

Peace Bonds – what are they?

“All we are saying is give peace bonds a chance.” Ultimately, John Lennon changed the lyrics and although Yoko accused him of selling out, some say the song was probably the better for it.

Long before there was a criminal code, Judges and Justices of the Peace had a common-law power to compel people to keep the peace and be of good behavior and that continues to be the case. In essence, if a jurist concludes that there are grounds to believe that a party will breach the Queen’s peace, that party can be ordered to enter a recognizance or bond to keep the peace. At the conclusion of a criminal trial, for example, even if the accused is found not guilty of the charge, s/he can be ordered to sign a common-law peace bond.

Section 810 of the Criminal Code provides a statutory basis for this power, which is also exercised by ordering that a defendant enter into a recognizance. As you will recall, one of the defining features of a recognizance is that the people who sign it acknowledge that they owe HMTQ (aka Elizabeth II) a specified sum of money, which she gets to collect if the terms of the recognizance are breached.

Section 810 is invoked by a person (the informant) who swears an information alleging that s/he has grounds to believe that a named defendant will damage property or cause injury to a person, her spouse or a child. If the presiding Judge or JP finds on a balance of probabilities that the informant has reasonable grounds for his/her belief, that jurist can order the defendant to sign a recognizance.

Proof on a balance of probabilities is not the same as proof beyond a reasonable doubt; it means it is more likely than not that a particular state of affairs exists. If you ask for one, you have a right to a hearing at which the informant will have to prove that there are reasonable grounds for his/her belief. Evidence can be called by the informant and the defendant has a right to challenge that evidence and call evidence in reply.

Once ordered to sign a recognizance, the defendant has a choice not to sign but s/he can be ordered to wait in jail for up to 12 months until s/he signs. It is not an admission of guilt and it is not a basis for an entry on a criminal record so most people just sign without even requesting a hearing.

All peace bonds require that those bound by them keep the peace and be of good behaviour but section 810 recognizances will likely also require that the respondent stay away from a particular address or abstain from communicating with specified persons. These recognizances can include such other reasonable conditions as the Court considers desirable to secure the good conduct of the defendant including terms limiting access to weapons. The maximum duration of a section 810 recognizance is 12 months.

The essence of keeping the peace and being of good behavior is obeying the law but a breach of the peace is not necessarily breaking the law and breaking the law is not necessarily failing to be of good behavior. Getting into a screaming match with someone at your kid's hockey game is probably not keeping the peace but speeding probably is not bad enough to qualify as bad behavior.

In addition, there are other specific types of recognizances in other sections of the Code which can only be dealt with by a provincial or territorial court judge: 1) 810.01 which deals with offences associated with terrorism and organized crime, 2) 810.1 which deals with sexual offences and 3) 810.2 which deals with serious personal injury offences. In each of these cases, if a judge finds that the informant has grounds to believe that an offence may be committed, the judge has the power to order the respondent to enter into a recognizance. If the defendant has a related criminal record, these recognizances may be in place for up to 2 years.

Section 83.3 also authorizes the ordering of a recognizance in relation to terrorist activity if a judge finds that the informant suspects on reasonable grounds that the imposition of a recognizance with conditions on a person is necessary to prevent the carrying out of terrorist activity.

These types of recognizances can include much broader restrictions and in addition to any other “desirable” conditions may require, for example, that the respondent wear electronic monitoring equipment, obey a curfew, stay away from schools and children, abstain from alcohol or drugs or participate in a treatment program. Sex offenders in particular find themselves subject to these kinds of restrictions.

If you are convicted of a breach of a recognizance issued under any of these sections, in addition to handing the Queen the money you now owe her, section 811 of the Criminal Code provides that you may be sentenced to up to 2 years in jail.

“Imagine all the people keeping the Queen’s peace...”