

CHANGING A RESTRAINING ORDER

UNDER THE FAMILY ABUSE PREVENTION ACT (FAPA)

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



CAN I CHANGE (“MODIFY”) A RESTRAINING ORDER?

Yes, but only the following terms may be changed:

- 1) custody and parenting time of the children
- 2) respondent’s removal from the home
- 3) respondent’s restrictions from other premises, or
- 4) contact with the petitioner

Either party can ask for these changes if the 30-day period for the respondent to request a hearing has ended. Some courts may allow Petitioners to ask for less restrictive terms within the 30-day period.

WHAT FORMS SHOULD I USE?

If you are the **Respondent**: use the *Motion for Order to Show Cause re: Modifying Restraining Order, and Declaration in Support*

If you are the **Petitioner**:

If you want to change custody or parenting time terms:	If you want to change terms about: removal from the home, restraint from premises, or contact:	
	If you want less restrictive terms	If you want more restrictive terms
USE: <i>Motion for Order to Show Cause re: Modifying Restraining Order, and Declaration in Support</i>	USE: <i>Motion and Declaration for Less Restrictive Terms</i>	USE: <i>Motion for Order to Show Cause re: Modifying Restraining Order, and Declaration in Support</i>

WHAT HAPPENS NEXT?

Courts handle these kinds of cases differently. Ask the court when you file how they handle restraining order modifications.

If you are the Petitioner and your request is for **less restrictive** terms, the judge may sign an order granting your request without a hearing. The Respondent can ask for a hearing within 30 days after the *Order* is served.

For all other requests, a judge will review your documents

- If the motion is **denied**, the original (or last modified) *Order* remains in effect without change

- If the motion is **granted**, the court will set a hearing for both parties to appear. Some courts set this hearing when you file your *Motion*, others won't set a hearing unless the other party responds. **NOTE:** if a hearing is scheduled and you don't show up, your *Motion* will most likely be denied and your requested changes will not be made.

SERVICE: Court staff will make copies of your papers for you after you file. You cannot serve the papers yourself. Have one of the copies personally given ("served") to the other person by a sheriff, a private process server, or any competent¹ person who is 18 or older, as long as the server lives in the state where the papers are served. The server is required to complete and file with the court a *Certificate of Service*. A form is 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 address and contact phone number so you get notice of any hearing.** Use a safe contact address and phone number. If you cannot go to the hearing, call the court clerk as soon as possible.

If no hearing is set, ask the court clerk what the next steps will be

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 obtain the restraining order, but you can have a lawyer represent or help you if you wish. 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 services (legal aid) program that might help you.

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.

COURT FORMS

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

www.courts.oregon.gov/forms

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