

CHANGING A FAMILY ABUSE PREVENTION ACT (FAPA) RESTRAINING ORDER

INSTRUCTIONS

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

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](#).

Relevant Rules and Forms

[UTCR 2.130](#). – Family Law Confidential Information Forms

[UTCR Form 2.130.1](#) – Family Law Confidential Information Form

[UTCR Form 2.130.2](#) – Notice of Filing Confidential Information Form

MAY I GET A RESTRAINING ORDER CHANGED?

Yes, but only certain terms may be changed. Those are: 1) the custody and parenting time of the children; 2) respondent’s removal from the home, 3) respondent’s restrictions from other premises, or 4) contact by the respondent in-person, by telephone, or by mail. A person can ask for these changes any time after the end of the 30 day period the respondent has to request a hearing (as long as the order has not expired or been dismissed by a judge).

Modification of a Restraining Order			
	If you want to change custody or parenting time:	If you want <i>less</i> restrictive terms about removal from the home, restraint from premises, or contact:	If you want <i>more</i> restrictive terms about removal from the home, restraint from premises, or contact:
If you are the Petitioner:	USE: Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in Packet #2.	USE: Petitioner’s Motion and Affidavit for Less Restrictive Terms; and the Notice to Respondent/ Request for Hearing for Less Restrictive Terms in Packet #2.	USE: Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in Packet #2.
If you are the Respondent:	USE: Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in Packet #2.	USE: Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in Packet #2.	USE: Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in Packet #2.

HOW DO I ASK FOR A CHANGE TO THE RESTRAINING ORDER?

The judge may sign an order at the Petitioner's request making terms less restrictive without requiring a hearing. The Respondent, however, may request a hearing.

If you fill out the Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order, the judge will sign an order for the other party to appear. Some courts set a hearing when you file the papers. Some courts do not set a hearing until the other person has been served and given 30 days to respond. Check with the court clerk of the county that issued the order to be sure you follow the right process.

WHAT HAPPENS NEXT?

After you file your papers, court staff will make copies for you. You will need to have one of the copies personally given to the other person by a sheriff, a private process server, or any mentally competent person who is 18 or older, 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 declaration of service. There is a form in the packet, but some servers use their own forms.

If your local court sets a hearing, it is very important for you to attend, or the judge may dismiss your request. **Be sure the court always has your current contact addresses and contact phone numbers so you get notice of any hearing.**

If your packet includes an Order After Hearing form, you should take it to the hearing. The judge will need to write down his/her decision on the form and sign it. If you cannot go to the hearing due to an emergency, call the court clerk right away. If you have requested these changes in a court that does not schedule a hearing, please contact the court clerk to make sure you are following the correct procedures.

If your local court does not set a hearing until the other party has responded, and the other party has NOT filed a response within 30 days after getting the papers, it is your responsibility to turn in the Order After Hearing form for the judge to sign. The court clerk can tell you where to file the order.

DO I NEED A LAWYER?

If you have questions about how the law works or what it means, you may need to talk to a lawyer. You are not required to have a lawyer to change the restraining order, but you can have a lawyer represent or help you if you wish. If you need help finding 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.

WHAT IF I NEED AN ACCOMMODATION OR AN INTERPRETER?

If you have a disability and need 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 that you have a disability and what type of assistance you need or prefer, or which language you speak.