

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
9. Application for an Order (cont'd)	<p>(b) a person on behalf of the victim with leave of the justice.</p> <p>(2) An application for an emergency intervention order by a designated person may be made in person or by telecommunication.</p> <p>(3) An order based on a telecommunication application has the same effect as an order based on an application.</p> <p>2 Dec94 cV-6.02 Reg 1 s4.</p>	<p>(3) An order based on a telecommunication application has the same effect as an order based on an application made in person. (EC558/96).</p> <p>19(1) An application for a victim assistance order shall consist of</p> <p>(a) the application in the form prescribed in Schedule 5;</p> <p>(b) the Notice of Application in the form prescribed in Schedule 6, to be issued by the Registrar;</p> <p>(c) the applicant's record; and</p> <p>(d) the applicant's factum.</p> <p>(2) The applicant's record shall contain, in consecutively numbered pages arranged in the following order:</p> <p>(a) a table of contents describing each document, including each exhibit, by its nature and date and, in the case of an exhibit, number;</p> <p>(b) a copy of all affidavits in the form prescribed in Schedule 7, and any other material to be used by the applicant on the application;</p>	<p>a facsimile order appearing to have been signed by the justice of the peace is as effective as the original document signed by the justice.</p> <p>(4) The documents in support of an application must be prepared and used substantially as prescribed by the regulations, or as directed by a designated justice if no regulation directs what is to be done.</p> <p>(5) At the hearing of an application for an order, the standard of proof is to be on a balance of probabilities.</p> <p><i>Reg</i> 1(3) For the purposes of subsection 2(2) of the Act, "readily available" means a justice of the peace (a) is in attendance at court during the normal hours of operation during a working day, and (b) is available to hear an application for an order pursuant to the Act within two hours of initial contact.</p> <p>(4) For the purposes of the Act, "working day" means any day on which the courts registry in the Yukon Territory are open for operation.</p>	<p>to proceedings that have been commenced.</p> <p>1998 cP-19.2</p> <p><i>Reg</i> 4(1) An application for an emergency protection order must be made in person by</p> <p>(a) a claimant, or</p> <p>(b) a person who has the leave of a judge to make an application on behalf of a claimant.</p> <p>(2) An application for an emergency protection order by a designated person may be made in person or by telecommunication.</p> <p>(3) An order based on a telecommunication application has the same effect as an order based on an application made in person.</p>	<p>peace or the court the details of any order or agreement to which the subject and respondent are parties, including</p> <p>(a) an order or agreement respecting custody or access;</p> <p>(b) an order obtained under clauses 10(1)(c) (no entry to spouse's premises) or (d) (non-molestation) of The Family Maintenance Act; and</p> <p>(c) a protection order or prevention order obtained under this Act.</p> <p><i>Reg</i> 2 An application must be made in writing and contain the following information:</p> <p>(a) the name of the subject;</p> <p>(b) the name of the respondent;</p> <p>(c) if the subject has a lawyer for the purpose of the application, the lawyer's name;</p> <p>(d) a statement that the subject requests a protection order under the Act;</p>

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9. Application for an Order (cont'd)		<p>(c) a list of the dates of all, if any, previous hearings between the parties resulting in orders under the Act; (d) a copy of any other material that is necessary for the hearing of the application; and (e) a memorandum of authorities listing any relevant case law, statute and regulation that the applicant intends to rely on or refer to, if applicable.</p> <p>(3) The applicant's factum shall consist of a concise statement, without argument, of the facts and law relied on by the applicant. (EC558/96).</p> <p>20(1) The applicant shall file three copies of the completed application form, applicant's record, and applicant's factum with the Registrar.</p> <p>(2) The Registrar shall commence the originating process by issuing the Notice of Application.</p> <p>(3) The Notice of Application shall be issued by the Registrar's act of dating, signing, and sealing it with the seal of the court and assigning to it a court file number.</p>	<p>4 No fees for the filing or service of documents shall be charged to an applicant.</p> <p>18(1) An application for a victim's assistance order shall be accompanied by an affidavit in which the applicant states concisely the facts and the law relied on by the applicant.</p> <p>(2) The applicant shall file three copies of the completed application form and the applicant's affidavit with the clerk of the court.</p> <p>(3) The clerk of the court shall set a hearing date for the application and note that date on the application.</p> <p>(4) The clerk of the court shall file the application in the court file and shall return one copy to the applicant.</p> <p>21(1) The applicant may abandon an application by delivering a notice of abandonment.</p> <p>(2) An applicant who fails to appear at a hearing shall be deemed to have abandoned the application unless the court orders otherwise.</p>		<p>(e) the subject's consent to the application, if the application is submitted by a lawyer or peace officer.</p> <p>4 A lawyer or peace officer who submits an application must provide any identifying information requested by the designated justice of the peace hearing the application, which may include the name and business or employment address of the lawyer or peace officer, and any other information required to identify or contact him or her.</p> <p>7(1) If the subject is a minor, an adult person may make an application on behalf of the subject.</p> <p>8 An application made on behalf of a subject (a) by a committee appointed under The Mental Health Act; or (b) by a substitute decision maker for personal care or a substitute decision maker for property appointed under The Vulnerable Persons Living with a Mental Disability Act;</p>

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9. Application for an Order (cont'd)		<p>(4) The Registrar shall file one copy of the application, including the Notice of Application when issued, in the court file and shall return one copy to the applicant.</p> <p>(5) The Registrar shall obtain a copy of</p> <p>(a) all relevant information from the hearings listed in the application record; and</p> <p>(b) transcripts of any hearings listed in the application record where the transcript has already been prepared and place them in the court file.</p> <p>(6) Where a written transcript of a previous hearing has not already been prepared and it is impractical to obtain it in a timely manner, the Registrar may place the tape of the hearing in the court file and a transcript, if necessary, may be ordered by the judge.</p> <p>(7) The Registrar shall make the court file available for the court's use. (EC558/96).</p>	<p>(3) Where an application is abandoned or is deemed to have been abandoned, a respondent on whom the notice of application was served is not entitled to the costs of the application, unless the court orders otherwise.</p>	<p>with authority to make an application under this Act, must be supported by a sworn document or sworn testimony that sets out, in addition to the requirements of subsection 3(1), particulars of the appointment and authority.</p> <p>9 A person who makes an application to a designated justice of the peace for a protection order on behalf of a subject may do so without retaining and instructing a lawyer.</p> <p>10 A lawyer or peace officer submitting an application by telecommunication shall</p> <p>(a) provide a copy of the application and any supporting documents to the designated justice of the peace by telephone transmission of a facsimile or by delivery in another way specified by the justice; and</p> <p>(b) deliver the original copy of the application and supporting documents to a court office specified by the designated justice of the peace who hears the application.</p>

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9. Application for an Order (cont'd)				<p>Manitoba</p> <p>11(1) A lawyer or peace officer who submits an application by telecommunication, or in person when the subject is not present, shall give the subject a copy of the application, supporting documents and any protection order that is granted as soon as practicable after the application is determined.</p> <p>(2) Despite subsection (1), when an application is made by a person on behalf of a subject referred to in section 7 (minor) or 8 (person with committee or substitute decision maker), the lawyer or peace officer shall give the documents referred to in subsection (1) to the person.</p>
10. Confidential Information / Privacy	<p>Comments: All jurisdictions have similar clauses addressing confidentiality of the victim's address, privacy of hearings, and restriction on publication of reports. Manitoba and PEI create specific punishments for contravention of publication of names of parties or witnesses. The Yukon Act specifically requires the hearings to be informal.</p>			
	<p>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 behalf of the victim.</p> <p>(2) The court may order that the hearing of an</p>	<p>11(1) The Registrar and a justice of the peace shall keep the victim's address confidential at the request of the victim or a person acting on behalf of the victim.</p> <p>(2) The court may exclude the public from a hearing, or any part thereof, where,</p>	<p>3(1) Hearings under this Act are to be informal and conducted so as to put participants at ease and to help them understand the proceedings.</p> <p>(2) The clerk of the court and a designated justice of the peace shall keep the victim's address</p>	<p>8(1) The clerks of the Court of Queen's Bench and of the Provincial Court must keep confidential any information relating to the location of a claimant unless the claimant or a person acting on the claimant's behalf consents to the giving of</p>
	<p>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.</p> <p>(2) The court may order that the hearing of an</p>	<p>11(1) The Registrar and a justice of the peace shall keep the victim's address confidential at the request of the victim or a person acting on behalf of the victim.</p> <p>(2) The court may exclude the public from a hearing, or any part thereof, where,</p>	<p>3(1) Hearings under this Act are to be informal and conducted so as to put participants at ease and to help them understand the proceedings.</p> <p>(2) The clerk of the court and a designated justice of the peace shall keep the victim's address</p>	<p>13(1) No person shall publish or broadcast in a media report the name of a person who is a party or witness in proceedings relating to an application for a protection order or any information likely to identify the person, until the latest of the following:</p>

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<p>10. Confidential Information / Privacy (conf'd)</p> <p>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.</p>	<p>in the opinion of the presiding judge, the possibility of an injustice, harm, hardship or adverse effect to or upon a victim or a child outweighs the desirability of holding the hearing in public. (3) Upon request of the victim, the court may by order prohibit the public disclosure of a report of a hearing or any part of a hearing or prohibit publication of any matter connected with an emergency protection order or victim assistance order, where in the opinion of the court, such disclosure or publication would (a) not be in the best interests of a victim or a child; or (b) be likely to identify, have an adverse effect on or cause hardship to, the victim or child. (4) A court order made pursuant to subsection (3) does not preclude access to court files with the consent of a judge for research or statistical purposes, where there is no public disclosure of individual names or other information that could identify persons named in any report, hearing, or</p>	<p>confidential at the request of the victim or a person acting on the victim's behalf. (3) The court may order that the hearing of an application or any part of a hearing be held in private. (4) On the request of the victim or of the respondent, the court may make an order prohibiting or restricting the publication of a report of a hearing or any part of a hearing if the judge believes that the publication of the report would be likely to identify and 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.</p>	<p>the information. (2) The judge may order that all or any member of the public, other than the parties, may be excluded from any hearing under this Act. (3) On the request of the claimant or the respondent or on the initiative of the judge, the judge may make an order prohibiting the publication of a report of a hearing or any part of a hearing if the judge believes that the publication of the report would have an adverse effect on or cause undue hardship to the claimant or respondent or any child who is in the care or custody of the claimant or respondent. 1998 cP - 19.2, s.8</p>	<p>Manitoba</p> <p>(a) dismissal of the application by the designated justice of the peace; (b) 20 days after service up on the respondent of the protection order granted by the designated justice of the peace; (c) where an application is made to the court under sub section 11(1) within 20 days after the respondent is served with the order, determination of the application by the court. (2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction (a) in the case of an individual, to a fine of not more than \$5,000. Or imprisonment for a term of not more than two years, or both; and (b) in the case of a corporation, to a fine of not more than \$50,000. (3) An officer, director, employee or agent of a corporation who directs, authorizes, assents to, permits or participates or acquiesces in an offence by the corporation under subsection (1) may be convicted of the offence, whether or not the corporation has been prosecuted or convicted.</p>

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10. Confidential Information / Privacy (cont'd)		other matter prohibited from being disclosed by order made pursuant to this section. 1996, c.47, s.11; 1998, c.11, s.7.		<p>Manitoba</p> <p>20 No person shall disclose to another person any information in a court document or record relating to a proceeding under this Act that identifies or is liable to identify the home or business address of a subject, other than information contained in the application for a protection order or prevention order or in the order, or that is necessary to enforce the order.</p> <p>21(1) On the request of a subject or witness in a proceeding relating to a protection order or prevention order, the court may make an order prohibiting the publication or broadcast in a media report of the name of a party or witness or any information likely to identify the subject or witness, if the court is satisfied that the publication or broadcast could endanger the safety or well being of the subject or witness.</p> <p>(2) A person who contravenes an order made under subsection (1) is guilty of an offence and is</p>

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10. Confidential Information / Privacy (cont'd)					liable on summary conviction to the penalties set out in clauses 13(2)(a) and (b). (3) An officer, director, employee or agent of a corporation who directs, authorizes, assents to, permits or participates or acquiesces in an offence by the corporation under subsection (1) may be convicted of the offence, whether or not the corporation has been prosecuted or convicted.
11. Effect on Property	<p>Comments: These clauses are virtually identical across jurisdictions.</p> <p>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 landlord shall evict the victim solely on the basis that not a party to the lease.</p>	<p>12(1) An emergency protection order or victim assistance 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 landlord shall evict the victim solely on the basis that not a party to the lease.</p>	<p>10(1) An order does not in any manner affect the title to or an 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</p>	<p>9(1) A protection order does not in any manner affect the title to or an ownership interest in any real or personal property held jointly by the parties or held solely by one of the parties. (2) Where a residence is leased by a respondent under an oral, written or implied agreement and a claimant who is not a party to the lease is granted exclusive occupation of that residence, no landlord may evict the claimant solely on the basis that the claimant</p>	<p>18 A protection order and a prevention order do not in any manner affect the title to or an ownership interest in real property or personal property held by the parties to the order or by one of the parties. (See also clauses noted under item 18.8 in this summary)</p>

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11. Effect on Property (cont'd)	<p>(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.</p>	<p>the victim is not a party to the lease. (3) On the request of a victim referred to 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. 1996, c.47, s.12; 1998, c.11, s.7.</p>	<p>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.</p>	<p>is not a party to the lease. (3) On the request of a claimant mentioned in subsection (2), the landlord must advise the claimant of the status of the lease and serve the claimant with notice of any claim against the respondent arising from the lease, and the claimant, at the claimant's option, may assume the responsibilities of the respondent under the lease. 1998 cP-19.2, s.9</p>	
12. Order No.3 (Warrant Permitting Entry)					
12.1 How issued	<p>Comments: Domestic violence legislation for PEI and Manitoba do not include warrants permitting entry. Saskatchewan and the Yukon allow warrants issued by JPs, whereas Alberta allows them only through judges.</p>				
	<p>11(1) A designated justice of the peace may issue a warrant where, on an <i>ex parte</i> application by a person designated in the regulations, the designated justice of the peace is satisfied by information on</p>		<p>11(1) A designated justice of the peace may issue a warrant if, on an <i>ex parte</i> application by a person who section 2 says may apply for an order, the designated justice of the peace is satisfied by information on oath that there are</p>	<p>10(1) A judge may issue a warrant, on application by a person designated in the regulations and without notice to the respondent, if the judge is satisfied by information on oath that there are reasonable and probable grounds to believe that</p>	

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12.1 How issued (cont'd)	<p>oath that there are reasonable grounds to believe that:</p> <p>(a) the person who provided the information on oath has been refused access to a cohabitant; and</p> <p>(b) a cohabitant who may be a victim will be found at the place to be searched.</p>		<p>reasonable grounds to believe that:</p> <p>(a) the person who provided the information on oath has been refused access to a cohabitant; and</p> <p>(b) a cohabitant who may be a victim will be found at the place to be searched.</p> <p><i>Reg</i> 24(2) An application for a warrant by a peace officer may be made in person or by telecommunication.</p> <p>(3) Where the justice of the peace determines that a warrant of entry should be made, the justice of the peace shall make that order in accordance with this Regulation and paragraphs 11(1)(a) and (b), and (2)(a), (b) and (c) of the Act.</p>	<p>(a) the person who provided the information on oath has been refused access to a family member, and</p> <p>(b) the family member may have been the subject of family violence and will be found at the place to be searched.</p> <p><i>Reg</i> 11(2) An application for a warrant by a peace officer may be made in person or by telecommunication.</p>	
12.2 Authorization	<p>Comments: The Saskatchewan and Yukon Acts have one extra clause than does Alberta's, authorizing the seizure and removal of potential evidence of victimization.</p> <p>11(2) A warrant issued by a designated justice of the peace authorizes the person named in the warrant to:</p> <p>(a) enter, search and examine the place named in the warrant and any connected premises;</p>		<p>11(2) A warrant issued by a designated justice of the peace authorizes the person named in the warrant to:</p> <p>(a) enter, search, and examine the place named in the warrant and any connected premises;</p>	<p>10(2) A warrant issued by a judge authorizes the person named in the warrant</p> <p>(a) to enter the place named in the warrant and any other structure or building used in connection with the place,</p>	

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12.2 Authorization (cont'd)	(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.		(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 is a victim, that person may remove the cohabitant from the premises for the purposes of assisting or examining the cohabitant.	(b) to search for, assist or examine the family member, and (c) with the family member's consent, to remove the family member from the premises for the purpose of assisting or examining the family member. 1998 cP-19.2 s1
12.3 Who may apply	<p>Comments: Only peace officers may apply in these three jurisdictions.</p> <p><i>Reg</i> 20(1) For the purposes of section 11 of the Act, peace officers are designated as a category of persons who may apply for a warrant.</p>			
13. Punishment	<p>Comments: The first three clauses are similar but with subtle differences. PEI's clause 16(d) is not included in the Yukon. The penalties are different. Note also other punishment clauses in Manitoba's Act which are shown under item 10 (Confidential Information/Privacy).</p> <p>16 Any person who (a) fails to comply with the provisions of an emergency protection order or a victim assistance order; (b) falsely and maliciously makes an application under this Act;</p>		<p>16(1) A person commits an offense if they: (a) knowingly make a false statement in an application or a hearing under this Act, (b) disobey an order made under this Act, (c) obstruct a peace officer carrying out an</p>	<p><i>Reg</i> 11(1) For the purposes of section 10 of the Act, peace officers are designated as a category of persons who may apply for a warrant.</p>

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13. Punishment (cont'd)		(c) obstructs any person who is performing any function authorized by an emergency protection order or a victim assistance order; or (d) publishes any information in contravention of an emergency protection order or a victim assistance order, is guilty of an offence and upon summary conviction is liable in the case of a first offence, to a fine of not more than \$5,000 or to imprisonment for a term of not more than three months, or to both, and in the case of a second or subsequent offence, to a fine of not more than \$10,000 or to imprisonment for a term of not more than two years, or to both. 1996, c.47, s.16; 1998, c.11, s.10.	order under this Act. (2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine of up to \$2,000 and imprisonment for up to six months, or both. (3) For their second or subsequent offence under paragraph (1)(b), a person is liable on summary conviction to a fine of up to \$5,000 and imprisonment for up to 12 months, or both.		
		17 A peace officer may arrest without warrant a person the peace officer believes on reasonable and probable grounds to have contravened any terms of an order made pursuant to this Act. 1996, c.47, s.17; 1998, c.11, s.11.			

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13. Punishment (cont'd)		18(1) In addition to its powers in respect of contempt, the court may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders under this Act, but the fine shall not exceed \$5,000 nor shall the term of imprisonment exceed 90 days. (2) An order for imprisonment under subsection (1) may be conditional upon default in the performance of a condition set out in the order. 1996, c.47, s.18.			
14. Designated Persons	Comments: The categories of persons designated to make certain applications is in part a function of the field resources available. As shown under item 9 (application for an order), in Manitoba a lawyer or a peace officer may submit an application for a protection order (with the victim's consent). <i>Reg</i> 3 The following categories of persons are designated for the purposes of clause 8(1)(b) of the Act: (a) program coordinators of victims assistance programs	<i>Reg</i> 3 For the purposes of clause 8(1)(b) of the Act the following categories of persons are designated: (a) peace officers; (b) Victim Services Workers, and Assistant	<i>Reg</i> 2(1) The following categories of persons are designated pursuant to paragraph 2(1)(b) of the Act for the purposes of applying for an Emergency Intervention Order and a	<i>Reg</i> 3 The following categories of persons are designated pursuant to section 6(1)(b) of the Act for the purpose of applying for emergency protection orders: (a) a peace officer or a	See item 9 (Application for an Order)

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14. Designated Persons (cont'd)	<p>that receive funding from the victims' fund established pursuant to The Victims of Crime Act;</p> <p>(b) community case workers funded under tripartite aboriginal policing agreements;</p> <p>(c) employees of the following who are officers pursuant to section 57 of The Child and Family Services Act:</p> <p>(i) The Prince Albert Mobile Crisis Unit Co-operative Ltd.;</p> <p>(ii) Saskatoon Crisis Intervention Service, Inc.;</p> <p>(iii) Mobile Crisis Services, Inc.;</p> <p>(d) peace officers.</p>	<p>Victim Services Workers of the Victim Services Program established under section 7 of the <i>Victims of Crime Act</i> R.S.P.E.I. 1998, Cap. V-3.1 (EC558/96); 210/99)</p>	<p>victim's assistance order;</p> <p>(a) a peace officer;</p> <p>(b) a victim services worker employed by the Government of Yukon.</p> <p>(2) The category of persons designated pursuant to paragraph 2(1)(b) of the Act for the purposes of applying for a warrant of entry is peace officers.</p>	<p>person authorized by a police service to assist it in applying for emergency protection orders;</p> <p>(b) a person acting on behalf of an agency authorized by the Minister of Family and Social Services to apply for emergency protection orders.</p>
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Item Compared	Jurisdiction				
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15. How Evidence Taken	<p>Reg 7(1) At the hearing of an application for an emergency intervention order, a justice shall:</p> <p>(a) take the evidence under oath or pursuant to a promise to tell the truth in accordance with section 42 of The Saskatchewan Evidence Act; and</p> <p>(b) ensure that a record of the evidence of each person is made:</p> <p>(i) in legible writing in the form of notes of the justice; or</p> <p>(ii) in legible writing in the form of a statement of the person giving the evidence.</p> <p>(2) For the purposes of subsection (1):</p> <p>(a) an oath may be administered by telecommunication; and</p> <p>(b) an inquiry pursuant to section 42 of The Saskatchewan Evidence Act and a promise to tell the truth pursuant to that section may be made by telecommunication.</p>	<p>Reg 7(1) At the hearing of an application for an emergency intervention order, a justice shall:</p> <p>(a) take the evidence under oath or by affirmation in accordance with sections 13 and 14 of the <i>Evidence Act</i> R.S.P.E.I. 1988, Cap. E-11; and</p> <p>(b) ensure that a record of the evidence of each person is made:</p> <p>(i) in question and answer format and in legible writing or typewritten in the form of notes of the justice of the peace; or</p> <p>(ii) in legible writing or typewritten in the form of a statement of the person giving the evidence and such evidence may include tape recordings of all or any part of the proceedings.</p> <p>(2) For the purposes of subsection (1), an oath or affirmation may be administered by telecommunication. (EC558/96: 210/99).</p>	<p>Reg 7(1) At the hearing of an application for an Emergency Intervention Order, a justice of the peace shall:</p> <p>(a) take the evidence under oath or affirmation; and</p> <p>(b) ensure that a record of the evidence of each person is made,</p> <p>(i) in legible writing in the form of notes made by the justice of the peace or a statement of the person giving evidence, or</p> <p>(ii) by a tape recording of the proceedings.</p> <p>(2) For the purposes of subsection (1), an oath or affirmation may be administered by telecommunication.</p> <p>(3) Where a person gives evidence at a hearing for an Emergency Intervention Order, the justice of the peace shall:</p> <p>(a) have that person read the record containing that person's evidence or have the evidence read back to</p>	<p>Reg 5(1) At the hearing of an application for an emergency protection order, a judge* shall</p> <p>(a) take the evidence under oath in accordance with the <i>Alberta Evidence Act</i>,</p> <p>(b) ensure that a record of the evidence of each person is made</p> <p>(i) in legible writing in the form of notes made by the judge or a statement of the person giving the evidence, or</p> <p>(ii) by a tape recording of the proceedings,</p> <p>(c) schedule a review of the emergency order before a Court of Queen's Bench justice at the judicial centre where the claimant resides or at any other judicial centre determined by the judge to be the most appropriate.</p> <p>(2) For the purposes of subsection (1), an oath may be administered by telecommunication.</p>	<p>4(3) Evidence adduced in support of an application for a protection order must be given under oath.</p> <p>5(1) A lawyer or peace officer submitting an application for a protection order by telecommunication must</p> <p>(a) at the time possess any document that is to be used in support of the application;</p> <p>(b) communicate the content of the document to the designated justice of the peace in a manner satisfactory to the justice; and</p> <p>(c) transmit the document to the designated justice of the peace as soon as practicable in the manner prescribed by regulation.</p> <p>(2) The designated justice of the peace may</p> <p>administer an oath to a person and receive the person's evidence by telephone if the oath and evidence are recorded verbatim.</p> <p>(3) A designated justice of the peace who hears an application for a protection order need not wait for the</p>

Comments:
These sections on evidence are similar in requiring an oath and in allowing telecommunication of evidence and the oath. The first four jurisdictions identify the form of evidence as being the judge or JP's notes or a written statement by the person giving evidence, including tape recordings. Manitoba puts more emphasis on written documents, but in section 5(2) allows for verbal evidence if recorded verbatim. Saskatchewan, PEI and the Yukon stipulate a process for confirming and signing that evidence. PEI and the Yukon identify procedures for handling evidence following an interrupted hearing. The importance of submitting details of existing court orders or agreements between parties (Manitoba reg 3(1)(e)) is emphasized in a Manitoba decision, *Shaw v. Shaw*.

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
15. How Evidence Taken (cont'd)	<p>8(1) Where a person gives evidence at a hearing for an emergency intervention order, the justice shall:</p> <p>(a) have that person read the record containing that person's evidence or have the evidence read back to the person who gave it; and</p> <p>(b) sign and date the record containing that person's evidence.</p> <p>(2) Where the evidence of more than one person is taken in writing, the justice may sign at the end of each person's evidence or at the end of all of the evidence.</p> <p>9 Where a justice begins to hear an application for an emergency intervention order and is unable to continue the hearing for any reason, another justice may:</p> <p>(a) continue hearing the application where the evidence recorded by the previous justice pursuant to section 7 is available for review by the justice; or</p> <p>(b) begin hearing the application as if no evidence had been taken where the evidence recorded pursuant to section 7 is not available for review by the justice.</p> <p>2 Dec 94 cV-6.02 Reg 1 s9.</p>	<p>8(1) Where a person gives evidence at a hearing for an emergency protection order, the justice of the peace shall:</p> <p>(a) have that person read the record containing that person's evidence or have the evidence read back to the person who gave it; and</p> <p>(b) sign and date the record containing that person's evidence.</p> <p>(2) Where the evidence of more than one person is taken in writing, the justice of the peace may sign the record at the end of each person's evidence or at the end of all of the evidence. (EC558/96).</p> <p>9 Where a justice of the peace begins to hear an application for an emergency protection order and is unable to continue the hearing for any reason, another justice of the peace may continue the hearing for justice of the peace may (a) continue hearing the application where the evidence recorded by the previous justice pursuant to section 7 is available for review by the justice of the peace; or</p> <p>(b) continue hearing the application as if no</p>	<p>the person who gave it; and</p> <p>(b) sign and date the record containing that person's evidence.</p> <p>(4) Where the evidence of more than one person is taken in writing, the justice of the peace may sign the record at the end of each person's evidence or at the end of all of the evidence.</p>	<p>(*Editor's Note: "judge" in this clause includes a designated justice of the peace.)</p>	<p>transmission of a document under clause (1)(c) before deciding whether to make a protection order.</p> <p>(4) A protection order based on an application submitted by telecommunication has the same effect as a protection order based on an application submitted in person.</p> <p><i>Reg</i></p> <p>3(1) An application must be supported by a sworn document or sworn testimony that establishes the following:</p> <p>(a) the nature of the subject's relationship to the respondent;</p> <p>(b) evidence that domestic violence or stalking has occurred;</p> <p>(c) the subject's belief that domestic violence or stalking will continue, unless the subject is mentally incompetent or a minor and sub section 6(2) of the Act (certain persons deemed to have belief) applies;</p> <p>(d) the subject's fear for his or her own safety, if the application is based on stalking, unless the subject is mentally incompetent or a minor and sub section 2(4) of the Act (certain persons</p>

Item Compared	Jurisdiction			
	Saskatchewan	PEI	Yukon	Alberta
15. How Evidence Taken (cont'd)		evidence had been taken where the evidence recorded pursuant to section 7 is not available for review by the justice of the peace. (EC558/96).	<p>the person who gave it; and (b) sign and date the record containing that person's evidence.</p> <p>(4) Where the evidence of more than one person is taken in writing, the justice of the peace may sign the record at the end of each person's evidence or at the end of all of the evidence.</p> <p>8 Where a justice of the peace begins to hear an application for an Emergency Intervention Order and is unable to continue the hearing for any reason, another justice of the peace may:</p> <p>(a) continue hearing the application where the evidence recorded by the previous justice pursuant to section 7 is available for review by the justice of the peace; or</p> <p>(b) continue hearing the application as if no evidence had been taken where the evidence recorded pursuant to section 7 is not available for review by the justice of the peace.</p>	
				<p>deemed to have fear) applies;</p> <p>(e) the details of any agreement or court order to which the subject and respondent are parties.</p> <p>(2) Oral evidence adduced in support of an application for a protection order must be recorded.</p> <p>7(1) If the subject is a minor, an adult person may make an application on behalf of the subject.</p> <p>(2) An application made under subsection (1) must be supported by a sworn document or sworn testimony that sets out the following, in addition to the requirements of subsection 3(1):</p> <p>(b) his or her relationship to the subject;</p> <p>(c) the consent of the person making the application to act on behalf of the subject;</p> <p>(d) a statement that the person making the application has no interest adverse to that of the subject;</p>

Item Compared	Jurisdiction			
	Saskatchewan	PEI	Yukon	Alberta
15. How Evidence Taken (cont'd)				<p>(e) a statement that the person making the application is aware that he or she could be required to pay personally any costs awarded against the person or the subject.</p> <p>16 Upon the request of a respondent against whom a protection order has been made, the court must provide him or her with access to the application, and the evidence that was received in support of it.</p> <p>17 On hearing an application to set aside a protection order, a judge of the court may, on considering the evidence that was before the designated justice of the peace, consider it in the form in which it was recorded.</p>

Item Compared	Jurisdiction			
	Saskatchewan	PEI	Yukon	Alberta Manitoba
16. To whom Copies of Emergency Order Given	<p>Comments: Despite differences in wording in these sections, the description of the distribution of copies of orders is essentially the same. Some of these procedures are also included under item 17 (Serving Documents).</p> <p><i>Reg</i> 10(1) Form A of the Appendix is prescribed as the form of the emergency intervention order. (2) The order consists of four parts: (a) Part 1 is the original completed by a justice; (b) Part 2 is the copy to be served on the respondent; (c) Part 3 is the copy to be provided to the victim; and (d) Part 4 is the copy to be used by a peace officer for proof of service after Part 2 of the order has been served on the respondent.</p>	<p><i>Reg</i> 10(1) The form of the emergency protection order is prescribed in Schedule 1. (2) The order consists of four parts: (a) Part 1 is the original completed by the justice of the peace and retained for forwarding to the court pursuant to subsection 6(1) of the Act; (b) Part 2 is the copy to be served on the respondent; (c) Part 3 is the copy to be provided to the victim; (d) Part 4 is the copy to be used by a peace officer for proof of service after Part 2 of the order has been served on the respondent. (EC558/96).</p>		<p><i>Reg</i> 12A designated justice of the peace who grants a protection order on a telecommunications application shall ensure that a copy of the order is promptly given to the lawyer or peace officer who submitted the application by delivering it to the lawyer or officer personally or by electronic mail or the telephone transmission of a facsimile.</p> <p>13 When a subject applies for a protection order in person or a lawyer or peace officer submits an application in the subject's presence, the designated justice of the peace shall give the subject a copy of the application, supporting documents and any protection order that is granted.</p>

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
17. Serving Documents	<p>Comments: PEI and Manitoba allow for substituted service by a peace officer without a special order authorizing this manner of service. PEI provides for an order dispensing with service altogether if evidence to justify such an order is provided. The other three jurisdictions require the peace officer to apply to the court for an order for substituted service. Since Manitoba has no confirmation process (see item 7.5), the peace officer serves both the order and an information sheet explaining to the respondent the procedure for applying to set the order aside.</p> <p>Reg 12(1) The justice shall direct a peace officer to personally serve Part 2 of the emergency intervention order on the respondent as soon as is reasonably possible. (2) The justice shall arrange for Part 3 of the order to be provided to the victim. (3) Except where a peace officer completes Parts 2 to 4 of the order pursuant to subclause 11(b)(ii), a justice shall provide a peace officer with Parts 2 and 4, and Part 3 if necessary, by: (a) forwarding those Parts to a peace officer personally, by courier delivery or by ordinary mail; (b) transmitting those Parts to a peace officer by telecommunication that produces a written record; or (c) directing a peace officer to complete those Parts with the same information and</p>	<p>Reg 12(1) The justice of the peace shall direct a peace officer to personally serve Part 2 of the emergency protection order on the respondent as soon as is reasonably possible. (2) The justice of the peace shall arrange for Part 3 of the order to be provided to the victim. (EC558/96). 13(1) Where it is impractical for any reason for a peace officer to personally serve a respondent with an emergency protection order, a peace officer may effect substituted service of an emergency protection order. (2) Substituted service may be made by serving a person who appears to be an adult who (a) resides with the respondent; (b) is a member of the respondent's family; or</p>	<p>Reg 3(1) Unless otherwise stipulated in this Regulation, a document may be served by: (a) personal service on the person to be served; or (b) substituted service as ordered by the court. (2) Service of any document effected under this Regulation may be proved: (a) by the oral testimony or affidavit of the person who served it; or (b) by filing a copy of the document with the affidavit of service completed by the peace officer serving the document, or where personal service has been dispensed with, by filing a copy of the order for substituted service and an affidavit proving compliance with the order. 11(1) A peace officer shall: (a) personally serve a copy of an Emergency</p>	<p>5(3) A copy of an order, or of any variation of an order, must be served, (a) in the case of an emergency protection order, in accordance with the regulations, and (b) in the case of a Queen's Bench protection order, in accordance with the Alberta Rules of Court. 1998 cP-19.2 Reg 7(1) A copy of an emergency protection order shall be served on the respondent as soon as reasonably possible by a peace officer or by any other person that the judge directs. (2) Where the applicant for the emergency protection order is not the claimant, the applicant shall provide a copy of the emergency protection order to the claimant. 8(1) Where it is impractical for any</p>	<p>9A protection order must be served in the manner prescribed by regulation. Reg 5 On the request of a designated justice of the peace, a person making or submitting an application must provide any information he or she has that could assist in serving documents on the subject or respondent. 6 A subject may specify to a designated justice of the peace that another person may receive documents on behalf of the subject, and when a subject so specifies, service on the specified person is deemed to be service on the subject. 14 A designated justice of the peace who grants a protection order in respect of a subject who is a minor 16 years of age or older shall serve</p>

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	
17. Serving Documents (cont'd)	<p>provisions that are contained in Part 1 of the order completed by the justice.</p> <p>(4) An order completed by a peace officer pursuant to this section or section 11 has the same effect as the order completed by the justice.</p> <p>13(1) Where it is impractical for any reason for a peace officer to personally serve a respondent with an emergency intervention order, a peace officer may apply to a justice, in person or by telecommunication, for an order that authorizes substitutional service of the emergency intervention order.</p> <p>(2) An application for a peace officer to personally serve a respondent with an emergency intervention order, a peace officer may apply to a justice, in person or by telecommunication, for an order that authorizes substitutional service of the emergency intervention order.</p> <p>(2) An application for substitutional service is to be supported by evidence setting out why personal service is impractical and proposing a method of service that is likely to bring notice of the order to the respondent.</p> <p>(3) In making an order that authorizes substitutional</p>	<p>(c) is able to bring the order to the respondent's attention. (EC558/96).</p> <p>14(1) Pursuant to subsection 5(3) of the Act, a peace officer may apply to a justice of the peace for an order dispensing with service of the emergency protection order.</p> <p>(2) An application for an order dispensing with service is to be supported by evidence setting out the peace officer's attempts at personal service or substituted service.</p> <p>(3) An order dispensing with service is to be in the form prescribed in Schedule 2.</p> <p>(4) The justice of the peace shall forward the order dispensing with service and notes, and tape recordings where available, of the evidence set out in subsection (2) to the Registrar of the court nearest to where the victim resides. (EC558/96).</p> <p>15(1) Where an emergency protection order is varied or terminated pursuant to</p>	<p>Intervention Order on the respondent as soon as is reasonably possible; or</p> <p>(b) personally serve a copy of an Emergency Intervention Order on a person who appears to be at least 16 years of age who</p> <p>(i) resides with the respondent,</p> <p>(ii) is a member of the respondent's family, or</p> <p>(iii) is able to bring the order to the respondent's attention.</p> <p>(2) For the purposes of section 6 of the Act, a respondent has actual notice of an Emergency Intervention Order if</p> <p>(a) the respondent is personally served with a copy of the order, or</p> <p>(b) there are other circumstances that, in the opinion of the court, provide the respondent with actual notice.</p> <p>(3) Where the applicant for the Emergency Intervention Order is not the victim, the applicant shall provide a copy of the order to the victim.</p>	<p>reason for a peace officer or any other person directed by a judge to personally serve a respondent with an emergency protection order, a designated person may apply to a judge, in person or by telecommunication, for an order that authorizes substitutional service of the emergency protection order.</p> <p>(2) An application for substitutional service is to be supported by evidence setting out why personal service is impractical and proposing a method of service that is likely to bring notice of the order to the respondent.</p> <p>(3) In making an order that authorizes substitutional service of protection order, the judge shall direct, on any terms that the judge considers appropriate, following methods of service or more of the following methods of substitutional service that the judge is satisfied is likely to bring notice of the order to the respondent:</p>	<p>the subject, or shall arrange for the subject to be served, with a copy of the application, supporting documents and any protection order that is granted.</p> <p>15(1) A peace officer who receives a protection order from a designated justice of the peace shall serve a copy of the order and the information sheet referred to in subsection (2) on the respondent</p> <p>(a) personally; or</p> <p>(b) if the respondent cannot be conveniently found, by leaving the documents with an adult at the respondent's last known home, business or employment address, other than the home, business or employment address of the subject, together with a notice stating that the documents should be forwarded or given to the respondent as soon as possible; and provide proof of service satisfactory to the court.</p>

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
17. Serving Documents (cont'd)	<p>service of an emergency intervention order, the justice shall direct, on any terms that the justice considers appropriate, any of the following methods of substitutional service that the justice is satisfied is likely to bring notice of the order to the respondent:</p> <p>(a) serving a member of the respondent's family or another person who is able to bring the order to the respondent's attention;</p> <p>(b) serving a person with whom the respondent is residing or leaving the order at the place where the respondent is residing;</p> <p>(c) posting the order in a public place;</p> <p>(d) publishing the order in a newspaper;</p> <p>(e) any other method the justice considers appropriate.</p> <p>(4) The justice shall forward the order for substitutional service and his or her notes of the evidence supporting the order to the court at the judicial centre mentioned in section 16.</p>	<p>clause 6(2)(b), subsection 6(7), or subsection 10(1) of the Act, unless the victim or respondent is present in court, the order is to be served:</p> <p>(a) on the victim personally and on the respondent personally by a peace officer; or</p> <p>(b) if it is impractical for any reason to serve either or both of the parties personally, in any other manner ordered by the court, and pursuant to subsection 8(4) of the Act, a copy is to be provided immediately to a peace officer, to Victim Services and, where a child is identified on the order, to the Director of Child Welfare.</p> <p>(2) The form of orders made pursuant to subsection (1) is presented in Schedule 13. (EC558/96; 210/99)</p> <p>21 (1) Pursuant to subsection 13(2) of the Act, the Registrar shall cause the application to be served on the respondent at least five working days before the date of the hearing of the application.</p>	<p>12(1) Where reasonable efforts have not resulted in personal service of an Emergency Intervention Order on a respondent in accordance with section 11, or the respondent is evading or obstructing service, a designated person or a victim may apply to the court, in person or by telecommunication, for an order that authorizes substituted service of the Emergency Intervention Order.</p> <p>(2) An application for substituted service is to be supported by evidence setting out why reasonable efforts have not resulted in personal service or that the respondent is evading or obstructing service and proposing a method of service that is likely to bring notice of the order to the respondent.</p> <p>(3) In making an order that authorizes substituted service of an Emergency Intervention Order, the court shall direct, on any terms that the court considers appropriate, any one or more of the following</p>	<p>(a) serving a member of the respondent's family or another person who is able to bring the order to the respondent's attention;</p> <p>(b) serving a person with whom the respondent is residing or leaving the order at the place where the respondent is residing;</p> <p>(c) posting the order in a public place;</p> <p>(d) publishing the order in a newspaper;</p> <p>(e) sending the order by electronic mail to the respondent's e-mail address;</p> <p>(f) any other method the judge considers appropriate.</p> <p>10(1) Service of a document may be proved by the oral testimony or affidavit of the person who served it.</p> <p>(2) A peace officer who serves an emergency protection order on a respondent shall as soon as practicable after service forward the completed affidavit of service with a copy of the order attached as an exhibit to the Clerk of the</p>	<p>(2) The information sheet referred to in subsection (1) must set out the following:</p> <p>(a) information respecting the right of the respondent to apply to the court under subsection 11(1) (application to set aside protection order) of the Act and the time limit for doing so;</p> <p>(b) a statement that an application by the respondent to set aside the order does not stay the operation of the order;</p> <p>(c) information as to how the respondent can gain access to the evidence that was given in support of the application;</p> <p>(d) general information about the penalties for failing to comply with the order.</p>

Item Compared	Jurisdiction			
	Saskatchewan	PEI	Yukon	Alberta
17. Serving Documents (cont'd)	<p>(5) Service of an emergency intervention order in accordance with the terms of the order for substitutional service is deemed to be personal service on the respondent.</p> <p>14 Where an emergency intervention order is varied or terminated pursuant to subsection 5(9) of the Act, unless the victim or respondent is present in court, the order is to be served: (a) on the victim personally and on the respondent personally by a peace officer; or (b) if it is impractical for any reason to serve either or both of the parties personally, in any other manner ordered by the court.</p> <p>17 For the purposes of section 4 of the Act, notice of a victim's assistance order or an order made pursuant to subsection 6(1) of the Act may be given to the respondent: (a) in any manner permitted by the Queen's Bench Rules of Court; or</p>	<p>(2) The person who serves the application shall file an affidavit of service in the form prescribed in Schedule 8 with the Registrar at least three days before the hearing date.</p> <p>(3) Where the respondent has a lawyer, the Registrar may cause service to be made on the respondent's lawyer and that shall be deemed personal service. (EC558/96).</p> <p>22 Where, for any reason, personal service of an application on a respondent is impractical, substituted service may be effected by any of the methods specified in subsection 13(2). (EC558/96).</p> <p>27(1) Service of a document may be proved (a) by the oral testimony or affidavit of the person who served it; (b) in the case of the service of an emergency protection order, by filing a copy of Part 4 of the order with the affidavit of service completed by the peace officer serving the</p>	<p>methods of substituted service that the court is satisfied is likely to bring notice of the order to the respondent: (a) posting the order in a public place; (b) publishing the order in a newspaper; (c) sending the order by electronic mail to the respondent's e-mail address; (d) any other method the court considers appropriate.</p> <p>14 Where an Emergency Intervention Order has been changed, varied, terminated or revoked pursuant to subsection 5(9) or 8(1) of the Act, unless the victim or respondent is present in court, the order is to be served: (a) on the victim personally and on the respondent personally by a peace officer; or (b) if it is impractical for any reason to serve either or both of the parties personally, in any other manner ordered by the court.</p>	<p>Court of Queen's Bench at the judicial centre named pursuant to section 5(1)(c).</p>
				Manitoba

Item Compared	Jurisdiction			
	Saskatchewan	PEI	Yukon	Alberta
17. Serving Documents (cont'd)	<p>(b) by oral notice by the judge if the respondent is present in the court.</p> <p>18(1) Service of a document may be proved:</p> <p>(a) by the oral testimony or affidavit of the person who served it; or</p> <p>(b) in the case of the service of an emergency intervention order, by filing a copy of Part 4 of the order with the certificate of service completed by the peace officer serving the order.</p> <p>(2) A peace officer who serves an emergency intervention order on a respondent shall:</p> <p>(a) retain Part 4 of the order with the completed certificate of service; and</p> <p>(b) forward a copy of Part 4 of the order with the completed certificate of service to the court at the judicial centre designated by the justice as soon as is practicable after service:</p> <p>(i) by personal delivery;</p> <p>(ii) by ordinary mail;</p> <p>(iii) by courier delivery; or</p> <p>(iv) by telecommunication that produces a written record.</p>	<p>order, or where service has been dispensed with, by filing a copy of the order dispensing with service; or</p> <p>(c) in the case of a victim assistance order, by filing a copy of an affidavit of service in the form prescribed in Schedule 8.</p>	<p>19 (1) A peace officer shall cause the application to be served on the respondent at least two days before the date of the hearing of the application, unless the court orders otherwise.</p> <p>(2) The person who serves the application shall file an affidavit of service.</p> <p>(3) Where, for any reason, personal service of an application on a respondent is impractical, substituted service may be effected by any of the methods specified in subsection 12(3).</p>	
				Manitoba

Item Compared	Jurisdiction				
	Saskatchewan	PEI	Yukon	Alberta	Manitoba
18. Other Clauses in Act	The numbers below refer to the section numbers of the statutes in each jurisdiction where clauses concerning these items appear.				
18.1 Appeals	12		12		25(1)
18.2 Rights	13		13	11	24(1)
18.3 Designation of presiding JOPs	14	14			
18.4 Immunity	15	15	15	12	
18.5 Provisions for Review Contained in Order			4(6)		
18.6 Prohibition re frivolous complaint				13	
18.7 Seizure of Weapons					18-23
18.8 Seizure of property					24-26
19. Other Clauses in Regulations	The numbers below refer to the section numbers of the regulations in each jurisdiction where clauses concerning these items appear.				
19.1 Conduct of hearing of emergency application	Regs 5,6,7	Regs 5,6	Regs 5,6		
19.2 Completion of order	Regs 11	Regs 11	Reg 10	Reg 6	
19.3 Where material is forwarded to	Regs 16	Regs 8(4), 16	Reg 15		
19.4 Summons and notice for rehearing	Regs 19	Regs 17	Reg 16,17		
19.5 Mandatory information in order			Reg 9		

