

THE COURT OF KING'S BENCH (MANITOBA)

GUIDE FOR NOTICE OF APPLICATION TO SET ASIDE/VARY/REVOKE A PROTECTION ORDER

This is a guide for self-represented parties filing a Notice of Application to Set Aside/Vary/Revoke a Protection Order under *The Domestic Violence and Stalking Act* or *The Child Sexual Exploitation and Human Trafficking Act*;

- where the respondent may make an application to set aside a protection order, or;
- where either party may make an application to revoke or vary a protection order.

1. OBTAINING THE REQUIRED COURT FORMS AND GUIDE:

Court forms are available for printing from the Manitoba Courts website at <http://www.manitobacourts.mb.ca/court-of-queens-bench/procedure-rules-and-forms/guide-for-application-to-set-aside-vary-revoke-a-protection-order/> or from the court office. This site includes a **Guide** on how to fill out the **Notice of Application** (to set aside/vary/revoke a protection order), **Affidavit(s)**, a sample application form, and a blank application form and Order. The **Title of Proceedings** (names of applicant and respondent) must remain exactly as the Court Registry System indicates in all your documents. You can obtain a print-out of the **Title of Proceedings** at the court office or go online at <http://www.jus.gov.mb.ca/> and search your name.

IMPORTANT: This **Guide** is provided as a tool to assist self-represented parties. Please note that court staff are not lawyers and cannot give legal advice or help complete court forms or documents.

2. ORDERING THE TRANSCRIPT:

- A transcript of the original protection hearing held before the Judicial Justice of the Peace will be required for court and must be ordered at the time you file this application.
- A Transcript Request form must be completed and submitted to Royal Reporting, A Veritext Company, by fax, email or in person. You may be required to pay a fee/deposit for the transcript. For more information visit Royal Reporting's website at: <http://royalreportingmanitoba.com>.
- Once you have ordered the transcript, you must complete the necessary forms to file with the Court of King's Bench Registry.
- When filing your court forms, you must provide a copy of the Transcript Request form that has been signed by staff at Royal Reporting to confirm that the transcript has been ordered.

3. COMPLETING YOUR COURT FORMS:

- Complete the **Notice of Application** and **Affidavit** as accurately as possible. You must print clearly to ensure your evidence is easy to read.
- The **Title of Proceedings** remains the same as the Court Registry System print-out regardless who is filing the Notice of Application.
- A Deputy Registrar will provide and insert a hearing date on the **Notice of Application** form.
- The **Affidavit** is a document that contains written facts to support your application to set aside, vary or revoke the protection order. The facts in an affidavit are set out in a series of numbered paragraphs. Each paragraph should be as short as possible, and contain sentence or sentences about a single topic. An affidavit can only include facts that the person making the affidavit or deponent personally knows to be true. If someone has told you something and you believe it, you can include this information in your affidavit only if you say who told you and that you believe that it is true. Your affidavit must be sworn or affirmed before a commissioner for oaths, notary public or you may have it sworn or affirmed before the Deputy Registrar at the court office.

4. WHEN THE TRANSCRIPT IS READY:

- Royal Reporting will contact you when the transcript is ready and/or if there are transcript fees outstanding.

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- Full payment must be made to the transcription company before the original transcript can be released to be filed on the court file and any extra copy (if ordered) is turned over to you. When full payment has been made, the original transcript will be filed on the court file.

5. FEES THAT MAY APPLY AT TIME OF FILING:

- Court filing fees will be required for the Notice of Application as per the *Court Services Fees Regulation*. The Family Division filing fee is \$50 and the Civil Division filing fee is \$150.
- Two extra copies of the completed Notice of Application and Affidavit will be required. The Deputy Registrar will make copies for you for a minimum charge of \$2.50 (\$1.00 for the first page and \$0.50 for each additional page).

6. FILING YOUR DOCUMENTS AT THE COURT OFFICE:

- You must attend the Court of King's Bench Court Office to have your documents reviewed by a Deputy Registrar.
- If your **Affidavit** requires to be sworn or affirmed, the Deputy Registrar will do so at this time.
- The Deputy Registrar will then provide you with a court hearing date, which will be inserted in the **Notice of Application**.
- The Deputy Registrar will collect the filing fees for the **Notice of Application** (\$50 or \$150).
- The Deputy Registrar will make two copies of all documents filed for a minimum charge of \$2.50 (\$1.00 for the first page and \$0.50 for each additional page).

7. HOW TO SERVE THE APPLICATION & AFFIDAVIT ON THE OTHER PARTY:

The Deputy Registrar will provide you with two copies of the **Notice of Application** and **Affidavit** and will advise you of your options for service of the Notice of Application and Affidavit on the other party. You must not personally serve these documents on the other party as you are still bound by the protection order to have no contact.

Note: If the other party resides outside of Manitoba, you must make arrangements to have a process server or a *third party personally serve the Notice of Application and Affidavit on the other party (**someone other than yourself must serve these documents as you are still bound by the protection order to have no contact with each other*). This third party or process server must complete an **Affidavit of Service** and have it signed and sworn before a commissioner for oaths or a Deputy Registrar. The completed Affidavit of Service must be filed at the court office two days before the hearing date. A blank Affidavit of Service form and sample is included in the Guide.

8. ATTEND YOUR COURT HEARING:

Attend at the court location, date and time as indicated in the **Notice of Application**. Unless the opposing party consents to your application, you can expect the judge to engage in settlement discussions and failure to reach an agreement, the matter may be adjudicated on that date, or alternatively, another date will be set for the final adjudication which will not exceed one day in length. The Courtroom Clerk will provide you with further instructions, if necessary.

9. IF THE ORDER IS GRANTED:

If the Judge grants the Order, you will be instructed by the Courtroom Clerk of the next steps in the preparation of the Order. You may be asked to prepare the Order yourself; a blank Order form is included with this guide. Once you have completed the Order, you must return it to the court office to be verified and signed if approved. A copy of the signed Order will then be provided to you or mailed to you at a later date.