Getting a Stalking Protective Order (ORS 30.866)

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

What is a Stalking Protective Order?

A Stalking Protective Order is a court order that tells a person who has made unwanted contact with you or a member of your immediate family or household to stop this behavior.

What are the Requirements for Getting a Stalking Protective Order?

To get a Stalking Protective Order (SPO) under Oregon law, you or a member of your immediate family or household must have been contacted **two separate times** within the past two years. The law says stalking is:

- repeated and **unwanted** contact that is alarming (causes fear) or coercive (forceful) to you and
- it is reasonable for you to feel alarmed or coerced and
- the contacts cause you to reasonably fear for your physical safety or the physical safety of your household or family

What are Some Examples of Stalking Behavior?

Some examples of contacts or behaviors that may be grounds for a Stalking Protective Order are:

- Waiting outside your home, school or work or the home, school or work of an immediate family or household member
- Following you or a member of your immediate family or household
- Committing a crime against you or a member of your immediate family or household
- Letters, phone calls, e-mails or text messages that threaten immediate serious personal violence

Where Do I File for a Stalking Protective Order and How Much Does It Cost?

You must file for a Stalking Protective Order in the courthouse in the county where the stalker lives or where the unwanted contacts took place. A Stalking Protective Order is free.

> These forms are **not** meant to be used to ask the court to order the stalker to pay damages you may have suffered as a result of the stalking activity. If you want to ask for damages, you likely will need the help of a lawyer. To find a lawyer, you may 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.

How Do I Fill Out The Papers to Get a Stalking Protective Order?

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. You must instead, provide that information in a Confidential Information Form. "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 about a party or a party's child. On the document where that protected 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
UTCR 2.130 Confidential Information Form for Stalking Petitioners
UTCR 2.130 Confidential Information Form for Stalking Respondents
UTCR Form 2.130.2 Notice of Filing of Confidential Information Form (CIF) or Amended CIF

Use a blue or black pen and write clearly. You are the Petitioner and the person you want to stop contacting you is the Respondent. Answer each question on the Petition carefully and tell the truth. Make sure that you fill out the Petition **completely**. You must sign in front of a notary or court clerk. Bring ID (photo ID is best). If available, a court facilitator or advocate may be able to help you with the forms. They cannot answer legal questions. After you fill out the Petition, submit it to the court.

What If I Am a Minor (under 18)?

If you are under the age of 18, the court should appoint a *guardian ad litem.* A *guardian ad litem* is a person who is 18 years or older and a person who can represent your interests; usually a trusted family member or friend. The person who will be your *guardian ad litem* needs to **first** file an Application for a Guardian Ad Litem. The court clerk may have this form available.

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, usually under oath. If the judge decides that the facts of your situation meet the requirements of the law, he or she will give you a Temporary Stalking Protective Order.

How Do I Serve The Papers?

If the judge signs your order, a court clerk should make certified copies of the order for you. You need to have one of the copies hand-delivered to the Respondent by a sheriff's deputy (free in Oregon), a private process server or certain adults. You **cannot** serve the papers yourself. Talk to the court clerk about ways to get the respondent served. The server must complete a declaration of service and file it with the court. There is a Declaration of Proof of Service form

in the packet, but some servers use their own forms. Until the Respondent is properly served (receives a copy) the Temporary Stalking Protective Order cannot be enforced.

Will a Hearing Be Scheduled?

If the judge signs the Temporary Stalking Protective Order, a hearing will be set. Information about the date and time of the hearing is on page 3 of the Temporary Stalking Protective Order. The Temporary Stalking Protective Order lasts until the hearing.

What Happens at the Hearing?

The reason for the hearing is so the judge can decide whether or not the Temporary Stalking Protective Order should be made permanent. You **must** go to the hearing or the order probably will be dismissed (ended).

At the hearing, you must prove what you wrote in the Petition. You should be ready to give your own testimony, call witnesses, and give the judge any evidence (such as photos, letters, recordings). If the judge decides that you have proven your case, he or she will sign a Final Stalking Protective Order.

If the Respondent does not come to the hearing and the judge signs a Final Stalking Protective Order, the order must be served on the Respondent. (See "How Do I Serve the Papers" on page 2)

How Long Does the Final Stalking Protective Order Last?

A Final Stalking Protective Order is permanent. The Respondent, however, can file legal papers to ask the court to end the order. If the Respondent files papers, a hearing will be set on whether or not the Final Stalking Protective Order should be ended. You will be served with the legal papers. They should include notice of the date and time of the hearing.

What Can I Do If The Respondent Does Not Follow the Temporary or Final Order?

If the Respondent does not obey either a Temporary or Final Stalking Protective Order, it is a crime. If the Respondent acts in a way that the court order does not allow, you should call the police. The police must arrest the Respondent if they have reason to believe that he or she has not followed a Temporary or Final Stalking Protective Order. If the Respondent is convicted of a violation of a Stalking Protective Order, it is a Class A Misdemeanor. If the Respondent has a prior conviction for Stalking or violation of a Stalking Protective Order, it is a Class C Felony.

A Stalking Protective Order alone may not protect you against the Respondent's actions. If you need information about what other safety steps you can take, you may want to contact a victim advocate in your community. For 24-hour hotline numbers, local resources and other information, go to: http://courts.oregon.gov/OJD/OSCA/JFCPD/Pages/FLP/Domestic-Violence-Resources.aspx

What If I Need an Accommodation or an Interpreter?

If you have a disability and need an accommodation, or you are unable to speak English and need a foreign language interpreter, you must tell the court at least 4 days before the hearing, if possible. Tell the clerk that you have a disability and what type of assistance you need or prefer, or which language you speak.

Do I Need a Lawyer?

If you have questions about how the law works, whether a stalking protective order is right for you or you need help with the scheduled hearing, you may want to talk to a lawyer. You are not required to have a lawyer. See the box on Page 1 for information about how to find a lawyer.