The Victims of Interpersonal Violence Act

being

Chapter V-6.02 of the *Statutes of Saskatchewan, 1994* (effective February 1, 1995) as amended by the *Statutes of Saskatchewan,* 2010, c.15; and 2015, c.24.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER V-6.02

An Act respecting Victims of Interpersonal Violence

Short title

1 This Act may be cited as *The Victims of Interpersonal Violence Act*.

2015, c.24, s.4.

Interpretation

2 In this Act:

(a) **"cohabitants"** means:

(i) persons who have resided together or who are residing together in a family relationship, spousal relationship or intimate relationship;

(ii) persons who are the parents of one or more children, regardless of their marital status or whether they have lived together at any time; or

(iii) persons who are in an ongoing caregiving relationship, regardless of whether they have lived together at any time.

(b) **"court"** means the Court of Queen's Bench;

(c) **"designated justice of the peace"** means a justice of the peace who has been designated for the purposes of this Act;

(d) **Repealed.** 2015, c.24, s.5.

(e) **"emergency intervention order"** means an order made pursuant to section 3;

(e.1) **"interpersonal violence"** means:

(i) any intentional or reckless act or omission that causes bodily harm or damage to property;

(ii) any act or threatened act that causes a reasonable fear of bodily harm or damage to property;

(iii) forced confinement;

(iv) sexual abuse;

(v) harassment; or

(vi) deprivation of necessities.

(f) **"order"** means an emergency intervention order or a victim's assistance order;

(g) **"residence"** means a place where a victim normally resides, and includes a residence that a victim has vacated due to interpersonal violence;

(h) **"respondent"** means any person against whom an order is sought or made;

(i) **"victim"** means a cohabitant who has been subjected to interpersonal violence by another cohabitant;

(j) **"victim's assistance order"** means an order made pursuant to section 7.

1994, c.V-6.02, s.2; 2010, c.15, s.8; 2015, c.24, s.5.

Emergency intervention order

3(1) An emergency intervention order may be granted without notice by a designated justice of the peace if that designated justice of the peace determines that:

(a) interpersonal violence has occurred; and

(b) by reason of seriousness or urgency, the order should be made without waiting for the next available sitting of a judge of the court in order to ensure the immediate protection of the victim.

(2) In determining whether an emergency intervention order should be made, the designated justice of the peace shall consider, but is not limited to considering, the following factors:

(a) the nature of the interpersonal violence;

(b) the history of interpersonal violence by the respondent towards the victim or other family members;

(c) the existence of immediate danger to persons or property;

(d) the best interests of the victim and any child of the victim or any child who is in the care and custody of the victim;

(e) the exposure of any child to interpersonal violence;

(f) a recent change in circumstances for the respondent such as loss of employment or release from incarceration;

(g) controlling behaviour by the respondent;

(h) a particular vulnerability of the victim.

(2.1) In determining whether an emergency intervention order should be made, the following factors must not preclude a designated justice of the peace from making the order:

(a) whether an order pursuant to this Act or other order of the court, or a restraining order or other order of any other court ordering the respondent not to contact or communicate with the victim, has been granted previously;

(b) whether the respondent has previously complied with an order pursuant to this Act or other order of the court, or restraining order or order of any other court ordering the respondent not to contact or communicate with the victim;

(c) whether the respondent is temporarily absent from the residence at the time of application for an order;

(d) whether the victim is temporarily residing in an emergency shelter or other safe place;

(e) whether criminal charges have been or may be laid against the respondent;

(f) whether the victim has a history of returning to the relationship or of cohabiting with the respondent after occurrences of interpersonal violence.

(3) An emergency intervention order may contain any or all of the following provisions:

(a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership;

(b) a provision directing a peace officer to remove, immediately or within a specified time, the respondent from the residence;

(c) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence on one occasion to supervise the removal of personal belongings in order to ensure the protection of the victim;

(d) a provision restraining the respondent from communicating with or contacting the victim and other specified persons through any form of communication, including electronic communication;

(e) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the victim or other family members, including the residence, property, business, school or place of employment of the victim or other family members;

(f) any other provision that the designated justice of the peace considers necessary to provide for the immediate protection of the victim.

(4) An emergency intervention order may be subject to any terms that the designated justice of the peace considers appropriate.

(5) Subject to subsection 4(1), an emergency intervention order takes effect immediately.

1994, c.V-6.02, s.3; 2015, c.24, s6.

Notice of order

4(1) A respondent is not bound by any provision in an order until he or she has notice of that provision.

(2) Notice of the provisions of an order is to be given in the form and manner prescribed in the regulations.

1994, c.V-6.02, s.4.

Confirmation by judge

5(1) Immediately after making an emergency intervention order, a designated justice of the peace shall forward a copy of the order and all supporting documentation, including his or her notes, to the court in the prescribed manner.

(2) Within three working days of receipt of the order and all supporting documentation by the court, or, if a judge is not available within that period, as soon as one can be made available, a judge shall:

(a) review the order in his or her chambers; and

(b) confirm the order where the judge is satisfied that there was evidence before the designated justice of the peace to support the granting of the order.

(3) For all purposes, including appeal or variation, an order that is confirmed by a judge pursuant to subsection (2) is deemed to be an order of the court granted on an *ex parte* application.

(4) Where, on reviewing the order, the judge is not satisfied that there was evidence before the designated justice of the peace to support the granting of the order, he or she shall direct a rehearing of the matter.

(5) Where a judge directs that a matter be reheard:

(a) the local registrar shall issue a summons, in the form and manner prescribed in the regulations, requiring the respondent to appear at a rehearing before the court; and

(b) the victim shall be given notice of the rehearing and is entitled, but not required, to attend and may fully participate in the rehearing personally or by an agent.

(6) The evidence that was before the designated justice of the peace shall be considered as evidence at the rehearing.

(7) At a rehearing, the onus is on the respondent to demonstrate, on a balance of probabilities, why the order should not be confirmed.

(8) Where the respondent fails to attend the rehearing, the order may be confirmed in the respondent's absence.

(9) At the rehearing, the judge may confirm, terminate or vary the order or any provision in the order.

1994, c.V-6.02, s.5.

Review of order

6(1) At any time after a respondent has been served with an order, the court, on application by a victim or respondent named in the order, may:

(a) make changes in, additions to or deletions from the provisions contained in the order;

(b) decrease or extend the period for which any provision in an order is to remain in force;

(c) terminate any provision in an order; or

(d) revoke the order.

(2) On an application pursuant to subsection (1), the evidence before the designated justice of the peace or the court on previous applications pursuant to this Act shall be considered as evidence.

(3) The variation of one or more provisions of an order does not affect the other provisions in the order.

(4) Notwithstanding any other provision in this Act, an emergency intervention order continues in effect and is not stayed by a direction for a rehearing pursuant to section 5 or an application pursuant to subsection (1).

(5) Any provision in an order is subject to and is varied by any subsequent order made pursuant to any other Act or any Act of the Parliament of Canada.

1994, c.V-6.02, s.6.

Victim's assistance order

7(1) If, on application, the court determines that interpersonal violence has occurred, the court may make a victim's assistance order containing any or all of the following provisions:

(a) a provision granting the victim and other family members exclusive occupation of the residence, regardless of ownership;

(b) a provision restraining the respondent from attending at or near or entering any specified place that is attended regularly by the victim or other family members, including the residence, property, business, school or place of employment of the victim or other family members;

(c) a provision restraining the respondent from making any communication likely to cause annoyance or alarm to the victim, including personal, written, electronic or telephone contact with the victim and other family members or their employers, employees or co-workers or others with whom communication would likely cause annoyance or alarm to the victim;

(d) a provision directing a peace officer to remove the respondent from the residence within a specified time;

(e) a provision directing a peace officer to accompany, within a specified time, a specified person to the residence on one occasion to supervise the removal of personal belongings in order to ensure the protection of the victim;

(f) a provision requiring the respondent to pay the victim compensation for monetary losses suffered by the victim and any child of the victim or any child who is in the care and custody of the victim as a direct result of the interpersonal violence, including loss of earnings or support, medical and dental expenses, out-of-pocket losses for injuries sustained, moving and accommodation expenses, legal expenses and costs of an application pursuant to this Act;

(g) a provision granting either party temporary possession of specified personal property, including a vehicle, chequebook, bank cards or other banking instruments, children's clothing, medical insurance cards, identification documents, keys, passwords or other necessary personal effects;

(h) a provision restraining the respondent from taking, converting, damaging or otherwise dealing with property that the victim may have an interest in;

(i) a provision recommending that the respondent receive counselling or therapy;

(j) a provision requiring the respondent to post any bond that the court considers appropriate for securing the respondent's compliance with the terms of the order;

(k) any other provision that the court considers appropriate.

(2) A victim's assistance order may be subject to any terms that the court considers appropriate.

1994, c.V-6.02, s.7; 2015, c.24, s.7.

Application for an order

8(1) An application for an order may be made by:

(a) a victim;

(b) a member of a category of persons designated in the regulations on behalf of the victim with the victim's consent; or

(c) any other person on behalf of the victim with leave of the court or the designated justice of the peace.

(2) An application for an emergency intervention order is to be in the form and manner prescribed by the regulations and may include an application by telecommunication.

(3) At the hearing of an application for an order, the standard of proof is to be on a balance of probabilities.

1994, c.V-6.02, s.8.

Confidential information, private hearings and publication

9(1) The local registrar of the court and a designated justice of the peace shall keep the victim's address confidential at the request of the victim or a person acting on the victim's behalf.

(2) The court may order that the hearing of an application or any part of a hearing be held in private.

(3) On the request of the victim, the court may make an order prohibiting the publication of a report of a hearing or any part of a hearing if the court believes that the publication of the report:

(a) would not be in the best interests of the victim or any child of the victim or any child who is in the care and custody of the victim; or

(b) would be likely to identify, have an adverse effect on or cause hardship to the victim or any child of the victim or any child who is in the care and custody of the victim.

1994, c.V-6.02, s.9.

Effect of order on property and leasehold interest

10(1) An order does not in any manner affect the title to or an ownership interest in any real or personal property jointly held by the parties or solely held by one of the parties.

(2) Where a residence is leased by a respondent pursuant to an oral, written or implied agreement and a victim who is not a party to the lease is granted exclusive occupation of that residence, no landlord shall evict the victim solely on the basis that the victim is not a party to the lease.

(3) On the request of a victim mentioned in subsection (2), the landlord shall advise the victim of the status of the lease and serve the victim with notice of any claim against the respondent arising from the lease and the victim, at his or her option, may assume the responsibilities of the respondent pursuant to the lease.

1994, c.V-6.02, s.10.

Warrant permitting entry

11(1) A designated justice of the peace may issue a warrant where, on an *ex parte* application by a person designated in the regulations, the designated justice of the peace is satisfied by information on oath or affirmation that there are reasonable grounds to believe that:

(a) the person who provided the information on oath has been refused access to a cohabitant; and

(b) a cohabitant who may be a victim will be found at the place to be searched.

(2) A warrant issued by a designated justice of the peace authorizes the person named in the warrant to:

(a) enter, search and examine the place named in the warrant and any connected premises;

(b) assist or examine the cohabitant; and

(c) seize and remove anything that may provide evidence that the cohabitant is a victim.

(3) Where the person conducting the search believes on reasonable grounds that the cohabitant may be a victim, that person may remove the cohabitant from the premises for the purposes of assisting or examining the cohabitant.

1994, c.V-6.02, s.11; 2015, c.24, s.8.

Appeal

12 With leave of a judge of the Court of Appeal, an appeal from any order made pursuant to this Act may be made to the Court of Appeal on a question of law.

1994, c.V-6.02, s.12.

Rights not diminished by Act

13 An application for an order pursuant to this Act is in addition to and does not diminish any existing right of action for a victim.

1994, c.V-6.02, s.13.

Justices of the peace

14(1) Notwithstanding subsection 13(2) of *The Justices of the Peace Act, 1988*, the chief judge of the Provincial Court of Saskatchewan may designate a justice of the peace to hear and determine applications pursuant to this Act.

(2) If the chief judge designates a justice of the peace to hear applications pursuant to this Act, the chief judge shall specify the place at which and period during which the justice of the peace may hear those applications.

(3) The chief judge may delegate the exercise of the powers to designate a justice of the peace to hear applications pursuant to this Act to a supervising justice of the peace appointed pursuant to *The Justices of the Peace Act, 1988*, and the exercise of that power by the supervising justice of the peace is deemed to be an exercise by the chief judge.

2010, c.15, s.8.

Immunity

15 No action lies or shall be instituted against a peace officer, a local registrar or any other person for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them:

(a) pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations; or

(b) in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the regulations or any duty imposed by this Act or the regulations.

1994, c.V-6.02, s.15.

Regulations

16 The Lieutenant Governor in Council may make regulations:

(a) defining, enlarging or restricting the meaning of any word or phrase used in this Act but not defined in this Act;

(b) prescribing forms for the purposes of this Act;

(c) prescribing the procedures to be followed for applications, hearings and rehearings pursuant to this Act;

(d) prescribing the manner in which a designated justice of the peace is to forward a copy of an emergency intervention order and all supporting documentation to the court;

(e) designating persons or categories of persons who may make applications for an order on behalf of a victim with the victim's consent;

(f) designating persons or categories of persons who may apply for a warrant pursuant to section 11;

(g) prescribing the form and manner of providing any notice or summons required to be provided pursuant to this Act, including prescribing substitutional service and a rebuttable presumption of service;

(h) prescribing any other matter or thing required or authorized by this Act to be prescribed in the regulations;

(i) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

1994, c.V-6.02, s.16.

Coming into force

17 This Act comes into force on proclamation.

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