

OPPOSING A FAMILY ABUSE PREVENTION ACT (FAPA) RESTRAINING ORDER

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

The instructions below will help you ask for a hearing to oppose terms in the *Restraining Order*, or to request a hearing sooner than the Exceptional Circumstances hearing (as long as that hearing is more than 5 days away from the date you file your request).

NOTE: If the box on top of the *Restraining Order* and the *Notice to Respondent* is filled in, then the court has scheduled an “Exceptional Circumstances” hearing to deal with custody of your children. You must appear at the date and time in the box or the judge will rule on the Petitioner’s request without input from you.

WHAT IF I DISAGREE WITH SOME OR ALL OF THE RESTRAINING ORDER?

The judge granted the *Restraining Order* based on what the Petitioner said. If you disagree with what the Petitioner said, or if you disagree with all or part of the order, you have the right to tell the judge why.

HOW DO I OPPOSE THE RESTRAINING ORDER?

You have **30 days** from when you were served with the order to file an objection. Fill out the form called “*Request for Hearing*.” You should have received a copy of this form when you were served with the *Restraining Order*. If not, you can download it here: www.courts.oregon.gov/fapa or you can contact the court that issued the order.

The *Request for Hearing* must be filed with the court within 30 days from the date you were served.

If it has been more than 30 days since you were served, you can request a hearing to change (“modify”) only:

- custody or parenting time
- your removal from the home
- your restriction from other premises
- contact with the Petitioner

You can ask the clerk at the courthouse for the forms to change a *Restraining Order*. Forms are available at www.courts.oregon.gov/fapa. The judge may make a decision based on the paperwork, or schedule a hearing to decide whether to change the order. The judge may decide not to change the order even if both sides agree that they want the same changes.

If the *Restraining Order* is not dismissed at the hearing, federal and state law may prohibit you from possessing or purchasing any firearm or ammunition, including hunting rifles.

WHAT HAPPENS IF I DO NOT OBJECT?

If you do not ask for a hearing within 30 days after you receive the order, the *Restraining Order* will remain in effect for **two (2) years** from the date the judge signed it. It can also be renewed for 2 years at a time after that.

WHEN WILL THE HEARING BE HELD?

If the order grants child custody and you ask the judge to make a change relating to **custody**, the court must hold the hearing within **5 business days** of your request

If you are not asking the judge to change child custody, the court must hold the hearing within **21 calendar days** of your 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 address and contact phone number so you get notice of any hearing.** You don't have to use your residential address or phone number, but the court will assume that you receive all notices sent to the contact address, so it should be somewhere you check frequently.

You also can call the court to see if a hearing has been set, or check the court calendar online. Go to <https://publicaccess.courts.oregon.gov/PublicAccess/default.aspx> and search for your court and case number.

If you cannot go to the hearing due to an emergency, call the court clerk right away

WHAT WILL HAPPEN AT THE HEARING?

The judge will listen to you and the Petitioner. You can bring witnesses and evidence to the hearing. The judge will then decide whether the order will remain in effect, and if so, whether the order will change. If the hearing is an *Exceptional Circumstances* hearing, this will be your only chance to oppose the order.

For more information, go to www.courts.oregon.gov/dv

DO I NEED A LAWYER?

You are not required to have a lawyer to contest the restraining order, but you can have a lawyer represent or help you if you want. 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 aid program that might help you.

If you do not have a lawyer at the hearing but Petitioner does, you can ask the court to delay the hearing for up to 5 days so you can get a lawyer

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. Make sure to complete these sections on the *Request for Hearing* form.

NOTES ABOUT FIREARMS PROHIBITION

If Box 11 on the *Order* (Box 18 if the *Order* is issued after Jan 1, 2020) is initialed by a judge, you are currently prohibited from purchasing or possessing firearms or ammunition and subject to contempt of court for violations

Whether or not Box 11 (or 18) is checked, you will be subject to state criminal penalties for purchase or possession of firearms or ammunition if you:

- request a hearing and the *Order* is continued (upheld)
- request a hearing and either withdraw the request or do not appear at the hearing
- do not request a hearing and 30 days have passed since you received the *Order*