

GETTING A SEXUAL ABUSE PROTECTIVE ORDER (SAPO)

INSTRUCTIONS

Procedures vary from court to court. Check with your local court for filing instructions.

WHAT IS A SEXUAL ABUSE PROTECTIVE ORDER (SAPO)?

A Sexual Abuse Protective Order (SAPO) is a court order that tells the person who hurt you (Respondent) to leave you, your children, and your family alone. It can order the Respondent not to enter a reasonable area around your residence. You can ask the judge to add other conditions (listed in the protective order) that you think will help keep you safe.

WHO CAN HELP ME DECIDE WHETHER TO ASK FOR A SAPO?

You can call your local Victims' Assistance Program (VAP) or community-based (non-profit) sexual assault or domestic violence program to get help in deciding whether to ask the court for a SAPO and to do safety planning. Advocates can discuss information that may be important for you to consider in deciding whether to seek a SAPO. For information regarding sexual violence resources, please ask court staff for information about resources or visit the following websites:

Sexual Violence Resources and Programs: <http://oregonsatf.org/help-for-survivors/>

Victims' Assistance Programs: <http://www.doj.state.or.us/victims/Pages/assistance.aspx>

Nonprofit Advocacy Programs: <http://www.ocadsv.org/find-help>

If you have questions about how the law works or what it means, you should talk to a lawyer. For help finding a lawyer, call the Oregon State Bar's Lawyer Referral Service at 503.684.3763 or 800.452.7636. If you believe you cannot afford a lawyer, ask court staff if your area has a legal services (legal aid) program that might help you. You also can go to: www.oregonlawhelp.org.

WHAT ARE THE REQUIREMENTS FOR GETTING A SEXUAL ABUSE PROTECTIVE ORDER?

1. Relationship

If you are an Adult (18 or older):

You and Respondent cannot be "family or household members" as defined by ORS 107.705. This means that the person who abused you is NOT:

- your husband, wife, or Registered Domestic Partner,
- your former husband, wife, or Registered Domestic Partner,
- an adult with whom you are living (or did live) in a sexual relationship,
- an adult with whom you have been in a sexual relationship in the last two years,
- an adult related to you by blood, marriage, or adoption, or
- the parent of your child.

(If you and Respondent are "family and household members," you may be able to apply for a Family Abuse Prevention Act (FAPA) Restraining Order. For more information ask the court clerk or visit:

<http://courts.oregon.gov/OJD/OSCA/JFCPD/Pages/FLP/FAPA.aspx>)

If you are a Minor (under 18) :

You may ask for an Order as long as the Respondent is 18 or older.

If you are under the age of 12, a parent or guardian must file for you. A *guardian ad litem** can also be appointed. You may file for a Sexual Abuse Protective Order on your own if you are at least 12 years of age.

If you are filing for a protective order on behalf of a minor, fill out the form as if you were the minor.

* A *guardian ad litem* is a person appointed by the court to make decisions only about the court case.

- 2. Other Orders** To be eligible for a Sexual Abuse Protective Order, Respondent must NOT already be prohibited from contacting you by:
- a restraining order from another state, Indian tribe, or territory,
 - a stalking protective order,
 - an Elderly Persons and Persons With Disabilities Abuse Prevention Act restraining order,
 - a no contact order entered in a criminal case, or
 - a restraining order entered in a juvenile court dependency case.
- 3. Sexual Abuse** The person who sexually abused or assaulted you must have:
- made you have sexual contact without your consent; or
 - made you have sexual contact when you were not capable of consenting.
- 4. Time Frame** The abuse must have happened in the last 180 days. The 180 day period can be increased by the amount of time the Respondent:
- was in jail,
 - lived more than 100 miles from your home, or
 - was restrained from contacting you under another type of protective or “no contact” order.
- 5. Ongoing Fear** You are in reasonable fear for your physical safety.

You are not required to have called the police in order to get a Sexual Abuse Protective Order. The judge will not consider whether you reported the abuse to law enforcement when deciding to give you the Protective Order.

WHERE DO I FILE FOR A SEXUAL ABUSE PROTECTIVE ORDER AND HOW MUCH DOES IT COST?

You must file for a Sexual Abuse Protective Order in the courthouse in the county where either you or the Respondent lives. Getting a Sexual Abuse Protective Order is free.

HOW DO I FILL OUT THE PAPERS TO GET A SEXUAL ABUSE PROTECTIVE ORDER?

Use a blue or black ballpoint pen and write clearly. Answer each question carefully and tell the truth. Do not write in the part of the papers that say “Judge’s Initials.” If available, a court facilitator or advocate may be able to help you with the forms. They cannot answer legal questions.

WHAT HAPPENS AFTER I FILL OUT THE PAPERS?

A time will be set for the judge to look over your papers. The judge may ask you some questions. If the judge gives you the Sexual Abuse Protective Order, court staff will make copies for you. You should keep a copy of your Order with you at all times.

You will need to have one of the copies hand-delivered to the Respondent. A sheriff's deputy can do that (free in Oregon). A private process server or any adult can also serve the papers, as long as the server lives in the state where the papers are served. You cannot serve the papers yourself. The server is required to complete and file with the court a certificate of service. The packet includes a form for service, but some servers use their own forms. Talk to the court clerk about ways to get the Respondent served. **The Respondent cannot be punished for violating (not following) the Sexual Abuse Protective Order until after service.**

WILL A HEARING BE SCHEDULED?

The Respondent has 30 days from the date of service to ask for a hearing contesting (disagreeing with) the Sexual Abuse Protective Order. If the Respondent does not ask for a hearing, the Sexual Abuse Protective Order will stay in effect for one year from the date it was issued.

If the Respondent does ask for a hearing, the court will schedule it within 21 days of the request. The court will send you notice of the time and date of the hearing in the mail. If there is not enough time to mail you a notice, the court may contact you by telephone. **Be sure the court always has your current contact addresses and contact phone numbers so you get notice of any hearing.** Use safe contact addresses and contact phone numbers. You also can call the court to ask if a hearing has been set.

You must go to the hearing or the Order will probably be terminated (dropped). If you cannot go to the hearing due to an emergency, call the court clerk right away. It may be helpful to have an attorney represent you at the hearing, but it is not required. If you did not have enough notice of the hearing, you may ask the judge to extend the date of the hearing for up to five days so that you may get a lawyer.

You may ask the judge in writing, ahead of time, to appear by telephone or other method, such as video-conferencing. It is up to the judge to decide whether to allow this.

WHAT HAPPENS AT THE HEARING REQUESTED BY THE RESPONDENT?

The purpose of the hearing is to decide whether or not the Sexual Abuse Protective Order will remain in effect, and if it does remain in effect, if the Order will stay the same or change in some way. The judge may decide not to change the Order even if both sides agree that they want the same changes.

At the hearing, you must prove that you have been sexually abused and that you reasonably fear for your physical safety. You should be ready to give your own testimony, have witnesses testify if there are any, and give the judge any evidence you have (such as photos of your injuries or text messages from Respondent). If you are worried about your safety, you may ask the court for a sheriff's deputy to be present in the courtroom.

HOW LONG DOES A SEXUAL ABUSE PROTECTIVE ORDER LAST?

A Sexual Abuse Protective Order lasts for one year from the date the judge signs it or until a judge terminates it. It can be renewed for one year at a time if the judge finds it is objectively reasonable for a person in your situation to fear for their physical safety if the Order is not renewed. **To renew the Order, you must file the court paperwork before the Order ends.**

WHAT CAN I DO IF THE RESPONDENT VIOLATES (DOES NOT OBEY) THE SEXUAL ABUSE PROTECTIVE ORDER?

You can call the police. The officer must arrest the Respondent if there is probable cause (a good reason) to believe a violation has happened. The Respondent can be charged with contempt of court. If the court finds the Respondent to be in contempt, the Respondent can be fined, placed on probation, or put in jail. It is best that you carry a copy of the Sexual Abuse Protective Order with you at all times and that you not contact the Respondent. A Sexual Abuse Protective Order does not guarantee your safety. You can take other steps to stay safe. A Victims' Assistance Program (VAP) or a community-based (non-profit) sexual assault or domestic violence program can help.

For information regarding sexual violence resources, please visit the following website:
<http://oregonsatf.org/help-for-survivors/>.

WHAT IF I WANT TO DROP THE PROTECTIVE ORDER?

You must file papers at the courthouse to ask the judge to drop (terminate) the Order. The Order remains in effect until the judge terminates (ends) it. It may take a few days for law enforcement to get notice of the termination.

DO I NEED A LAWYER?

You are not required to have a lawyer to get a Sexual Abuse Protective Order. You can have a lawyer represent or help you if you wish. However, the law does not allow the court to appoint a lawyer for you.

If the Respondent asks for a hearing to modify or terminate the Order and is represented by a lawyer, you can ask the judge to extend the date of the hearing for up to five days so that you may get a lawyer.

If you need help finding a lawyer, call the Oregon State Bar's Lawyer Referral Service at 503.684.3763 or 800.452.7636. If you believe you cannot afford a lawyer, ask court staff if your area has a legal services (legal aid) program that might help you. You also can go to: www.oregonlawhelp.org.

WHAT IF I NEED AN ACCOMMODATION OR AN INTERPRETER?

If you have a disability and need an accommodation, or you need a foreign language interpreter, you must tell the court as soon as possible, but at least four days before your hearing. Tell the clerk that you have a disability and what type of assistance you need or prefer, or which language you speak.

IMPORTANT NOTE

INFORMATION THAT MUST BE KEPT CONFIDENTIAL

You must keep certain information ("confidential personal information") out of any papers you file or submit to the court and, instead, provide that information in a Confidential Information Form (CIF). "Confidential Personal Information" includes social security number; date of birth; former legal names; driver license numbers; and employer's name, address, and telephone number. It also applies to information regarding a party or a party's child. On the pleading or document where that confidential personal information would otherwise appear, you must note that the information has been separately provided under UTCR 2.130. (UTCR refers to the Uniform Trial Court Rules that apply across the state).

Relevant Rules and Forms

UTCR 2.130 – Confidential Personal Information in Family Law and Certain Protective Order Proceedings
Confidential Information Form for Protected Person (Petitioner) for Sexual Abuse Protective Order Cases
Confidential Information Form for Person Restrained (Respondent) for Sexual Abuse Protective Order Cases
Notice of Filing of Confidential Information Form for Sexual Abuse Protective Order Cases