ELDERLY PERSONS AND PERSONS WITH DISABILITIES

ABUSE PREVENTION ACT

INSTRUCTIONS AND FORMS FOR OBTAINING

A RESTRAINING ORDER

PACKET E1

Office of the State Court Administrator
Salem, Oregon

Revised: December 2003; July 2005; January 2010; March 2010; July 2013

PACKET E1

OBTAINING A RESTRAINING ORDER

ELDERLY PERSONS AND PERSONS WITH DISABILITIES ABUSE PREVENTION ACT

INSTRUCTIONS

This packet contains forms and instructions to assist you in obtaining a Restraining Order under the Elderly Persons and Persons With Disabilities Abuse Prevention Act. The instructions are designed to give you detailed information about how to fill out the forms. **(If you need to obtain a Restraining Order to stop a person or company from mailing sweepstakes promotions, please ask the clerk for Packet E3.)**

A "Restraining Order" is an order of the court that orders the person named in the Restraining Order (the "Respondent") to stop threatening or abusing, and to stay away from you (the "Petitioner") or the elderly/disabled person you are filing on behalf of. The Restraining Order can order the Respondent to move out of or stay away from your home, job or school site. The police are required to enforce a Restraining Order. A person who violates a Restraining Order can be arrested, tried for contempt of court or any crimes committed, and if found guilty, can be fined or put in jail.

IF YOU ARE AN ELDERLY PERSON OR A PERSON WITH DISABILITIES, AND A "GUARDIAN PETITIONER" FILES A PETITION ON YOUR BEHALF, YOU RETAIN THE RIGHT TO:

- Contact and retain counsel;
- Have access to personal records;
- File objections to the restraining order;
- Request a hearing; and
- Present evidence and cross-examine witnesses at any hearing.

GUARDIAN PETITIONERS

You may also use this packet if you are a guardian or guardian ad litem for an elderly or disabled person on whose behalf you are filing for a restraining order to stop another person (the "Respondent") from threatening or abusing the person you represent. You must be the guardian or guardian ad litem for the elderly person or disabled person for whom you are filing. If you are using the packet for this purpose, you are called a "GUARDIAN PETITIONER."

THROUGHOUT THE FORMS AND INSTRUCTIONS, INFORMATION IS PROVIDED FOR AND REQUESTED ABOUT THE ELDERLY OR DISABLED PERSON YOU REPRESENT. AS A GUARDIAN PETITIONER, YOU ARE TO PROVIDE INFORMATION, NOT ABOUT YOURSELF, BUT ABOUT THE ELDERLY OR DISABLED PERSON ON WHOSE BEHALF YOU ARE SEEKING A RESTRAINING ORDER. Provide information about yourself as "guardian Petitioner" only where specifically requested.

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 believe you cannot afford a lawyer, ask the court staff if your area has a legal service (legal aid) program that might help you.

Not everyone is eligible for a Restraining Order under the Elderly Persons and Persons With Disabilities Abuse Prevention Act. Check the eligibility list below carefully to determine whether you are eligible to use the procedure and forms provided in this packet. If you are eligible, you may use the procedure whether or not you have left your residence or household to avoid abuse.

ELIGIBILITY REQUIREMENTS

You are eligible to use this Restraining Order procedure if:

You are 65 years of age or older **AND** you are NOT a resident of a long-term care facility;

OR

You are a "person with disabilities" because you have a physical or mental disability and one of the criteria listed below applies to you:

- you are mentally retarded or developmentally disabled and reside in or need placement in a residential program administered by the Seniors and People with Disabilities (SPD), Department of Human Services, or
- you are mentally or emotionally disturbed and reside in or need placement in a residential program administered by SPD, or
- you are an alcohol or drug abuser and reside in or need placement in a residential program administered by SPD, or
- you have a physical or mental disability other than those described above, or
- you have experienced an injury to the brain caused by extrinsic forces where the injury results in the loss of cognitive, psychological, social, behavioral, or physiological function for a sufficient time to affect your ability to perform the activities of daily living;

OR

You are a guardian or guardian ad litem for an elderly or disabled person who meets the eligibility requirements described above;

AND

The abuse was committed within the 180 days* preceding the filing of the petition (*any period of time after the abuse occurred during which the Respondent was in jail or prison or lived more than 100 miles from your home does not count as part of the 180-day time period, and you may still be eligible for a Restraining Order);

AND

You are in immediate and present danger of further abuse from the Respondent;

AND

You are a victim of one or more of the kinds of "abuse" listed below:

- physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury;
- neglect that leads to physical harm through withholding of services necessary to maintain health and well-being;
- abandonment, including desertion or willful forsaking of you or the withdrawal or neglect of duties and obligations owed to you by a caregiver or other person;
- willful infliction of physical pain or injury;
- use of derogatory or inappropriate names, phrases or profanity, ridicule, harassment, coercion, threats, cursing, intimidation, or inappropriate sexual comments or conduct of such a nature as to threaten you with significant physical or emotional harm;
- wrongful taking or appropriation of your money or property, or alarming you by threatening that your money or property would be wrongfully taken or appropriated, and you reasonably believed that threat would be carried out;
- sexual contact that you did not consent to, or sexual contact to which you were incapable of consenting.

IMPORTANT

You CANNOT request a restraining order against a person who is your current court-appointed guardian or conservator. If you believe you are being subjected to abuse by your court-appointed guardian or conservator, you should notify the judge in the court where the guardianship or conservatorship is pending and consult with an attorney.

HOW DO I FILL OUT AND FILE THE PAPERWORK?

You may either type or handwrite to fill out the forms. If you handwrite the forms, you must use a ball point, black ink pen only and you must print (no cursive) clearly. Answer each question carefully and tell the truth. **If you wish to have your residential address or telephone number withheld from Respondent, use a contact address and contact telephone number so the court and sheriff can reach you if necessary.** Do not write in the parts of the papers that say, "Judge's Initials." You will need to 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 fill out the forms. They cannot answer legal questions.

You must file the Petition in either the county where you live or the county in which the Respondent lives. **If you are a "guardian Petitioner", you must file in the county where either the elderly/disabled person you represent or the Respondent resides (lives)**. If the name of the county is blank on the form, fill in the name of the county in which you are asking for a Restraining Order.

This packet contains the following forms:

- Petition For Restraining Order to Prevent Abuse of Elderly Person or Person with Disabilities
- Restraining Order to Prevent Abuse
- Affidavit of Proof of Service
- Notice to Respondent/Request for Hearing
- Notice to Elderly Person or Person With Disabilities/Objections and Request for Hearing
- Petitioner's/Guardian Petitioner's Motion and Order of Dismissal
- Order After Hearing

If you are filing the petition on your own behalf, write your name in the space on the left. (You are the "Petitioner.") **If you are filing as a "Guardian Petitioner," you should put the name of the elderly or disabled person you are filing on behalf of and check the box for "Guardian Petitioner," then write your name on the blank line provided.**

Write in the name of the Respondent (the person who has abused (hurt) or threatened you) and whom you want the court to order to stay away from you. Leave the "No. _____" space blank until the court clerk gives you a case number. Indicate whether you are the Petitioner or the Guardian Petitioner. If you are the Petitioner, write in the name of the county and state in which you live. If you are the Guardian Petitioner, write in the name of the person you are filing on behalf of and the name of the county and state in which that person lives. Check the box to indicate whether you are the guardian or guardian ad litem of the elderly/disabled person you are filing on behalf of.

WHAT HAPPENS ONCE I'VE FILLED OUT THE PAPERWORK?

After you complete the forms as directed in these instructions, you should present them to the court clerk. There is no fee for filing papers under the Elderly Persons and Persons With Disabilities Abuse Prevention Act.

WILL THERE BE A HEARING?

After filing, a hearing is scheduled. The court is required to hold an *"ex parte"* (one side only) hearing on the day the papers are filed or on the next day that the court is open for business. The hearing may be done in person or, in some courts, by telephone. There is no hearing fee.

If the judge decides that you are eligible for a Restraining Order and are in immediate danger of further abuse, the judge must issue a Restraining Order. What protection the judge includes in the Restraining Order depends on what you ask for in the Restraining Order and the information the judge receives at the hearing.

Once the judge signs the Restraining Order, it is in effect for one year unless it is ended earlier by the court at your request or unless the court renews it at your request. To renew the order, you must file the proper paperwork that can be obtained from the court.

WHO DO I SERVE WITH THE RESTRAINING ORDER AND HOW DO I SERVE THEM?

A copy of the Restraining Order must be "served on" (delivered to) the person who has abused you. That person is called the "Respondent." The order must be given to the Respondent in person by the sheriff or other person who is qualified to serve legal papers unless the court finds that further service is unnecessary because the Respondent appeared in person before the court and received the papers. There is no service fee when the sheriff's office serves the order. If you arrange to have a private process server serve the papers, you will need to pay any fees to that person.

GUARDIAN PETITIONERS

A copy of the Restraining Order, Petition, and all related forms must also be given to ("served on") the elderly or disabled person for whom you are guardian ***within 72 hours after the court issues a restraining order***. The papers must be given to the elderly or disabled person "in person" by the sheriff or another person who is qualified to serve legal papers. ***You cannot serve the papers on the elderly or disabled person yourself***. The elderly or disabled person must also be served with a NOTICE containing a statement of their rights, together with an objection form that the elderly or disabled person may complete and mail to the court to request a hearing.

WHAT HAPPENS IF THE RESPONDENT OR ELDERLY/DISABLED PERSON REQUESTS A HEARING?

Within 30 days after receiving the Restraining Order, the Respondent or elderly/disabled person has the right to ask for a hearing. If such a request is made, the court must hold a hearing within 21 days following the request. If the Respondent or elderly/disabled person is represented by an attorney, the time for the hearing may be extended for up to five days to provide the other parties with time to seek legal representation. The judge may change or cancel the Restraining Order based on the information the judge receives at the second hearing.

The Respondent may request a hearing by filling out the "Respondent's Request For Hearing" portion of the "Notice To Respondent/Request for Hearing" form, and filing that form with the court clerk.

The elderly or disabled person may request a hearing by filling out the "Request For Hearing" portion of the "Notice to Elderly Person or Person With Disabilities/Objections and Request for Hearing" form, and personally filing or mailing that form to the court.

WHAT CAN I DO IF THE RESPONDENT DOES NOT OBEY THE RESTRAINING ORDER?

The Respondent can be arrested for violating the Restraining Order. The order will state the amount of security ("bail") to be posted if the Respondent is arrested for violating the order. The Respondent will be released if s/he is able to post 10 percent of this bail amount, but will still have to appear for trial. Violating a Restraining Order is contempt of court and is punishable by a fine of up to $500 or 1 percent of Respondent's annual gross income, whichever is greater, a jail term of up to six months, or both. Other punishments may be ordered.

There are also other things you may do to stay safe. When you receive this packet or when you file your papers with the court, you should receive information provided by the Seniors and People with Disabilities division of the Department of Human Services about the local adult protective services, domestic violence shelters, and local legal services available in your area. If you do not receive this information, ask the court clerk for a copy.

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 as soon as possible, but at least four days before your hearing. Tell the clerk what specific disability you have and what type of assistance you need or prefer, or which language you speak.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF _____

_____	_____	)
Petitioner	(date of birth)	)
(name of person to be protected)		)
		)
☐ by and through his/her Guardian Petitioner:		)
_____		)
(name of Guardian Petitioner)		)
v.		)
		)
_____	_____	)
Respondent	(date of birth)	)
(person to be restrained)		)

PETITION FOR RESTRAINING ORDER

TO PREVENT ABUSE OF ELDERLY PERSON OR PERSON WITH DISABILITIES

Case No. _____

NOTICE TO PETITIONER

You must provide complete and truthful information. If you do not, the court may dismiss any restraining order and may also hold you in contempt.

Contact Address: If you wish to have your residential address or telephone number withheld from Respondent, use a contact address and telephone number so the court and the sheriff can reach you if necessary.

(Check one):

☐ I am the **Petitioner** and reside in _____ County, state of _____. I state that the information provided below is true:

or

☐ I am the **Guardian Petitioner**. The elderly person or person with disabilities on whose behalf I am filing this petition is (*Name*) _____ who is a resident of _____ County, state of_____. I am the ☐ guardian ☐ guardian ad litem for the named elderly person or person with disabilities. I state that the information provided below is true:

Respondent is a resident of _____ County, state of _____

GUARDIAN PETITIONERS: THROUGHOUT THIS FORM, INFORMATION IS PROVIDED FOR AND REQUESTED ABOUT THE ELDERLY OR DISABLED PERSON YOU REPRESENT. AS A GUARDIAN PETITIONER, YOU ARE TO PROVIDE INFORMATION, NOT ABOUT YOURSELF, BUT ABOUT THE ELDERLY OR DISABLED PERSON ON WHOSE BEHALF YOU ARE SEEKING A RESTRAINING ORDER.
Provide information about yourself as "guardian petitioner" only where specifically requested.

Check and fill out the section that applies to you:

☐ I am 65 years of age or older. I am _____ years of age.
☐ I am a person with disabilities. Explain the nature of the mental or physical disability:

_____

_____

1. CHECK AND FILL ANY SECTION(S) that apply to you and respondent.

   ☐ A. Respondent and I have been living together since _____.
   (date)

   ☐ B. Respondent and I lived together from _____ to _____.
   (date) *(date)*

   ☐ C. I have been under the care of respondent since _____.
   (date)

   ☐ D. I was under the care of respondent from _____ to _____.
   (date) *(date)*

   ☐ E. None of the above.

2. To qualify for a restraining order, respondent must have done one or more of the following. Within the last 180 days, respondent has:

   ☐ A. Caused me physical injury by other than accidental means.
   ☐ B. Attempted to cause me physical injury by other than accidental means.
   ☐ C. Placed me in fear of immediate serious physical injury.
   ☐ D. Caused me physical harm by withholding services necessary to maintain my health and well-being.
   ☐ E. Abandoned or deserted me by withdrawing or neglecting to perform duties and obligations.
   ☐ F. Willfully inflicted me with physical pain or injury.
   ☐ G. Used derogatory or inappropriate names, phrases or profanity, ridicule, harassment, coercion, threats, cursing, intimidation or inappropriate sexual comments or conduct of such a nature as to place me in fear of significant physical or emotional harm.
   ☐ H. Wrongfully taken or appropriated my money or property, or alarmed me by conveying a threat to me that my money or property would be wrongfully taken or appropriated, which threat I reasonably believed would be carried out.
   ☐ I. Had nonconsensual sexual contact with me or sexual contact to which I was incapable of consenting.

3. Any period of time after the abuse occurred during which respondent was incarcerated (in jail or prison) or lived more than 100 miles from your home is not counted as part of the 180-day period, and you may still be eligible for a restraining order. Respondent was incarcerated from _____ *(date)* to _____ *(date)*.

   Respondent lived more than 100 miles from my home from _____ *(date)* to _____ *(date)*.

4. Did the abuse happen within the last 180 days not including the times Respondent was incarcerated (in jail or prison) or lived more than 100 miles from your home? ☐ Yes ☐ No (*Check one)*
   Date and location of abuse: _____

How did respondent injure or threaten to injure you? _____
_____
_____
_____

5. Are there incidents other than those described in question 4. above in which respondent injured or threatened to injure you? If yes, explain: _____
_____

6. The abuse I am complaining about was witnessed by _____
_____ *(affidavit attached)*.
Other persons with knowledge of the abuse are _____
_____ *(affidavit attached)*.

7. I am in immediate and present danger of further abuse by respondent because: _____
_____
_____

8. In any of the above incidents:
Were drugs, alcohol, or weapons involved? ☐ Yes ☐ No (*Check one)*
Did you need medical help? ☐ Yes ☐ No (*Check one)*
Were the police or the courts involved? ☐ Yes ☐ No (*Check one)*
If you have checked yes to any of the above questions, explain: _____
_____
_____

9. A. There ☐ is ☐ is not another Elderly Persons and Persons With Disabilities Abuse Prevention Act, Family Abuse Prevention Act, or Stalking Order proceeding pending between respondent and me.
It is filed in _____ County, State of _____, and I am, the ☐ Petitioner ☐ Respondent in that case *(check one)*. The case number of the case is: _____

B. There ☐ is ☐ is not another lawsuit pending between respondent and me for divorce, annulment, or legal separation. If yes, type of lawsuit: _____.
It is filed in _____County, State of _____.

C. There ☐ is ☐ is not a guardianship, conservatorship, or other protective proceeding pending in which either the respondent or I is a party. If yes, type of lawsuit: _____.
It is filed in _____County, State of _____.

10. Respondent may be required to move from your residence if: (a) it is in your sole name; (b) if it is jointly owned or rented by you and Respondent; or (c) if you and Respondent are married.
I ☐ do ☐ do not want Respondent to move from my residence.
My residence is: ☐ Owned ☐ Leased ☐ Rented by: _____ *(name).*

PETITIONER/GUARDIAN PETITIONER ASKS THE COURT TO ORDER HIS/HER REQUESTS AS MARKED ON THE ATTACHED RESTRAINING ORDER.

PETITIONER/GUARDIAN PETITIONER MUST NOTIFY THE COURT OF ANY CHANGE OF ADDRESS. ALL NOTICES OF HEARING WILL BE SENT TO THIS ADDRESS AND DISMISSALS MAY BE ENTERED IF THE PETITIONING PARTIES DO NOT APPEAR AT A SCHEDULED HEARING.

If you wish to have a residential address or telephone number withheld from respondent, use a contact address and contact telephone number so the court and the sheriff can reach you if necessary.

_____
Signature of ☐ Petitioner ☐ Guardian Petitioner

_____
Print or Type Name of ☐ Petitioner ☐ Guardian Petitioner

STATE OF OREGON)
) ss.
County of _____)

This instrument was SUBSCRIBED and SWORN to before me this_____ day of _____, 20___
by _____
(*Print Name of Petitioner/Guardian Petitioner*)

_____
NOTARY PUBLIC FOR OREGON/COURT CLERK
My commission expires: _____

If you wish to have your residential address or telephone number withheld from Respondent, use a contact address or telephone number so the Court and the Sheriff can reach you if necessary.

Certificate of Document Preparation You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

☐ I selected this document for myself and I completed it without paid assistance.
☐ I paid or will pay money to _____ for assistance in preparing this form.

Submitted by:

_____
Print Name, ☐ Petitioner ☐ Guardian Petitioner ☐ Attorney for Petitioner/Guardian Petitioner ☐ OSB No. (*if applicable)*

_____
Address or Contact Address — City, State, Zip — Telephone or Contact Telephone Number
Use **safe** contact address — Use **safe** contact number

IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF _____

_____	_____	)
Petitioner	(date of birth)	) **RESTRAINING ORDER**
(name of person to be protected)		) **TO PREVENT ABUSE**
		) (Elderly Persons and Persons With Disabilities
☐ by and through his/her Guardian Petitioner:		) Abuse Prevention Act)
_____		) Case No. _____
(name of Guardian Petitioner)		)
		)
v.		)
_____	_____	)
Respondent	(date of birth)	)
(person to be restrained)		)

NOTICE TO THE RESPONDENT:

- You must obey all of the provisions of this Restraining Order, even if the Petitioner contacts you or gives you permission to contact him/ her.
- Violation of this Restraining Order may result in your arrest and in civil and/or criminal penalties. This order is enforceable throughout Oregon and in every other state. Review this order carefully.
- **See the attached "NOTICE TO RESPONDENT/REQUEST FOR HEARING" for more information about your rights to a hearing.**

The court, having reviewed the petition, makes the following findings:

JUDGE'S INITIALS

A. The Protected Person is ☐ Petitioner ☐ _____ *(name of person to be protected)* and has been abused by the Respondent as defined by ORS 124.005; **A.**_____

B. The abuse of the Protected Person by the Respondent occurred within the last 180 days as provided in ORS 124.010; **B.**_____

C. The Protected Person is in immediate danger of further abuse. **C.**_____

IT IS HEREBY ORDERED that:

Petitioner's/Guardian Petitioner's Request

☐ 1. Respondent is restrained (prohibited) from abusing, intimidating, molesting, interfering with, or menacing the Protected Person, or attempting to abuse, intimidate, molest, interfere with or menace the Protected Person. **1.**_____

JUDGE'S INITIALS

☐ 2. Respondent is restrained (prohibited) from entering or attempting to enter or be within _____ feet of the following locations: **2.**_____
(Include names and address unless withheld for safety reasons.)

☐ The Protected Person's residence, _____
_____

☐ The Protected Person's business or place of employment, _____
_____

☐ The Protected Person's school, _____
_____

☐ Other locations: _____
_____

☐ 3. Respondent is restrained (prohibited) from: **3.**_____

☐ Contacting, or attempting to contact the Protected Person by telephone.
☐ Contacting, or attempting to contact the Protected Person by mail.
☐ Coming, or staying within ☐ 150 feet or ☐ _____ feet of the Protected Person.

☐ 4. Respondent shall move from and not return to the residence located at: **4.**_____
_____ except with a peace officer in order to remove essential personal effects of the Respondent, including, but not limited to: clothing, toiletries, medications, social security cards, birth certificates, identification, and tools of the trade.

☐ 5. A peace officer shall accompany the Protected Person, or his/her Guardian Petitioner to the parties' residence in order to remove essential personal effects including, but not limited to: clothing, toiletries, medications, social security cards, birth certificates, identification, and tools of the trade. **5.**_____

☐ 6. The Protected Person has been a victim of abuse involving the wrongful taking or appropriation of money or property. To prevent or remedy the wrongful taking or appropriation the following order(s) is/are made: **6.**_____

☐ a. The Respondent shall refrain from exercising control over the money or property of the elderly or disabled person. ☐ (Optional) The money or property that the Respondent is prohibited from exercising control over is as follows: _____ **6a.**_____
_____
_____

☐ b. The Respondent is required to return custody or control of the money or property of the elderly/disabled person to the elderly/disabled person. **6b.**_____
☐ (Optional) The money or property to be returned is as follows: _____
_____
_____

☐ c. The Respondent is required to follow the instructions of the ☐ guardian or ☐ conservator of the elderly or disabled person. **6c.**_____

☐ d. The Respondent is prohibited from transferring the money or property of the elderly or disabled person to any person other than the elderly or disabled person. **6d.**_____

☐ e. Other (*optional/See NOTE below*): _____ **6e.**_____
_____
_____

NOTE:
"Other" relief under Paragraph 6 to prevent or remedy the wrongful taking or appropriation of money or property CANNOT allow any person other than the elderly or disabled person to assume responsibility for managing the elderly or disabled person's money or property, and relief cannot be granted that is more appropriately obtained in a protective proceeding filed under ORS chapter 125. [ORS 124.020(2)(a)]

Judge's Initials

☐ 7. Other relief: _____ **7.**_____
_____
_____

☐ 8. No further service is necessary because Respondent appeared in person before the court. **8.**_____

IT IS FURTHER ORDERED that the SECURITY AMOUNT for violation of any provision of this Order is **$5,000** unless otherwise specified here: Other Amount: $_____.

The above provisions of this Restraining Order to Prevent Abuse of Elderly Person or Person with Disabilities are in effect for a period of one (1) year from the date of the judge's signature *(unless renewed before it expires*) or until the Order is vacated, modified, or superseded, whichever occurs first.

IT IS HEREBY ORDERED that:
The Petition for Restraining Order to Prevent Abuse of Elderly Person or Person with Disabilities is:

☐ Granted

☐ Denied because: _____
_____

DATED this _____ day of_____, 20_____.

_____
JUDGE (Signature)

_____
Print, Type or Stamp Name of Judge

Certificate of Document Preparation You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

☐ I selected this document for myself and I completed it without paid assistance.

☐ I paid or will pay money to _____ for assistance in preparing this form.

Submitted by:

_____
Print Name, ☐ Petitioner ☐ Guardian Petitioner ☐ Attorney for Petitioner/Guardian Petitioner ☐ OSB No. *(if applicable)*

_____
Address or Contact Address — City, State, Zip — Telephone or Contact Telephone Number
Use a **Safe** Contact address — Use a **Safe** Contact number

RELEVANT DATA

Protected Person: _____ ☐ Female ☐ Male

Name

Residence/Contact Address (Use a **safe** address):

_____

Number, Street and Apt. Number *(if applicable)*

_____

City County State Zip

Telephone/Contact Telephone Number_____(Use **safe** contact number)_____

Birthdate _____ Age _____ Race/Ethnicity _____

Height _____ Weight _____ Eye Color _____ Hair Color _____

***__The Respondent will receive a copy of this information.__ If you wish to have your residential address or telephone number withheld from Respondent, use a contact address in the state where you reside or a contact telephone number so the Court and the Sheriff can reach you if necessary. Please check for mail at this address frequently.

NOTICE TO PETITIONER:

If you would like to also receive an email message and/or cell phone text message advising you of when the Restraining Order has been served on the Respondent and another message 30 days before the Order expires, please provide the information requested below. This information will be given to the sheriff's office in the county where the Restraining Order was obtained.

This is voluntary--you are not required to provide this information. The Respondent will receive a copy of this information.

Your cell phone number: _____

Your cell phone carrier (ATT, Verizon, etc.): _____

Your email address: _____

Note: If this information changes, you must notify the Sheriff's office of the new information in order to receive the notice by email or cell phone text message.

RESPONDENT: _____ ☐ Female ☐ Male

Name

Residence Address _____

Telephone Number _____

Birthdate _____ Age _____ Race/Ethnicity _____

Height _____Weight_____ Eye Color _____ Hair Color _____

PLEASE FILL OUT THIS INFORMATION
TO AID IN SERVICE OF THE RESTRAINING ORDER

Where is Other Party most likely to be located?

☐ Residence Hours _____ Address _____

☐ Employment Hours _____ Address _____

☐ Other Hours _____ Address _____

_____

Description of Vehicle _____

Is there anything about the other party's character, past behavior, or the present situation that indicates that he or she may be a **danger** to others? to him/herself? EXPLAIN: _____

_____

Does the other party have any **weapons, or access to weapons**? EXPLAIN: _____

_____

Has the other party ever been arrested for or convicted of a **violent crime**? EXPLAIN: _____

_____

_____

IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF _____

_____	_____	)
Petitioner	(date of birth)	)
(name of person to be protected)		)
☐ by and through his/her Guardian Petitioner:		)
_____		)
(name of Guardian Petitioner)		)
		)
v.		)
_____	_____	)
Respondent	(date of birth)	)
(person to be restrained)		)

DECLARATION OF PROOF OF SERVICE
(Elderly Persons and Persons With Disabilities Abuse Prevention Act)

Case No. _____

I am a resident of the state of Oregon or of the state of service. I am a competent person 18 years of age or older. I am not an attorney for or a party to this case, or an officer, director, or employee of any party to this case.

On the _____day of _____ *(month)*, 20_____ *(year)*, I served the Restraining Order to Prevent Abuse of Elderly Person or Person with Disabilities; the Petition for Restraining Order to Prevent Abuse; ☐ Notice to Respondent/Request for Hearing; ☐ Notice to Elderly Person or Person with Disabilities/Objections Form/Request for Hearing; ☐ and other documents (list): _____
_____
in this case upon the ☐ above-named respondent ☐ elderly or disabled person in person *(name)*: _____in _____ County, State of _____, by delivering to the respondent or elderly or disabled person a copy of those papers, each of which was certified to be a true copy of the original.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

Certificate of Document Preparation You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- ☐ I selected this document for myself and I completed it without paid assistance.
- ☐ I paid or will pay money to _____ for assistance in preparing this form.

_____
Signature of Process Server Print Name

_____
Address City State Zip Telephone

IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF _____

_____	_____	)
Petitioner	(date of birth)	) **NOTICE TO RESPONDENT/**
(name of person to be protected)		) **REQUEST FOR HEARING**
☐ by and through his/her Guardian Petitioner:		) (Elderly Persons and Persons With Disabilities
_____		) Abuse Prevention Act)
(name of Guardian Petitioner)		)
		)
v.		) Case No. _____
_____	_____	)
Respondent	(date of birth)	)
(person to be restrained)		)

THIS FORM MUST BE ATTACHED TO ALL COPIES OF THE RESTRAINING ORDER

TO RESPONDENT: A RESTRAINING ORDER HAS BEEN ISSUED BY THE COURT WHICH AFFECTS YOUR RIGHTS. THIS ORDER IS NOW IN EFFECT. You have the right to contest this Restraining Order as set out below.

If you wish to contest the continuation of this order, you must complete this form and mail or deliver it to (address of court): _____

_____

Requests for hearing must be filed within 30 days after you receive the order. You must include a contact address and contact telephone number with your request for hearing. The hearing will be held within 21 days. The only purpose of this hearing will be to determine if the terms of the order should be canceled, changed, or extended.

Enforceability of the Restraining Order

The Restraining Order you have received is in effect and remains in effect until the court modifies or dismisses it or until it expires. The order may also be renewed upon a finding that a person in the Petitioner's situation would reasonably fear further acts of abuse by you if the order is not renewed. If you are arrested for violating this order, the security amount (bail) is $5,000, unless a different amount is ordered by the court.

This Restraining Order, or any Order continuing or changing this Order, is enforceable in every county in Oregon. It is also enforceable in all 50 states, the District of Columbia, tribal lands and territories of the United States.

Violation of the Restraining Order

Violation of any part of this restraining order, or any order continuing or changing this order, constitutes contempt of court, punishable by a fine of up to $500 or one percent of your annual gross income, whichever is greater, or a jail term of up to six months, or both. Other consequences may also be imposed for contempt.

Federal Restrictions

FIREARMS PROHIBITIONS MAY APPLY TO YOU!

As a result of this Order, or any Order continuing or changing this Order, it may be unlawful for you to possess or purchase a firearm, including, a rifle, pistol, or revolver, or ammunition pursuant to federal law under 18 U.S.C. § 922(g), as well as state and local law. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney.

You may also be subject to further restrictions and prohibited from:

- Traveling across state lines or tribal land lines with the intent to violate this Order and then violating this Order.
- Causing the Petitioner to cross state lines or tribal land lines for the purpose of violating the order
- Possessing, receiving, shipping or transporting any firearm or firearm ammunition.

Other Laws May Also Apply To You

Whether or not a Restraining Order is in effect, federal law may prohibit you from:

- Traveling across state lines or tribal land lines with the intent to injure the Petitioner and then intentionally committing a crime of violence causing bodily injury to the Petitioner.

- Causing the Petitioner to travel across state lines or tribal land lines if your intent is to cause bodily injury to the Petitioner or if the travel results in your causing bodily injury to the Petitioner.

REQUEST FOR HEARING

I am the Respondent in the above-referenced action and I request a hearing to contest all or part of the Order as follows (check one or more):

☐ The Order restraining me from contacting or attempting to contact the petitioner.

☐ Other: _____

_____

_____

I ☐ will ☐ will not be represented by an attorney at the hearing.

Notice of the time and place of the hearing can be mailed to me at the address below my signature.

If you wish to have your residential address or telephone number withheld from Petitioner, use a contact address or telephone number so the Court and the Sheriff can reach you if necessary.

Certificate of Document Preparation. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply below:

☐ I selected this document for myself and I completed it without paid assistance.

☐ I paid or will pay money to _____ for assistance in preparing this form.

Date: _____

Submitted by:

_____	_____	_____
Signature	Print Name	OSB No. (*if applicable)*

_____		
Address or Contact Address Use **safe** contact address	City, State, Zip	Telephone or Contact Telephone Number Use **safe** contact number

IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF _____

_____	_____	)
Petitioner	(date of birth)	)
(name of person to be protected)		)
☐ by and through his/her Guardian Petitioner:		)
_____		)
(name of Guardian Petitioner)		)
v.		)
_____	_____	)
Respondent	(date of birth)	)
(person to be restrained)		)

NOTICE TO ELDERLY PERSON OR PERSON WITH DISABILITIES/OBJECTIONS AND REQUEST FOR HEARING
(Elderly Persons and Persons With Disabilities Abuse Prevention Act)
Case No. _____

THIS FORM MUST BE ATTACHED TO SERVICE COPY OF PETITION AND RESTRAINING ORDER

NOTICE TO _____ (*Name of person on whose behalf the "Guardian Petitioner" is petitioning)***:**

A temporary restraining order has been issued by the court at the request of *(name of guardian petitioner)* _____ against *(name of respondent)* _____.
This order is effective immediately and restrains the respondent from the actions specified in the order. If you object to the continuation of this order or wish to request a hearing, you must complete this form and mail or deliver it to *(address of court)*: _____

_____
.

NOTICE OF RETAINED RIGHTS

Although this order was issued at the request of your guardian or guardian ad litem, you retain certain rights including the right to:

1. Contact and retain counsel (lawyer, attorney, legal representative)
2. Have access to your personal records
3. File objections to the restraining order
4. Request a hearing
5. Present evidence and cross-examine witnesses at any hearing (or have your lawyer, attorney or legal representative do so)

OBJECTIONS and **REQUEST FOR HEARING**

If you have objections to the restraining order, you may inform the court of them by filling out the information below and mailing it to the court at the address above. You may also request a hearing. Requests for hearing must be made within 30 days after you receive the order. You must include your address and telephone number with your request for a hearing. The hearing will be held within 21 days. The only purpose of this hearing will be for the judge to determine if the terms of the court's order should be canceled, changed, or extended. Keep in mind that this order remains in effect for one year, or until the court that issued the order amends or dismisses it. It may also be renewed upon good cause shown, regardless of whether there has been a further act of abuse.

OBJECTIONS

I,_____ (name), am the elderly person or person with disabilities who is the subject of the attached Restraining Order. I object to the Restraining Order for the following reasons (describe in detail): _____

_____

_____

_____

REQUEST FOR HEARING

☐ I request a hearing to contest all or part of the Order as follows (mark one or more):

- ☐ The Order restraining respondent from contacting or attempting to contact me.
- ☐ Other (describe parts of the order you object to and want changed): _____

_____

_____

_____

I ☐ will ☐ will not be represented by an attorney at the hearing.

Notice of the time and place of the hearing can be mailed to me at the address below my signature.

(If you completed this document <u>without</u> the assistance of an attorney, you are required to complete truthfully the certificate below.) I certify that: *(check the blank that applies)*

- ☐ I selected this document for myself, and I completed it without paid assistance and without assistance from an attorney.
- ☐ I paid, or will pay, money to _____ for assistance in preparing this document.

Date: _____

_____	_____	_____
Signature	Print Name	OSB No. (*if applicable)*

_____

Address or Contact Address Use **safe** contact address	City, State, Zip	Telephone or Contact Telephone Number Use **safe** contact number

IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF _____

_____	_____	)
Petitioner	(date of birth)	)
(name of person to be protected)		)
☐ by and through his/her Guardian Petitioner:		)
_____		)
(name of Guardian Petitioner)		)
v.		)
_____	_____	)
Respondent	(date of birth)	)
(person to be restrained)		)

PETITIONER'S/ GUARDIAN PETITIONER'S MOTION AND AFFIDAVIT AND ORDER OF DISMISSAL
(Elderly Persons and Persons With Disabilities Abuse Prevention Act)
Case No. _____

MOTION AND AFFIDAVIT

Comes the ☐ Petitioner ☐ Guardian Petitioner, _____, and moves court for an order allowing the voluntary withdrawal and dismissal of the Restraining Order to Prevent Abuse of Elderly Person or Person with Disabilities on file herein based on the following: _____

_____
_____
_____
_____
_____
_____

_____ _____
Signature of Petitioner **Print or type name of Petitioner**

STATE OF OREGON)
)
County of _____)

This instrument was acknowledged before me this_____ day of _____, 20____ by

_____
(*Print Name of Petitioner*)

_____
NOTARY PUBLIC FOR OREGON/COURT CLERK
My commission expires: _____

Certificate of Document Preparation You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- ☐ I selected this document for myself and I completed it without paid assistance.
- ☐ I paid or will pay money to _____ for assistance in preparing this form.

_____

Petitioner's/Guardian Petitioner's Signature Print Name

_____

Address City, State, Zip Telephone/Contact Telephone

Use **safe** contact address Use **safe** contact number

ORDER

☐ Motion Granted. ☐ Motion Denied.

IT IS SO ORDERED this _____ day of _____, 20_____.

_____

JUDGE (Signature)

_____

Print, Type or Stamp Name of Judge

IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF _____

_____ _____	)	
Petitioner (date of birth)	)	Case No._____
(name of person to be protected)	)	
☐ by and through his/her Guardian Petitioner:	)	**ORDER AFTER HEARING**
_____	)	(Elderly Persons/Persons with Disabilities
(name of Guardian Petitioner)	)	Abuse Prevention Act)
v.	)	
_____ _____	)	
Respondent (date of birth)	)	
(person to be restrained)	)	

This matter came before the Court on _____, 20_____.

☐ **PETITIONER/☐ GUARDIAN PETITIONER**
☐ Appeared in person or ☐ by telephone/video
☐ Was served a copy of this Order in court today
☐ Did not appear
☐ Attorney:_____
OSB#_____

RESPONDENT
☐ Appeared in person or ☐ by telephone/video
☐ Was served a copy of this Order in court today
☐ Did not appear
☐ Attorney:_____
OSB#_____

☐ **FINDINGS:** _____

_____

_____

Having heard the testimony, **IT IS HEREBY ORDERED THAT THE RESTRAINING ORDER OBTAINED BY PETITIONER ON _____, 20 _____ IS:**

☐ **DISMISSED** in its entirety.
☐ **CONTINUED** in its entirety.
☐ **RENEWED** in its entirety. The renewed restraining order expires on: _____(date).
☐ **CONTINUED/RENEWED but MODIFIED/AMENDED** as follows: _____

_____

_____

_____

The renewed restraining order expires on: _____ (date).

IMPORTANT: Except as modified or amended, all other portions of the Restraining Order remain in effect.

SECURITY AMOUNT for VIOLATION OF THIS ORDER IS $5,000 unless a different amount is specified here: OTHER SECURITY AMOUNT: $_____

CERTIFICATES OF COMPLIANCE WITH THE VIOLENCE AGAINST WOMEN ACT

FIREARMS NOTIFICATION under 42 USC §3796gg-(4)(e): As a result of this Order, it **may** be unlawful for Respondent to possess, receive, ship, transport or purchase a **firearm or ammunition** pursuant to **federal law** under 18 USC §922 (g)(8). This Order also **may** negatively affect Respondent's ability to serve in the Armed Forces of the United States or to be employed in law enforcement. [OJIN Event Code: **NOGR**]

NOTICE TO RESPONDENT: If you have questions about whether federal or state laws make it illegal for you to possess or purchase a firearm, and/or about whether this Order will affect your ability to serve in the military or be employed in law enforcement, you should consult an attorney.

☐ **FIREARMS PROHIBITION:** This Order (or the original Order that is continued) prohibits Respondent from possessing FIREARMS or AMMUNITION and it is unlawful for Respondent to do so under **state law**. [OJIN Event Code: **FQOR**]

☐ **FEDERAL FIREARMS FINDINGS (BRADY):** This Order may subject Respondent to federal prosecution for possession, receipt, shipping, transportation, or purchase of firearms or ammunition while it is in effect. [OJIN Event Code: **ORBY**; LEDS Brady Code: **Y**]

The Court finds:

A. <u>Relationship</u>: The person protected by this Order is *(check at least one)*:

- ☐ A spouse or former spouse of Respondent.
- ☐ The parent of Respondent's child.
- ☐ A person who does or did cohabit (live in a sexually intimate relationship) with Respondent.
- ☐ Respondent's child.
- ☐ A child of an intimate partner* of Respondent (*intimate partner is spouse/former spouse, cohabitant/former cohabitant, or parent of Respondent's child).

☐ **B. <u>Notice and Opportunity to Participate</u>:**

The Order was issued after a hearing of which Respondent received actual notice and at which Respondent had the opportunity to participate.

☐ **C. <u>Terms of Order</u>:**

The Order restrains Respondent from harassing, stalking or threatening Petitioner or Petitioner's or Respondent's child/ren or engaging in other conduct that would place Petitioner in reasonable fear of bodily injury to Petitioner or Petitioner's or Respondent's child/ren; **AND**

Respondent represents a credible threat to the physical safety of Petitioner or Petitioner's or Respondent's child/ren; **OR**

This Order by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against Petitioner or Petitioner's or Respondent's child/ren that would be reasonably expected to cause bodily injury.

FULL FAITH AND CREDIT PROVISIONS: This Order meets all full faith and credit requirements of the Violence Against Women Act, 18 USC §2265. This Court has jurisdiction over the parties and the subject matter. Respondent was or is being afforded notice and timely opportunity to be heard as provided by Oregon law. This Order is valid and entitled to enforcement in this and all other jurisdictions.

DATED: _____

_____
JUDGE (Signature)

_____
Print or Type Name of Judge