

INSTRUCTIONS FOR OBTAINING A CIVIL STALKING PROTECTIVE JUDGMENT

I. Introduction

This packet contains forms and instructions to assist you in obtaining a Stalking Protective Judgment. A Protective Judgment is an judgment from the court telling the person named in the stalking judgment (the "respondent") to stop contacting you (the "petitioner") in any way. You can get a Protective Judgment if you are being stalked. Stalking is usually characterized by a pattern of behaviors, and the law requires proof of at least two instances of contact. The legal definition of stalking is:

- intentionally, knowingly, or recklessly
- alarming or coercing
- another person or member of that person's immediate family or household
- by engaging in unwanted and repeated contact with the other person
- when it is objectively reasonable for a person in the victim's situation to have been alarmed or coerced
- and the unwanted contact causes the victim reasonable apprehension regarding his or her personal safety or that of his or her immediate family members or household members.

You can get a Protective Judgment for stalking that is being committed against you, and/or against a member of your immediate family or household. Immediate family includes your father, mother, child, sibling, spouse, grandparent, stepparent, and stepchild. Household member means anyone living with you.

If you are a minor (a person age 17 or younger) you may use these forms to obtain a Stalking Protective Judgment, but you will need a guardian ad litem (adult, temporary guardian) appointed for you in judgment for you to use this procedure. There are no forms in this packet for appointing a guardian ad litem. You should ask the court clerk for guardian ad litem papers.

If the requirements of the law are met, the Protective Judgment can prohibit all contact, which includes but is not limited to: coming into your visual or physical presence, following you, waiting outside your home or the home of your family member or household, sending or making written communications in any form to you, speaking with you by any means, communicating through third persons, committing a crime against you, damaging your home, property, or place of work or school, delivering anything to your home, property, place of work or school.

If it is appropriate or necessary, the Court can judgment the respondent to undergo a mental health evaluation and to follow through with any recommended treatment.

A person who violates a stalking protective judgment commits a crime. For the first violation, unless the person has violated another stalking protective judgment or has previously been convicted of the crime of stalking, the crime is a Class A Misdemeanor. For the second violation, or where one of the conditions listed above exists, the crime is a Class C Felony.

Violation of a stalking judgment by someone licensed to carry a concealed weapon is also cause for revoking that concealed handgun license.

If you have questions about how the law works or what it means, you may need to see a lawyer. The court clerk cannot give you any legal advice.

You do not have to have a lawyer to use this procedure, but you have the right to have a lawyer represent or help you. If you do not know a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free by dialing 1-800-452-7636. If you are on a low income,

you can request a referral for the State Bar's "Modest Means" program. If you cannot afford a lawyer,

you may also contact Lane County Legal Aid Service at (541) 342-6056 or the Domestic and Sexual

Violence Advocacy Center at (541) 484-6103 for information and referrals.

Many of the behaviors that stalkers use are illegal. Stalking itself is a crime. You may want to contact

your local police about crimes that may have been committed against you regardless of whether or not

you are able to get a stalking protective judgment.

For other information and referrals about dealing with stalking, you may call:

Victim Services Program 682-4523 (Mon-Fri, 9-5)

Sexual Assault Support Services 343-7277 (24 hours)

800-788-4727 (24 hours)

Womenspace Crisis Line 485-6513 (24 hours)

800-281-2800 (24 hours)

Siuslaw Area Women's Center 997-2816 (Mon-Fri, 10-4)

(Florence and surrounding areas) 997-4444 (24 hours)

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II. Outline of Procedures

A. **Filing Papers.** After you complete the forms in this packet, you should present them to the court clerk at the information booth on the second floor of the Court building. There is no fee for filing papers for a stalking protective judgment.

B. **First Hearing.** The court is required to hold a hearing on the day you file your papers, or the next day that the court is open for business. The hearing may be done in person or, in some instances, by telephone. There is no hearing fee.

C. **Issuing the Temporary Judgment.** After the hearing, if the judge decides that your situation meets the requirements of the law, the judge will issue a **temporary** protective judgment. In the judgment, the judge will set a time for a second hearing which both you and the respondent **must** attend.

D. **Serving the Judgment.** A copy of the protective judgment must be given to ("served on") the person who has been stalking you - the respondent. The judgment must be given to the respondent personally by a sheriff's deputy or another person who is qualified to serve legal papers. **The judgment is not effective until it has been served. This applies to both the Temporary and the Permanent Judgments.** There is no fee for service when the sheriff's department serves the papers.

E. **Hearing on Permanent Judgment.** Both you and the respondent must be present in court for this hearing. In extreme cases, you may be permitted to testify by telephone. At this hearing, the Court will decide whether to enter a permanent stalking protective judgment. A permanent judgment is effective for an unlimited period of time unless the court specifies some shorter period.

F. **Arrest for Violations.** Once the respondent has been served, either with a temporary judgment or a permanent judgment, the judgment is in effect. Anything the respondent does which violates the court's judgment is a crime, and should be reported to the police immediately.

G. **Prosecution of Violations of Stalking Protective Judgments.** Violation of a stalking protective judgment (first offense) is a *Class A* misdemeanor, punishable by up to one year in

jail and a \$2500 maximum fine. For the second violation, or where the person has violated another stalking protective judgment or has previously been convicted of the crime of stalking, the crime is a class C felony. The District Attorney's Office is the agency responsible for prosecuting violations of these judgments.

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III. Completing the Forms for a Stalking Protective Judgment

Form A: Petition for Stalking Protective Judgment

This form tells the Court why you need protection, and gives details about the person who has been stalking you. Fill out the "Caption," which is the part at the top where Petitioner and Respondent's names should be entered. You should fill this part out on every document. The Petition can only be used against one Respondent. If there are a number of people stalking you, you need to fill out separate petitions for each person. It can also only be used to protect one person (and that person's family/household members).

1. Write in the name, age, and relationship of the person to be protected by the judgment. If the judgment is to protect you, write "self." The law allows the Court to protect the Petitioner's immediate family member (father, mother, child, sibling, parent, spouse, grandparent, stepparent, and stepchild) or a member of Petitioner's household (someone who lives with the petitioner).
2. This tells the Court that you need an Judgment prohibiting all contact.
3. Fill in the Description and Address of Respondent. Give as much information as you can about the Respondent - even if you do not know his or her exact age, weight, etc. If you do not know the Respondent's address, give whatever information you do have. You will have another opportunity to give helpful information on the Relevant Data Sheet, described below.
4. Describe the relationship between the person to be protected (named in #1) and the respondent. The law does not require that these two people have a particular kind of relationship, or any relationship at all, but it is still helpful for the court to know about this part of the situation.
5. Fill in the blanks to let the Court know about other Restraining Judgment or Stalking Judgment cases against this Respondent. Tell the Court what Court those other judgments were in (state, county, etc.) and the case number if you have it. Give details, especially if the respondent has a history of violating those judgments.
6. Describe the contact that makes the person to be protected need a stalking judgment. Use the sheet provided if you need extra space for this part of the petition. Be as specific as you can, using details like when, where, what was said or done, etc. You need to be brief but give as much detail as possible to explain to the court why you felt threatened or coerced. You need to make sure that you describe more than one incident of contact, since the law requires that the contact be "repeated." Contact can include getting in touch with other people to get messages to you, calling you, leaving things at your home or some other place, sending cards, threatening you, following you, etc.
7. Explain any other circumstances that the Court should know about in judgment to understand why the contact described in #6 was alarming or coercive. This might include a history of

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unpredictable behaviors, possession of weapons, threats, etc. Use the sheet provided if you need extra space to answer this part of the petition.

8. The Court can judgment the Respondent to undergo mental health evaluation, and treatment if the evaluation indicates treatment is necessary. The Court can judgment this whether you ask them to or not, but here you have an opportunity to specifically request it.

Sign the petition before a notary public. You are swearing that everything you have written is true. Date it and print your name.

Address or contact address: You must give the court an address at which you can be reached.

You may use a contact address and telephone number if you need to keep your residence address and telephone number confidential. It is very important that this be a reliable address, since it will be the only means for the court to contact you regarding your protective judgment. If you use a contact address, be sure to check your mail there regularly, so that you do not miss important court dates.

Form B: Notice to Respondent and Relevant Data Sheet

Fill in the Respondent's name and address, if you know it. Attached to this form is also the "Relevant Data" sheet. This information is needed by the sheriff's office so that they can attempt to serve the Respondent. Give as much information as you can, including places Respondent is likely to be found, and anything that might pose a danger to the sheriff's deputy who tries to serve the Respondent (dogs, weapons, etc.).

Form C: Stalking Protective Judgment

Complete the "caption" - your name and respondent's name. The judge will complete the remainder of this form. .

Form D: Certificate of Document Preparation

If an attorney did not prepare or assist you to complete the forms in this packet, you must complete this form and give it to the court with the rest of the papers you file. Fill out the names, and check the appropriate box to tell the court whether or not you received paid, attorney assistance in completing your forms. Sign and print your name.

Form E: Affidavit of Proof of Service

The purpose of the "Affidavit of Proof of Service" is to show the court that the Stalking Protective Judgment and Petition were personally delivered to the respondent. That way, the court knows that the respondent is aware of what the court has judgmented. Complete the "caption" - your name and the respondent's name. The rest of the Affidavit of Proof of Service will be filled in only after the respondent has been served, by the person who serves the judgment.

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