

# VICTIMS' RIGHTS IN CANADA

## PEACE BONDS

### What is a peace bond?

A peace bond is a protection order made by a court under section 810 of the *Criminal Code*. It is used where an individual (the defendant) appears likely to commit a criminal offence, but there are no reasonable grounds to believe that an offence has actually been committed.

In these situations, a person can obtain a peace bond against the defendant from the Court. The Court may impose specific conditions that are designed to prevent the defendant from committing harm to the person, their spouse or common-law partner, their child, or from committing damage their property.

Where the Court accepts the application for the peace bond, the defendant must obey the conditions of the peace bond or else he or she may face criminal charges. Peace bonds can be enforced anywhere in Canada and can be in place for up to one year. If the threat persists after one year, the peace bond can be renewed by application to the Court.

Obtaining a peace bond may take several weeks or even months, so peace bonds do not deal with emergencies. In an emergency, call 911.

### Who can get a peace bond?

Any person who fears that another person may injure them, their spouse or common-law partner, or a child, or may damage their property may obtain a peace bond.

### What conditions can be in a peace bond?

The defendant may agree or the Court can order the defendant to:

- keep the peace and be of good behaviour;
- not contact the person, their spouse, or child;
- not visit the person, their spouse, or child;
- not call the person on the phone;
- not write letters or send text messages;
- abstain from using non-prescription drugs or alcohol, and be required to provide bodily samples to ensure compliance;
- be forbidden from owning weapons;
- pay, or promise to pay, a refundable surety (cash bond) to the Court, which may be forfeited if the defendant subsequently breaches any conditions of the peace bond; or
- any other condition the Court considers desirable to prevent the harm.

### What happens if a defendant disobeys a peace bond?

Breaching any condition of a peace bond is a criminal offence, and as of July 19, 2015, a conviction carries a maximum sentence of up to four years imprisonment.

The defendant may also be required to forfeit any cash surety they were required to pay to the Court as a condition of the peace bond, or have promised to pay the Court.



RIGHT TO INFORMATION



RIGHT TO PROTECTION



RIGHT TO PARTICIPATION



RIGHT TO SEEK RESTITUTION



RIGHT TO MAKE A COMPLAINT



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## How to get a peace bond without the assistance of the police

Steps 1 to 5 below describe a process where the police or a prosecutor conduct the peace bond application against the defendant on a person's behalf. However, it is important to note that it is not necessary to involve the police in a peace bond application, as the *Criminal Code* allows any person to apply to a court to obtain a peace bond against another individual.

A person who is applying for a peace bond on their own (the applicant) can consult a lawyer to help them, or they can simply go to the local courthouse and ask to see a clerk of the criminal court. The clerk will then advise them on how to appear before the Court to present their Information – which is a sworn statement of the reason they fear that another individual will commit an offence against them, someone in their family or against their property. The clerk will provide them with the forms necessary to begin this process.

Once the Information is sworn before the Court, a hearing date will be set, and the applicant may have to provide notice of the proceeding to the defendant by way of a summons. The clerk can advise how to lawfully serve a summons in the applicant's jurisdiction.

At the hearing, the applicant will need to appear and provide testimony to the Court, indicating the reasons for their fear. The applicant is entitled to have a lawyer represent them during the hearing, though it is not mandatory.

The application and the hearing date are filed at the court registry. The police are also given a copy of the hearing information.

## How to get a peace bond with the assistance of police

**Step 1: Contact the local police.** A person who would like to get a peace bond against someone else should explain their concern or fear to the police.

**Step 2: The police will interview the person** to prepare an Information, which is a statement explaining exactly why the person fears that a specific individual is likely to commit an offence.

**Step 3: The police will conduct an investigation**, which may include interviewing other witnesses, doing a criminal record check, and interviewing the defendant. If the police agree that there are reasonable grounds for the person's fear, they will draft a peace bond with a list of conditions, and will then contact the defendant and ask if they are willing to consent to the peace bond. In most cases, defendants consent to sign the peace bond to avoid going to court.

**Step 4: If the defendant consents** to the peace bond, the police will swear the Information prepared in Step 2 before the Court, and present the proposed peace bond signed by the defendant. In communities with no courthouse, the peace bond can be presented to the Circuit Court. The Court will sign the peace bond and, at that point, the peace bond will be effective against the defendant. A copy of the peace bond is forwarded to the national RCMP Headquarters, and a record of the peace bond is added to the national Canadian Police Information Computer database, which can be used by police anywhere in Canada doing subsequent investigations. The person who asked the police for help getting a peace bond may ask the police for a copy of the signed peace bond as well.

**If the defendant does not consent** to the peace bond, the police will swear the Information before the Court, and a hearing date will be set. The Court will then issue a summons for the defendant to appear on that date.

Alternatively, on application of the police, the Court will issue an arrest warrant against the defendant if the police satisfy the Court that the defendant may pose a danger to himself, to others, or is not likely to appear at the hearing. If the arrest warrant is ordered, the police will then arrest the defendant, and bring him or her before the Court for a **show cause hearing**. If the Court concludes that the defendant poses a danger to himself, to others, or is unlikely to appear at the hearing of the peace bond, the Court can order the defendant detained until the hearing, or can order the defendant to be released pending the hearing but subject to conditions.

Otherwise, the defendant is released without condition, and promises to appear as required at the Court for the scheduled hearing of the peace bond application.

**Step 5: At the hearing**, the Court will:

- Hear evidence from the police (or prosecutor) and the defendant to determine whether there are reasonable grounds for the fear that the defendant will commit an offence. The person who fears the defendant or others with first-hand knowledge may be asked to testify in court.
  - If the person has concerns about testifying, the police can explore alternatives with them.
- Most peace bond hearings take a couple of hours, although in some complex cases they can take a few days.
- At the end of the hearing, the Court will either dismiss the application or order the defendant to enter into the peace bond.
- If the Court agrees to impose the peace bond, the person who wanted the peace bond should obtain a copy of it from the court registry, which can make it easier to complain to police if the person suspects that the defendant has breached a condition of the peace bond.

**Possible Conditions in a Peace Bond**

- a) The defendant agrees to keep the peace and be on good behaviour for no more than 12 months;
- b) The defendant is forbidden from having weapons;
- c) The defendant must stay away from the person's home;
- d) The defendant does not contact the person or their spouse, common-law partner, or child;
- e) The defendant must abstain from the consumption of non-prescription drugs and alcohol;
- f) Any other conditions the Court considers desirable to ensure the good conduct of the defendant.

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## Where is more information available?

If you or someone you know has been a victim of crime, there is help. All provinces and territories offer services for victims of crime. They can help you if you need information or other assistance. The Victim Services Directory can help you to find victim services near you:

<http://www.justice.gc.ca/eng/cj-jp/victims-victimes/vsd-rsv/index.html>

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