

NEXT STEPS

FILING FOR A RESTRAINING ORDER

UNDER THE ELDERLY PERSONS AND PERSONS WITH DISABILITIES ABUSE PREVENTION ACT (EPPDAPA)

IMPORTANT NOTE: PROCEDURES FOR GETTING RESTRAINING ORDERS VARY FROM COURT TO COURT. CHECK WITH YOUR LOCAL COURT FOR MORE INFORMATION.

INFORMATION FOR PETITIONERS:

If a court-appointed guardian or guardian ad litem (guardian for this case only) files a *Petition* for a *Restraining Order* on your behalf, you have the right to:

- have a lawyer of your own
- see your personal records
- file objections to the *Order*
- request a hearing about the *Order* and present any evidence or witnesses you have at the hearing. You can ask questions of any witnesses who testify at the hearing.

The guardian petitioner will serve you with documents and forms. You can also get the forms at www.courts.oregon.gov/forms.

WHAT HAPPENS AFTER I FILL OUT THE PAPERS?

BE SURE TO FILL IN THE COUNTY NAME AT THE TOP OF EACH FORM!

When you file your *Petition*, the clerk will tell you when and where to go for your initial hearing. This hearing may be done over the phone. Ask the court clerk how to ask for a telephone appearance if you prefer. Your initial hearing is “ex parte” (without the other party).

The judge will read your papers and may ask questions. If the judge grants your *Restraining Order*, court staff will make copies for you for free.

SERVICE

NOTE: service is not required if the party is given a copy of the Order at the hearing

You will need to have one copy of the signed *Order* delivered (“served”) to Respondent by a sheriff’s deputy. The court will send the *Order* to a sheriff for service. If the *Petition* is filed by a guardian petitioner, the *Order* and additional documents must also be personally served on Petitioner within 72 hours of when the court issues the *Order*.

You can also have a private process server or any competent¹ adult serve the *Order*. The server must live in the state where the papers are served or in Oregon. **You cannot serve the papers yourself.** The server is required to complete a certificate of service and file it with the court. There is a form in the packet, but some servers use their own forms. Talk to the court clerk about ways to get Respondent served. Respondent cannot be punished for violating the *Order* until after service.

¹ “Competent” means a person who can understand, remember, and tell others about an event

Service for sweepstakes promotions:

If the abuse is related to sweepstakes promotions, Respondent can be served personally (as explained above), or by mailing certified true copies (provided by the court for free) to an address where Petitioner would have sent payment to the promoter. Service by mail must be done by certified mail, return receipt requested or by another method ordered by the court.

WHAT HAPPENS AFTER SERVICE?

Respondent has **30 days** from the date of service to request a hearing objecting to (“contesting”) the restraining order. If Respondent does not request a hearing, the restraining order will stay in effect.

Petitioner may object to the order if the petition was filed by a guardian petitioner. Petitioner also has 30 days to request a hearing. Petitioner can bring evidence and witnesses to the hearing and may question any witnesses who testify.

WHAT IF THE RESPONDENT REQUESTS A HEARING?

If a party does request a hearing, it will be held within **21 days** of the request. The court will send you notice of the time and date of the hearing in the mail. **Be sure the court always has your current contact address and contact phone number so you get notice of any hearing.** You can call the court to see if a hearing has been set or look up your case online at <https://publicaccess.courts.oregon.gov/PublicAccess/default.aspx>.

You must go to all scheduled hearings or the order may be dismissed. If you cannot go to a hearing due to an emergency, call the court clerk right away. It may be helpful to have a lawyer represent you at the hearing, but it is not required. You may be able to appear by phone or video in some courts. Contact the court for more information.

If you are worried about your safety, you can ask for a sheriff’s deputy to be present in the courtroom. Call the court before the hearing.

The purpose of the hearing is to decide if the *Restraining Order* will remain in effect, and if so, whether it will change in some way.

At the hearing, be ready to give your own testimony, call witnesses, and give the judge any evidence you have (such as photos of your injuries, bank statements, or voicemails)

HOW LONG DOES A RESTRAINING ORDER LAST?

A *Restraining Order* lasts for 1 year from the date the judge signed it unless it is dismissed (cancelled) by the court

Orders can be renewed for 1 year at a time if the judge believes you are still in danger. To renew the *Order*, you must file paperwork *before* the *Order* ends. Forms to renew a *Restraining Order* are available at the court or online (*see below*).

WHAT CAN I DO IF THE RESPONDENT VIOLATES (DOES NOT FOLLOW) THE RESTRAINING ORDER AFTER SERVICE?

Service must be completed before Respondent can be punished for violating the *Order*

You can call the police (**call 911**). The officer must arrest Respondent if the officer believes a violation happened. If the court finds a violation, Respondent can be fined, put on probation, or put in jail.

A *Restraining Order* does not guarantee your safety. You can take other steps to stay safe. A domestic violence or sexual assault program can help. For information about domestic violence resources, go to www.courts.oregon.gov/dv.

Even if you invite or allow Respondent to violate a term of the *Order*, Respondent may still be punished for violating the court's order

WHAT IF I WANT TO DROP THE RESTRAINING ORDER?

File papers at the courthouse to ask a judge to dismiss the *Order*. The *Order* remains in effect until the judge dismisses it or until it expires. It is up to the judge to decide whether to dismiss the *Order*. It may take a few days for law enforcement to get notice of the dismissal.

CAN I CHANGE THE TERMS OF THE RESTRAINING ORDER?

You may be able to change the terms of an existing *Order*. The court does not provide forms for this. Speak to a lawyer if you want to change your *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 get an *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?

Tell the court as soon as possible, but at least four court business days before your hearing:

- if you have a disability and need an accommodation. Contact the court's ADA Coordinator about what type of assistance you need or prefer.
- if you need a foreign language or sign language interpreter

COURT FORMS

Forms that can be used in all Oregon courts are available here:

www.courts.oregon.gov/forms

It is best that you carry a copy of the *Restraining Order* with you at all times

NOTICE TO PARTIES AND REQUEST FOR HEARING

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

Notice of Petitioner's Rights

PETITIONER: You have the same right to request a hearing as the Respondent. File your *Request for Hearing* within 30 days of receiving notice of the *Order*.

If your *Petition* was filed by a guardian or guardian ad litem (“guardian petitioner”) you still have the right to:

- talk to and be represented by a lawyer
- see your personal records
- request a hearing
- and
- present evidence and question witnesses at any hearing

RESPONDENT

A judge has issued a restraining Order that affects your rights. The order is now in effect.

Enforceability of the Restraining Order

The *Restraining Order* you have received is in effect and remains in effect until the court changes (modifies) or dismisses it, or until it expires. The petitioner may renew the order.

If you are arrested for violating this order, the security amount (bail) is \$5,000, unless a different amount is ordered by the court.

Violation of the Restraining Order

Violation of any part of this order (or any order renewing or changing this order) is contempt of court. Contempt is punishable by a fine of up to \$500 or 1% of your annual gross income, whichever is greater, or a jail term of up to six months, or both. Other penalties may also be imposed.

FIREARMS PROHIBITIONS MAY APPLY TO YOU!

If a firearms prohibition in Section 9 of the *Restraining Order* is initialed by the judge:

If 9A is initialed: Civil Penalties for Firearms Possession Apply

- it is immediately unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, and ammunition under ORS 124.020(1)(f)
- you are subject to contempt of court for violation of the firearms prohibition as soon as you are served with the *Order*

If 9B is initialed: Criminal Penalties for Firearms Possession Apply ([ORS 166.255\(1\)\(a\)](#))

You will be subject to criminal penalties for possessing firearms or ammunition effective the earlier of:

(1) 30 days after you were served with or became aware of the *Order*

Or, if you request a hearing:

(2) the date of the hearing if the *Order* is not dismissed or

(3) the date of the hearing if you fail to appear at the hearing or

(4) the date you withdraw your request for a hearing

You may also be prohibited from:

- Serving in the Armed Forces of the United States or being employed in law enforcement. If you have any questions about how these laws apply to you, talk to a lawyer.
- 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

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.

BOTH PARTIES

If you oppose the *Restraining Order*, complete the attached “*Request for Hearing*” form. Mail or deliver it to the address below.

A REQUEST FOR HEARING must be filed with the court **within 30 days** after you received the order. You must include your address and telephone number. A hearing will be held within 21 days after you file your request with the court. **If you do not go to the hearing, the restraining order may remain in effect.**

At the hearing, both parties can bring witnesses, including adult protective services workers. The hearing may be held in person or by telephone. The court may change, cancel, or continue any of the terms of the *Order*. The court may order either party to move from the residence, and may order one party to pay attorney fees and costs associated with the hearing.

If you do not request a hearing within 30 days, the order will remain in effect as issued

IF YOU COMPLETE THE REQUEST FOR HEARING FORM, MAIL OR DELIVER IT TO (*address of court*): _____

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

Case No: _____

Petitioner

**REQUEST FOR
HEARING**

Filed by Guardian Guardian ad litem

v.

*(Elderly Persons and Persons with
Disabilities Abuse Prevention Act)*

Respondent

➤ I need an interpreter: Spanish Russian other: _____

I am the Respondent Petitioner. I request a hearing to oppose the *Restraining Order*.

I oppose the following orders granted in the *Restraining Order*:

Section Number	Explain:

Additional page attached

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

Name and bar number of the attorney (if known): _____

I will need Americans with Disabilities Act accommodations at the hearing

I hereby declare that the above statements are true to the best of my knowledge and belief. I understand they are made for use as evidence in court and I am subject to penalty for perjury.

Submitted by: Respondent Petitioner Attorney for { Respondent Petitioner}

Date

Signature

Name (printed)

Contact Address

City, State, ZIP

Contact Phone

Attorney for filing party:

Date

Signature

OSB#

Name (printed)

Address

City, State, ZIP

Phone

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

Case No: _____

Petitioner

CERTIFICATE OF SERVICE

Filed by Guardian Guardian ad litem

v.

Respondent

*(Elderly Persons and Persons
with Disabilities Abuse Prevention Act)*

I, *(name)* _____, declare that I am a resident of the state of _____
_____. I am a competent person 18 years of age or older. I am not a party to or
lawyer in this case, and not the employee of a party.

I certify that on *(date)* _____ at *(time)* _____ (am/pm),
I served Respondent Petitioner named above by delivering the following documents in person to
(address or location of service) _____

I served true copies of the original *(check all that apply)*:

- Restraining Order to Prevent Abuse **and** Petition for Restraining Order to Prevent Abuse
- Order Renewing Restraining Order **and** Petition to Renew Restraining Order

with the Notice to Parties/Request for Hearing form

Other *(name all forms or documents served)* _____

**I hereby declare that the above statements are true to the best of my knowledge and belief.
I understand they are made for use as evidence in court and I am subject to penalty for
perjury.**

Date

Signature of Server

Print Name

If person serving is NOT a sheriff or sheriff's deputy, address and phone number of server:

**NOTICE TO PETITIONERS:
RECEIVING ELECTRONIC NOTICE ABOUT RESTRAINING ORDERS**

The sheriff is required to provide you with proof of service showing when your
Restraining Order has been served

USE THIS FORM if you would also like to receive electronic notice by text message
and/or email when your *Restraining Order* has been served or is about to expire

The information below will be given to the sheriff for the county where the
Restraining Order is issued

DO NOT FILE THIS FORM WITH THE COURT!

Give or send it to the sheriff for the county where you filed for your
Restraining Order

This is a VOLUNTARY option. You do not have to provide this information. The sheriff will still notify you when your *Restraining Order* has been served.

If your contact address or phone number changes, you must separately inform the court that issued the Order. If the information below changes, notify the sheriff.

**PETITIONER'S NOTICE TO SHERIFF'S OFFICE
OF ELECTRONIC CONTACT INFORMATION**

Your Name: _____

Respondent's Name: _____

Court Case #: _____

County where *Order* Issued: _____

Your cell phone number: _____

Cell Carrier (*AT&T, T-Mobile, Verizon. etc.*): _____

Your email address: _____

**NOTICE TO PETITIONERS RECEIVING ELECTRONIC NOTICE
ABOUT RESTRAINING ORDERS**

USE THIS FORM IF:

- You have already provided your email address or cell phone number to the sheriff's office to receive electronic notice when your *Restraining Order* has been served or is about to expire

AND

- Your email address or cell phone number has changed

DO NOT FILE THIS FORM WITH THE COURT

The information below must be provided to the sheriff's office
in the county where the *Restraining Order* was issued

If your contact address or phone number has changed, you must separately inform the court that issued the Order

This form can be used ANYTIME a restraining order is in effect and you have changed your email address or cell phone number and still want to receive electronic notice from the sheriff's office about service or expiration.

**PETITIONER'S NOTICE TO SHERIFF'S OFFICE
OF CHANGE OF CONTACT INFORMATION**

Your Name: _____

Respondent's Name: _____

Court Case #: _____

County where *Order* Issued: _____

Your new cell phone number: _____

Cell Carrier (*AT&T, T-Mobile, Verizon. etc.*): _____

Your new email address: _____