

# **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 \_\_\_\_\_

\_\_\_\_\_  
Petitioner

v.

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

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

**MOTION FOR ORDER TO  
SHOW CAUSE RE: MODIFYING  
RESTRAINING ORDER  
& DECLARATION IN SUPPORT**

(Family Abuse Prevention Act)

**Filed by**  Petitioner  Respondent

**Motion**

I ask the court to issue an *Order to Show Cause* requiring  Petitioner  Respondent to appear and show cause why the following changes should not be made to the restraining order

***Requested Changes:***

- Custody  Parenting Time (*explain*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Name and age** of each child affected by these changes:

Name	Age	Name	Age

- Respondent's removal from the home (*explain*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Respondent's restriction from other premises (*explain*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Contact with Petitioner (*explain*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- I request an order for a peace officer to help me recover custody of the children. The address where the children most likely will be found is: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**Statement of Points and Authorities**

ORS 107.730(1)(a) authorizes the court to modify the terms of a Family Abuse Prevention Act Restraining Order upon the request of either party

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**Declaration**

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I asked for an order for a peace officer to help me recover custody of the children. I believe the children are likely to be found at the address above because: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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  Respondent  Petitioner's attorney  Respondent's attorney

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

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

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

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

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

\_\_\_\_\_  
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

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

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

\_\_\_\_\_  
Petitioner

v.

**CERTIFICATE OF SERVICE**

\_\_\_\_\_  
Respondent

*(Family 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 the Respondent 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
- Order to Show Cause re: Modifying Restraining Order **and** Motion for Order to Show Cause & Declaration in Support

**with the** Notice to Respondent/Request for Hearing, Instructions for Contesting a Family Abuse Prevention Act Restraining Order, and Notice of Confidential Information Form (CIF) Filing

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**

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: \_\_\_\_\_