in Canada include as part of any domestic violence legislation.

However, in light of the Minister having what he considers to be serious reservations about adding this measure of relief to emergency protection orders, and the obvious time constraints imposed by this being the last session of the 14th Assembly, the standing committee did not wish to jeopardize the many important and valuable aspects of this legislation by pursuing an amendment at this time.

The Standing Committee on Social Programs strongly recommends that the Department of Justice and the next Assembly take the time to consider the merit of amending the Protection Against Family Violence Act to include the temporary care and custody of children as part of an emergency protection order.

The Supreme Court And Emergency Protection Orders

The Standing Committee on Social Programs on their initial review of the proposed Family Violence Protection Act noted a discrepancy in clause 5, which deals with the mandatory review of emergency protection orders granted by justices of peace by the Supreme Court.

Although the legislation provided that emergency protection orders could be confirmed or varied, there was some resulting confusion as to whether a Supreme Court judge had the power to dismiss certain provisions of an emergency protection order that could not be supported by the evidence, or overstepped the bounds of judicial fairness, even though the rest of the emergency protection order was reasonable and based on the evidence.

The Minister and department agreed with the standing committee's view that the present wording in clause 5 was too restrictive and limited the ability of the Supreme Court to act in an expedient manner and concurred with the committee amendment.

Implementation Concerns

Committee members heard from several stakeholders, including Major Karen Hoeft of the Salvation Army, who spoke eloquently on the need for extensive training by saying, "Every time we change an RCMP officer in the NWT, every time we change a victim services worker, every time we add JPs, there will be a need for training. If we do not do that, then the legislation really falls by the wayside and is not valid."

Several presenters, notably the Salvation Army and the Status of Women Council of the NWT, stated there was a need to involve stakeholders and the regions on a committee to guide the implementation plan.

The standing committee would recommend the government involve stakeholders and make sure the needs of frontline workers are addressed in the final implementation plan.

The committee also heard concerns about the application of this legislation and were questioned on how a person in a community without an RCMP presence would access or have an emergency protection order enforced. Members noted that applications can be made by any means of telecommunication and an applicant need not appear in person to obtain an emergency protection order. Members are aware this is not an ideal situation, but in all conscience cannot deny the use of emergency protection orders to the majority of residents in the NWT.

The standing committee recognizes these as valid concerns and has pressed the Minister and department to provide a timeline on when the Protection Against Family Violence Act could be implemented across the Northwest Territories. As it stands now, the department will continue to develop the regulations and training materials and will be submitting a finalized budget and implementation plan as part of the 2004-2005 Business Plan/Main Estimates which should be reviewed and made public by the next Assembly some time prior to March 2004.

False Accusations Made Under The Protection Against Family Violence Act

Mr. Marc Bogan spoke on behalf of non-custodial parents, who have had their custodial and visitation rights with their children curtailed or eliminated because of accusations made by their previous spouses or partners. Mr. Bogan is concerned the Protection Against Family Violence Act could enable a person to gain control of the family home and custody of the children through a false accusation. Members of the standing committee were also concerned with the possibility the legislation could be abused by persons making false accusations, but took sufficient comfort from clause 18 which creates an offence for making a false statement or application under the act which could result in fines not exceeding \$5,000, six months in jail, or both.

Conclusion

The Standing Committee on Social Programs is pleased the government was able to introduce this important legislation prior to the dissolution of the 14th Assembly. The staff and Minister at the Department of Justice are to be commended for their hard work on this file over the last year.

However, the Standing Committee on Social Programs would be remiss if they did not point out this legislation will not solve the problem of family violence in the Northwest Territories in and of itself. The Protection Against Family Violence Act will be another tool for the justice system to use in addressing the issue of family violence. Members recognize we still need women's shelters, we need adequate counselling services to help dysfunctional family members heal and hopefully reconcile with their families and go on with their lives, we need programs that will help these families reunite, we need training at all levels to ensure this legislation accomplishes what it is intended to do, we need to ensure legal aid programs are adequately resourced to ensure the needs of families, mothers and fathers, and their children are respected when questions of custody and access are raised, and we need public education programs that not only promote the use of the provisions of this bill but also clearly state that family violence of any type will not be tolerated in the Northwest Territories.

The committee members are of the opinion that the passage of this legislation is just one small step in addressing the issue of

family violence. It will protect victims and their children from immediate threat and physical harm. Groups such as the Family Violence Coalition are strongly encouraged to keep advocating for better services and solutions to the problem of family violence.

Mr. Speaker, I'd like to turn now to my colleague, Mr. Braden, to take us through Bill 24, Midwifery Profession Act. Thank you.

MR. SPEAKER: Thank you, Mr. Bell. The honourable Member for Great Slave, Mr. Braden.

Bill 24 - Midwifery Profession Act

Introduction

MR. BRADEN: Thank you, Mr. Speaker and Mr. Bell. The Standing Committee on Social Programs is pleased to report on Bill 24, Midwifery Profession Act.

During the past month, committee had the opportunity to consult with interested citizens and organizations in person, and have received written submissions from many more. On September 8, 2003, the committee traveled to and conducted public hearings on this bill in Fort Smith. Approximately 30 witnesses made presentations to the committee in that community. Without exception, all witnesses supported the introduction of midwifery legislation. However, concerns respecting some aspects of the bill were discussed.

On September 9th the committee conducted public hearings in Hay River. The committee conducted hearings in Wha Ti on September 11, 2003. Public Hearings in Yellowknife were conducted on September 15th and 18th of this year.

Even before this bill was referred to committee for public consultation, Members believed legislation was urgently needed to regulate the practice of midwifery in the Northwest Territories. Five provinces and territories have already established legislation, and the committee wanted to ensure that the Northwest Territories could count itself among the leaders respecting midwifery legislation in Canada.

Issues

Designated Sites Clause

There was one concern brought forward by the majority of witnesses who attended public consultations in Fort Smith, Hay River, Wha Ti and Yellowknife, and also by those who took the opportunity to make written submissions.

The legislation required that the practice of midwifery for compensation could only occur at sites to be designated by the Minister of Health and Social Services. Absent such a designation, any person practicing midwifery would be doing so contrary to the act and would be liable to prosecution.

Those who identified the issue were unanimous in their opposition to its inclusion in legislation. Many strong, varied and valid reasons were presented to committee outlining why the designated sites clause should be removed from the legislation.

An Infringement Of Equality Rights

Ms. Leslie Paulette, a midwife in Fort Smith and a member of the Midwives' Association of the NWT and Nunavut, suggested that a restriction on where midwives may practice is "contrary to the Canadian Model of Midwifery and to the Canadian Charter of Rights and Freedoms."

Ms. Leslie Leong, a recipient of midwife care in Fort Smith, also brought to committee's attention the issue of equality when she stated, "I want to know that I can go anywhere in the NWT and still have the same choice that I would normally have in another community."

The Right Of A Woman To Choose The Place Of Birth

The right of a woman to decide where her baby is born was mentioned several times throughout the proceedings. Ms. Claudette James, a recipient of midwife care stated, "if a properly licensed and trained midwife is available and there are no medical complications, then a family should be able to make the decision as to where they would like to have their baby." Ms. Nikki Paziek, a midwife care recipient and director of the Nik'e Niya Community Birthing Centre in Fort Smith, and Ms. Shannon Lefebvre, a Hay River resident who has plans to pursue a career in midwifery, echoed this sentiment.

Although the committee could foresee many of the arguments against the designated sites clause, members were also aware that one intent of the clause may have been to ensure that during the process of birth, women and their babies would have immediate access to surgical backup. Public consultation fostered a better understanding of the responsibilities of midwifery. Members of the standing committee were advised that registered midwives are adequately trained to assess the degree of risk to individual pregnancies. Ms. Esther Doucette, a Fort Smith woman using the services of a midwife informed us that "the designated sites clause is...redundant...because the women, as well as the midwives, will be making healthy choices around birthing." If a woman is at an elevated risk for complications, a midwife will be directed by practice standards to refer the client to a physician. "Midwifery care is for pregnancy that is not at risk," the committee was told by Ms. Nadia Laquerre, vice-president of the Nik'e Niya Community Birthing Centre.

Better Outcomes Close To Home

In a written submission by the College of Midwives of British Columbia, the committee was made aware that "current evidence indicates that better outcomes are achieved when maternity services are offered in the communities where women live, even if those services are sometimes limited in scope." The committee was provided with a document entitled Report on the Findings of a Consensus Conference on Obstetrical Services in Rural or Remote Communities that detailed the benefits of birth within a woman's home community. The National Aboriginal Health Organization, the Canadian Association of Midwives, and the Dene Nation also took the opportunity to refer the Standing Committee on Social Programs to this document.



Royal Canadian Mounted Police Gendarmerie Royale
du Canada

Chief Superintendent Dyson Smith
Commanding Officer
G Division RCMP

Chairperson Jane Weyallon Armstrong
Standing Committee on Social Development

Date:

2025-06-23

RE: Considerations for Amendments - Emergency Protection Orders

Thank you for your letter dated June 18th, 2025, in which you have included us in consultation regarding proposed amendments to the Protection Against Family Violence Act, and in particular Emergency Protection Orders (EPO's).

After careful consideration, G Division RCMP has no concerns with the purposed amendments.

Respectfully submitted for your consideration.

C/Supt. Dyson Smith
Commanding Officer
G Division RCMP

June 20, 2025

Jane Weyallon-Armstrong, Chair
Standing Committee on Social Development
Legislative Assembly of the Northwest Territories
Committees@ntassembly.ca

Dear Ms. Weyallon-Armstrong:

My name is Hawa Dumbuya-Sesay, and I am the Executive Director for YWCA NWT. I write to you with comments for consideration on Bill 27, An Act to Amend the Protection Against Family Violence Act.

YWCA NWT is one of two designates in the NWT that facilitates Emergency Protection Orders (EPOs). We also serve as a strong voice on issues of gender-based violence in the territory. As such, our organization has a strong interest in ensuring the Protection Against Family Violence Act (PAFV Act) is fulsome and trauma-informed.

On behalf of the YWCA NWT, I would like to commend the hard work that went into this bill. We support the proposed amendments to the PAFV Act.

We are particularly pleased to see new provisions around stalking in physical and electronic forms. This is a noticeable gap in the current PAFV Act, as pointed out in our 2020 study, "[The Nature of Emergency Protection Orders in the NWT](#)." The addition of stalking as acceptable grounds to apply for an EPO brings us more in line with other jurisdictions (including Manitoba and Alberta), and extends much-needed protection to those experiencing this form of harassment.

We are also happy to see broadened definitions of who may apply for an EPO, including those in a care relationship, those in a dating relationship of some permanence, and those in a family relationship (beyond just spouses, parents, and grandparents). On the frontline, we have seen how the current eligibility requirements exclude many people experiencing violence. The proposed amendments account for increased risk of violence in care and dating relationships, and the diversity of familial bonds that exist.

We have a few items that require additional clarification. Providing answers to the following questions will help our staff at Alison McAteer House fully comply with the amendments and enhance the effectiveness of the PAFV Act.

Firstly, we would like to clarify the phrase "dating relationship of some permanence." While we support this addition, the wording can be interpreted in various ways depending on individual attitudes and beliefs about such relationships. Providing guidelines for assessments, including those that can be utilized by AMH staff, will help ensure consistency for applicants.

Secondly, we urge the Committee and others involved in legislative work surrounding this Act to consider accommodating digital forms of evidence in cases of breaches. Currently, the RCMP must physically witness respondents breaching an EPO condition (for example, attempting to enter a residence where the applicant has been granted exclusive occupancy) in order to enforce penalties. Anecdotally, many violations go unpunished because respondents can simply leave or conceal themselves before the RCMP arrive. As noted in our 2020 study, this contributes to the perception that an EPO is merely “a piece of paper,” and it discourages respondents from taking it seriously.

We recommend exploring the possibility of specifying, whether in this legislation, regulations, or another relevant document, that viable video, photo, and/or audio evidence collected by an applicant may be used to demonstrate a breach and proceed with charges. While we acknowledge that this approach will not eliminate all enforcement challenges, it could enhance the effectiveness of EPOs.

Finally, we want to emphasize our strong recommendation that Justices of the Peace (JPs) and RCMP receive regular training (annually or biannually) on trauma-informed approaches and the dynamics of family violence and a refresher on the PAFV Act. With such implementation, survivors can receive trauma-informed services from the JPs during the hearing, which is not the case with some of the hearing we currently witness.

We understand that the PAFV Act may not be the appropriate legislative avenue to mandate such training, but we believe there is strong justification for it. We have consistently observed that a significant barrier to the EPO process is the lack of knowledge among service providers. This lack of understanding leads to further traumatization and alienation from the justice system, ultimately making EPOs less effective. YWCA NWT is willing to provide insights on specific areas where further training for JPs and RCMP could be beneficial.

Thank you for your time and consideration. Please reach out should you require anything further or have questions.

Sincerely,



Hawa Dumbuya-Sesay
Executive Director
YWCA NWT
ed@ywcawt.ca

CC: Meaghan Brackenbury, Community Outreach & Advocacy, YWCA NWT

August 25, 2025

Jane Weyallon-Armstrong, Chair
Standing Committee on Social Development
Legislative Assembly of the Northwest Territories
Committees@ntassembly.ca

Dear Ms. Weyallon-Armstrong:

My name is Julie Green and I am President of YWCA NWT. Our executive director is Hawa Dumbuya-Sesay and on behalf of our organization she is responding to several questions, comments and concerns that arose in the recent Public Briefing on Bill 27, An Act to Amend the Protection Against Family Violence Act.

YWCA NWT is a leading voice on family violence in the NWT. Furthermore, we facilitate majority of the Emergency Protection Order (EPO) requests in the territory – estimated over 90 per cent – through our crisis line at Alison McAteer House. As such, we are able to provide practical insight into the potential impacts of this bill.

ENDORSEMENT OF THE PROPOSED AMMENDMENTS

First, I would like to re-iterate our endorsement of the proposed amendments of Bill 27 – in particular, widening the definition of family to include those in a dating relationship, those in a care relationship, and others outside of the immediate family (aunt, uncle, cousins, etc.). This allows the Act to encompass the diversity of relationships in today's world, as well as the Northern context. We stand with the survivor who attended the public briefing on August 19. Her powerful testimony highlighted large gaps in the current legislation, which leave many experiencing violence without protection. We have routinely witnessed this challenge ourselves.

The addition of both stalking as grounds to seek an EPO is also an important step forward. Such harassment is common in instances of family violence, a form of coercive control that causes deep fear for survivors. Having this new provision not only brings us more in line with other jurisdictions (including Manitoba and Alberta), but deepens the NWT's legislative understanding of this issue.

PURPOSE OF EMERGENCY PROTECTION ORDERS

I will now respond to specific comments raised during the public briefing.

The MLA for Yellowknife North inquired about the necessity of EPOs and wondered why peace bonds and restraining orders might not be sufficient.

For clarity, peace bonds and restraining orders – while useful in the long-term – are not helpful in situations where immediate protection is needed. Each can take months to

acquire, and the process is relatively onerous for an applicant in crisis. Conversely, EPOs were crafted specifically as a short-term remedy for emergencies. Applications can be made over the phone, do not require extensive paperwork, and can be issued in mere hours, thanks to an expedited hearing process.

To this end, EPOs can only last for up to ninety days; they are meant only as a short-term safety measure and cannot serve the same function as a protection order (also legislated through the Act), peace bond, or restraining order. In short, we need all these tools to make our response to violence fulsome.

It is standard practice for staff at Alison McAteer House to encourage applicants to pursue a peace bond or restraining order if they need protection past 90 days. However, we have noticed that many do not – because it requires a court process that can be very intimidating.

YWCA NWT is engaged in ongoing work to educate communities about protections available to survivors of family violence. Part of the education we provide is clarifying when to seek an EPO, and when it is appropriate to seek something long term. Knowledge is power, so we are committed to strengthening our engagement efforts on this topic.

ENFORCEMENT AND RESOURCES

Two Committee members – the MLA for Range Lake and the MLA for Yellowknife Centre – raised concerns about a potential increase of EPOs due to the expanded criteria that could create resourcing challenges (specifically enforcement). While indeed that is a possibility, growing demand primarily speaks to increased levels of violence in communities. This change would give people the option to access protection, and we are deeply supportive of this move.

However, YWCA NWT also believes that additional resources for our shelter to deliver the program should accompany the updated Act. On average, we receive between 100 and 120 applications per year. If that increase we will require additional staff time and funds to facilitate.

Enforcement is already a profound issue within the EPO process. A third of NWT communities do not have RCMP detachments, and the two-thirds that do rely on a small, transitory staff. RCMP must witness a breach of an EPO to enforce it, meaning many respondents have fled by the time officers arrive. We recommend specifying that video, photo, and/or audio evidence collected by an applicant can be used as evidence of a breach.

This does not mean EPOs serve no purpose. Our [2020 report](#) on the EPO process noted benefits for applicants such as a sense of empowerment and reduced feelings of

fear and stress.¹ However, gaps in resources can hinder the implementation of legislation and the good it can do.

YOUTH HOMELESSNESS

Concern was raised that EPOs could lead to homelessness for the respondent, especially when the respondent is under 19 years of age. YWCA NWT understands and appreciates that housing insecurity (particularly for minors) is a possible negative by-product of any protection order and requires consideration.

We note that it is not common for applicants or respondents to be younger than 19. In cases where a respondent is under this age and ordered out of the house, shelter staff work with them to find alternative accommodations, such as the Home Base youth shelter in Yellowknife, or with relatives.

It is important that the applicant have exclusive residence of a shared home not only offer them protection but also keep them from experiencing housing insecurity themselves. Violence from intimate partners or family members is a leading cause of homelessness for women and girls.² Allowing applicants to remain in the home without the abuser helps to rectify this (though it certainly does not solve this).

To prevent housing insecurity amongst both applicants and respondents, the Government of the Northwest Territories needs to invest in improved housing supports throughout the territory, especially for women, youth, and families.

A SOLUTION FOR FAMILY VIOLENCE

Much of the discussion held during the public briefing veered into absolutism. In some instances, Committee members spoke as if Bill 27 was meant to solve all relational violence in the Northwest Territories. We feel the need to address this rhetoric.

Let us be clear: the Protection Against Family Violence Act and the measures it legislates alone will not eradicate family violence in the territory. EPOs and Protection Orders are helpful to have in our toolbox, but they cannot address this issue in all its complexity – nor is that their purpose.

If Members are committed to addressing family violence then they need to push for significant, long-term investment in the social infrastructure. This means safe, affordable and accessible housing; community-based and culturally relevant supports for survivors; stable funding for trauma-informed frontline services; and improved systemic responses that break silos and promote collaboration, among other things. Such investments will

¹ Moffit, P. et al, *The Nature of Emergency Protection Orders in the Northwest Territories, Canada: A Case Study*. Yellowknife, NT: YWCA NWT, 2020: 7.

² Schwann, K. et al, *The Pan-Canadian Women's Housing & Homelessness Survey*. Toronto, ON: Canadian Observatory on Homelessness, 2021: 12.

not only make legislation like the Protection Against Family Violence Act more effective but will more fulsomely reduce family violence in the territory.

Thank you for your time and consideration of our comments on Bill 27. As always, YWCA NWT stands ready to work with the Government of the Northwest Territories on the betterment of our territory.

Do not hesitate to reach out to Hawa should you have any questions or responses.

Sincerely,



Julie Green
President
YWCA NWT

CC: Meaghan Brackenbury, Community Outreach & Advocacy, YWCA NWT

Hawa Dumbuya-Sesay, Executive Director, YWCA NWT

References

Moffit, P., Rybchinski, D., Fikowski, H., & Fuller, L. (2020). *The Nature of Emergency Protection Orders in the Northwest Territories, Canada: A Case Study*. Yellowknife, NT: YWCA NWT.

Schwan, K., Vaccaro, M., Reid, L., Ali, N., & Baig, K. (2021). *The Pan-Canadian Women's Housing & Homelessness Survey*. Toronto, ON: Canadian Observatory on Homelessness.

APPENDIX B: MOTIONS

MOTION

AN ACT TO AMEND
THE PROTECTION AGAINST FAMILY
VIOLENCE ACT

That paragraph 2(1)(b) of Bill 27 be amended in the proposed definition "stalking" by striking out "conduct" in that portion of the proposed definition preceding paragraph (a) and substituting "repeated conduct".

MOTION

LOI MODIFIANT LA LOI SUR LES
MESURES DE PROTECTION CONTRE LA
VIOLENCE FAMILIALE

Il est proposé que l'alinéa 2(1)b) du projet de loi 27 soit modifié dans la définition proposée d'«harcèlement criminel» par suppression de «Acte», dans le passage introductif, et par substitution de «Acte répété».

MOTION

AN ACT TO AMEND
THE PROTECTION AGAINST FAMILY
VIOLENCE ACT

That subclause 2(3) of Bill 27 be amended,

- (a) in paragraph (a) of proposed subsection 1(4), by striking out "repeatedly following" and substituting "following"; and**
- (b) in paragraph (b) of that proposed subsection, by striking out "repeatedly communicating" and substituting "communicating".**

MOTION

LOI MODIFIANT LA LOI SUR LES
MESURES DE PROTECTION CONTRE LA
VIOLENCE FAMILIALE

Il est proposé que le paragraphe 2(3) du projet de loi 27 soit modifié :

- a) à l'alinéa a) du paragraphe 1(4) proposé, par abrogation de «de façon répétée»;**
- b) à l'alinéa b) du même paragraphe proposé, par suppression de «communiquer de façon répétée» et par substitution de «communiquer».**

MOTION

AN ACT TO AMEND
THE PROTECTION AGAINST FAMILY
VIOLENCE ACT

That subclause 3(1) of Bill 27 be amended, in proposed subsection 2(1), by

- (a) deleting the proposed definition "dating relationship";**
- (b) striking out "between persons" in that portion of the proposed definition "family relationship" preceding paragraph (a) and substituting "between persons, regardless of whether they have resided together at any time,";**
- (c) deleting the period at the end of the English version of the proposed definition "family relationship" and substituting a semi-colon; and**
- (d) adding the following proposed definition in alphabetical order:**

"intimate personal relationship" means a romantic, sexual or conjugal relationship between persons, of some permanence, regardless of whether they have resided together at any time.

MOTION

LOI MODIFIANT LA LOI SUR LES
MESURES DE PROTECTION CONTRE LA
VIOLENCE FAMILIALE

MOTION

AN ACT TO AMEND
THE PROTECTION AGAINST FAMILY
VIOLENCE ACT

That subclause 3(1) of Bill 27 be amended by striking out "a dating relationship" in proposed paragraph 2(1.1)(b) and substituting "an intimate personal relationship".

MOTION

LOI MODIFIANT LA LOI SUR LES
MESURES DE PROTECTION CONTRE LA
VIOLENCE FAMILIALE

MOTION

AN ACT TO AMEND
THE PROTECTION AGAINST FAMILY
VIOLENCE ACT

That subclause 3(3) of Bill 27 be amended by deleting proposed subsection 2(5) and substituting the following:

RCMP may assist in identification of person who is stalking

(5) Subject to subsection (6), if a member of the Royal Canadian Mounted Police reasonably believes that a person is stalking an applicant, the member may, at the request of the applicant, disclose to them the following information:

- (a) the name of the person who is reasonably believed to be stalking the applicant;
- (b) any additional information necessary to identify the person who is reasonably believed to be stalking the applicant.

Privacy Act (Canada)

(6) Information may be disclosed to an applicant under subsection (5) if

- (a) the disclosure is made for a use consistent with the purpose for which the information was obtained or compiled by the Royal Canadian Mounted Police;
- (b) the disclosure is made under an agreement or arrangement between the Government of Canada or any of its institutions and the Government of the Northwest Territories, under paragraph 8(2)(f) of the *Privacy Act (Canada)*; or
- (c) the head of the Royal Canadian Mounted Police, within the meaning of the *Privacy Act (Canada)*, or their delegate, is of the opinion that the public interest in the disclosure clearly outweighs any invasion of privacy that could result from the

MOTION

LOI MODIFIANT LA LOI SUR LES
MESURES DE PROTECTION CONTRE LA
VIOLENCE FAMILIALE

Il est proposé que le paragraphe 3(3) du projet de loi 27 soit modifié par abrogation du paragraphe 2(5) proposé et par substitution de ce qui suit :

(5) Sous réserve du paragraphe (6), si un membre de la Gendarmerie royale du Canada a des motifs raisonnables de croire qu'une personne se livre à du harcèlement criminel envers le requérant, le membre peut, sur demande du requérant, lui communiquer les renseignements suivants :

- a) le nom de la personne qu'on croit, sur la base de motifs raisonnables, s'être livrée à du harcèlement criminel envers le requérant;
- b) tout renseignement supplémentaire nécessaire à l'identification de la personne qu'on croit, sur la base de motifs raisonnables, s'être livrée à du harcèlement criminel envers le requérant.

Pouvoir de la G.R.C. dans l'identification des personnes qui se livrent à du harcèlement criminel

(6) Les renseignements personnels peuvent être communiqué à un requérant en vertu du paragraphe (5) dans l'un ou l'autre des cas suivants :

- a) la communication est faite que pour un usage qui est compatible avec la fin pour laquelle les renseignements personnels ont été obtenus ou recueillis par la Gendarmerie royale du Canada;
- b) la communication est faite dans le cadre d'un accord ou d'un arrangement conclu entre le gouvernement fédéral ou une de ses institutions et le gouvernement des Territoires du Nord-Ouest, en vertu de l'alinéa 8(2)f) de la *Loi sur la protection des renseignements personnels (Canada)*;
- c) le responsable de la Gendarmerie royale du Canada, au sens de la *Loi sur la protection des renseignements personnels (Canada)*, ou son délégué, est

Loi sur la protection des renseignements personnels (Canada)

disclosure.

d'avis que l'intérêt public justifie nettement la communication des renseignements personnels, malgré toute violation à la vie privée pouvant en résulter.