

# **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 <b>custody or parenting time</b> terms:	If you want to change terms about: removal from the home, restraint from premises, or contact:	
	If you want <b>less</b> restrictive terms	If you want <b>more</b> restrictive terms
<b>USE:</b> <i>Motion for Order to Show Cause re: Modifying Restraining Order, and Declaration in Support</i>	<b>USE:</b> <i>Motion and Declaration for Less Restrictive Terms</i>	<b>USE:</b> <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 competent<sup>1</sup> 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](http://www.courts.oregon.gov/forms)

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<sup>1</sup> “Competent” means that a person who can understand, remember, and tell others about an event

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

v.

**EX PARTE MOTION FOR  
LESS RESTRICTIVE TERMS  
& DECLARATION IN SUPPORT**

\_\_\_\_\_  
Respondent  
(Person restrained)

(Family Abuse Prevention Act)

**Motion**

**I am the Petitioner.** I ask the court to make the restraining order *less restrictive* by allowing the Respondent to (*check all that apply*):

➤  move back into the residence at (*address*): \_\_\_\_\_

because  I no longer live there *or*  other (*explain*): \_\_\_\_\_

➤  come to the following places (*include any restrictions on days, times, purposes, etc.*): \_\_\_\_\_

➤  contact me (*check all that apply*)  in person or by  phone (including voice or text)  
 mail  email  other electronic means (i.e., social media or video chat) (*list any restrictions on method, time, day, or purpose*): \_\_\_\_\_

➤  contact me through a third party (*check all that apply*)  in person or by  phone  
(including voice or text)  mail  email  other electronic means (i.e., social media or video chat) (*list the third party's name and any restrictions on method, time, day, or purpose*): \_\_\_\_\_

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**Statement of Points and Authorities**

ORS 107.730(1)(b) authorizes the court to modify the terms of a Family Abuse Prevention Act Restraining Order

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**Declaration**

The following facts support the requested changes above (*explain why you are requesting the changes to the order and provide any facts that support your requests*)

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**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  Petitioner  Attorney for Petitioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Petitioner Signature

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Contact Address (*use a SAFE address*)

\_\_\_\_\_  
City, State, ZIP

\_\_\_\_\_  
Contact Phone (*use a SAFE number*)

\_\_\_\_\_  
*Attorney for Petitioner:*

\_\_\_\_\_  
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

v.

\_\_\_\_\_  
Respondent

**ORDER FOR LESS  
RESTRICTIVE TERMS**

*(Family Abuse Prevention Act)*

The court orders that Petitioner's *Motion for Less Restrictive Terms* is:

**GRANTED.** The changes requested in the *Motion* are effective as of the date this *Order* is entered. All other terms of the *Restraining Order* remain in effect.

**DENIED.** The Restraining Order continues in effect without change.

Other: \_\_\_\_\_

- Firearms Surrender** - The prior Order was signed before January 1, 2020.
- Respondent is ordered to surrender all firearms and ammunition according to the attached *Firearms Surrender and Return Terms*, which are incorporated and made part of this *Order*. Criminal penalties apply for violation of the firearms prohibition.
  - Respondent is ordered to file a *Declaration of Firearms Surrender* with any required attachments according to the *Firearms Surrender and Return Terms*

*Judge Signature:*

\_\_\_\_\_

**Certificate of Readiness**

This proposed order is ready for judicial signature because it is submitted **ex parte** as allowed by statute or rule

Submitted by:  Petitioner  Petitioner's attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
OSB# (*attorneys only*)

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Contact Address (*use a SAFE address*) City, State, ZIP

\_\_\_\_\_  
Contact Phone (*use a SAFE number*)

## SERVICE INFORMATION

\*\*\*The Respondent will receive a copy of this information\*\*\*

If you do not want Respondent to know your residential address or phone number, use a contact address in the state where you reside or a contact phone number so the court and the sheriff can reach you if necessary. Check for mail at this address frequently. The court will assume that you receive all notices sent to your contact address.

PETITIONER: (Name) \_\_\_\_\_  Female  Male

\*\*\*Residence/Contact Address (Use a safe address):\*\*\* Street and Apartment, City, State, Zip County

Contact Phone Number \_\_\_\_\_ (Use safe contact number)

Age \_\_\_\_\_ Race/Ethnicity \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_

Eye Color \_\_\_\_\_ Hair Color \_\_\_\_\_

RESPONDENT: (Name) \_\_\_\_\_  Female  Male

Residence Address \_\_\_\_\_  
County

Phone Number \_\_\_\_\_

Age \_\_\_\_\_ Race/Ethnicity \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_

Eye Color \_\_\_\_\_ Hair Color \_\_\_\_\_

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**PLEASE FILL OUT THIS INFORMATION  
TO HELP WITH SERVICE OF THE RESTRAINING ORDER**

Where is Respondent most likely to be found?

- Residence      Hours \_\_\_\_\_ Address above  
 Employment      Hours \_\_\_\_\_ Address on CIF form  
 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): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## NOTICE TO RESPONDENT AND REQUEST FOR HEARING

<b>THIS FORM MUST BE ATTACHED TO ALL COPIES OF THE ORDER FOR LESS RESTRICTIVE TERMS</b>
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**TO RESPONDENT: AN ORDER HAS BEEN ISSUED THAT CHANGES THE TERMS OF THE *RESTRAINING ORDER* ALREADY IN EFFECT. THE CHANGES ARE IN EFFECT NOW.**

The changes make the *Restraining Order* less restrictive on you. If you disagree with any changes made to the *Restraining Order*, complete the attached *Request for Hearing* form. File it with the court that issued the order at the address on the bottom of this page within 30 days after you receive this *Notice*.

- **Note:** if you request a hearing, only the changes the Petitioner requested will be considered. You *cannot* ask that the *Restraining Order* be ended.

### FIREARMS PROHIBITIONS APPLY!

**Criminal Penalties for Firearms Possession ([ORS 166.255\(1\)\(a\)](#))**

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

- (1) 30 days after you were served with 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

**Contempt Penalties for Firearms Possession**

If the firearms prohibition in Section 18 of the *Restraining Order* is initialed by the judge:

- it is immediately unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, and ammunition under ORS 107.718(1)(h)
- you are subject to contempt of court for violation of the firearms prohibition as soon as you are served with or become aware of the *Order*
- criminal penalties may also apply

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

<b>IF YOU WANT A HEARING, MAIL OR DELIVER THE <i>REQUEST FOR HEARING</i> FORM TO (<i>address of court</i>):</b> _____ _____
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**REQUEST FOR HEARING**  
*(To Be Completed By Respondent Only)*  
IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

v.

\_\_\_\_\_  
Respondent  
*(Name of person restrained)*

**REQUEST FOR HEARING  
ON ORDER FOR LESS  
RESTRICTIVE TERMS**

*(Family Abuse Prevention Act)*

**I am the Respondent.** I request a hearing to oppose the changes to the *Restraining Order* as follows:

I oppose: *(check all that apply)*

- allowing me to move back into the house
- allowing access to specific locations
- allowing contact with the Petitioner

I understand that only Petitioner's requested changes will be considered at this hearing, and that the judge does not have the authority to end the order at my request. I understand that all unchanged terms of the *Restraining Order* remain in effect.

- I will need \_\_\_\_\_ language interpretation services at the hearing
- I will need American's with Disabilities Act accommodations at the hearing

Submitted by:  Respondent  Attorney for Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Contact Address

\_\_\_\_\_  
City, State, ZIP

\_\_\_\_\_  
Contact Phone

\_\_\_\_\_  
*Attorney for Respondent:*

\_\_\_\_\_  
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

and

\_\_\_\_\_ Respondent

**CONFIDENTIAL  
INFORMATION FORM**

Amended CIF

(Family Abuse Prevention Act)

UTCR 2.130

This document is not accessible to the public or other parties. Exceptions may apply. See UTCR 2.130.

File one CIF for each party

Submitted by:  Petitioner  Respondent  other: \_\_\_\_\_

Information about (name): \_\_\_\_\_  
(first, middle, last)

Petitioner  Respondent  other: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Respondent's Employer's Name, Address, and Phone: (not required for Petitioner)

**Minor children of the parties:<sup>1</sup>**

Name:	Date of Birth:

Additional page attached

<sup>1</sup> The names of parties and children, and children's ages are not confidential. This form can only be viewed by the party who files it unless the court orders otherwise.

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_

Case No: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

and

\_\_\_\_\_  
Respondent

**NOTICE OF FILING OF  
CONFIDENTIAL  
INFORMATION  
FORM (CIF)**

Amended CIF

I filed Confidential Information Forms with the court about the following parties to this case as required by Uniform Trial Court Rule (UTC R) 2.130 (*complete a section for each party you filed a CIF for*):

1) Petitioner Name (First, Middle, Last): \_\_\_\_\_

Confidential Personal Information contained in CIF (check all that apply):

date of birth  children's date of birth

2) Respondent Name (First, Middle, Last): \_\_\_\_\_

Confidential Personal Information contained in CIF (check all that apply):

date of birth  children's date of birth

employer's name, address, and telephone number

Submitted by:  Petitioner  Attorney for Petitioner  Respondent  Attorney for Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
OSB# (*Attorneys only*)

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Contact Address

\_\_\_\_\_  
City, State, ZIP

\_\_\_\_\_  
Contact Phone

**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***

A common time to use this form is when you are RENEWING or MODIFYING your restraining 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.

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**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: \_\_\_\_\_

**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.*

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**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: \_\_\_\_\_