

CHANGING A FAMILY ABUSE PREVENTION ACT (FAPA) RESTRAINING ORDER

INSTRUCTIONS

Procedures vary from court to court. Please check with your local court for filing instructions.

MAY I GET A RESTRAINING ORDER CHANGED?

Yes, but only certain terms may be changed. Those are: 1) the custody and parenting time of the children; 2) respondent's removal from the home, 3) respondent's restrictions from other premises, or 4) contact by the respondent in-person, by telephone, or by mail. A person can ask for these changes any time after the end of the 30 day period the respondent has to request a hearing (as long as the order has not expired or been dismissed by a judge).

Modification of a Restraining Order			
	If you want to change custody or parenting time:	If you want <i>less</i> restrictive terms about removal from the home, restraint from premises, or contact:	If you want <i>more</i> restrictive terms about removal from the home, restraint from premises, or contact:
If you are the Petitioner:	USE: Motion, Declaration and Order to Show Cause re: Modifying Restraining Order	USE: Petitioner's Motion and Declaration for Less Restrictive Terms; and the Notice to Respondent/ Request for Hearing for Less Restrictive Terms	USE: Motion, Declaration and Order to Show Cause re: Modifying Restraining Order
If you are the Respondent:	USE: Motion, Declaration, and Order to Show Cause re: Modifying Restraining Order	USE: Motion, Declaration and Order to Show Cause re: Modifying Restraining Order	USE: Motion, Declaration and Order to Show Cause re: Modifying Restraining Order

HOW DO I ASK FOR A CHANGE TO THE RESTRAINING ORDER?

The judge may sign an order at the Petitioner's request making terms less restrictive without requiring a hearing. The Respondent, however, may request a hearing.

If you fill out the Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order, the judge will sign an order for the other party to appear. Some courts set a hearing when you file the papers. Some courts do not set a hearing until the other person has been served and given 30 days to respond. Check with the court clerk of the county that issued the order to be sure you follow the right process.

WHAT HAPPENS NEXT?

After you file your papers, court staff will make copies for you. You will need to have one of the copies personally given to the other person by a sheriff, a private process server, or any mentally competent person who is 18 or older, as long as the server lives in the state where the papers are served. You cannot serve the papers yourself. The server is required to complete and file with the court a declaration of service. There is a form 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 addresses and contact phone numbers so you get notice of any hearing.**

If you cannot go the hearing due to an emergency, call the court clerk right away at (541) 682-4020.

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 change the restraining 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?

If you have a disability and need accommodation, or you are unable to speak English and 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.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF LANE

_____,)
Petitioner (full name of person who asked for restraining order))

v.)

_____.)
Respondent (full name of person restrained))

Case No. _____

☐ PETITIONER'S ☐ RESPONDENT'S
**MOTION & DECLARATION IN
SUPPORT OF ORDER TO SHOW CAUSE
RE: MODIFYING RESTRAINING ORDER**
(Family Abuse Prevention Act)

MOTION

I, ☐ Petitioner ☐ Respondent, request the court to issue an Order to Show Cause requiring ☐ Petitioner ☐ Respondent to appear in Circuit Court in the Lane County Courthouse in Eugene, Oregon to show cause why this court should not grant the following relief:

I request the following changes be made regarding ☐ custody ☐ parenting time of the parties' joint minor child/ren listed below:

NAME OF CHILD	AGE	GENDER/SEX

- ☐ I request the following changes be made regarding ☐ respondent's removal from the house, ☐ respondent's restrictions from other premises, or ☐ contact by the respondent with the petitioner in-person, by telephone, or otherwise:

- ☐ I request an order for a peace officer to assist in recovering the custody of the child/ren. The most likely address(es) where the child/ren may be found is:

DECLARATION

The following facts support my Motion to Show Cause Re: Modifying Restraining Order (*please explain the reason you are requesting the changes listed above to custody and/or parenting time, removal from the home, restriction from other premises, or contact*):

If asking for assistance in recovering my child/ren, I believe the child/ren are most likely at the addresses listed in my motion because: _____

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and subject to penalty for perjury.

Dated this ____ day of _____, 20__.

☐ Petitioner Signature
☐ Respondent Signature

Print Name

Certificate of Document Preparation You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

- ☐ I selected this document for myself and I completed it without paid assistance.
☐ I paid or will pay money to _____ for assistance in preparing this form.

Submitted by:

Print Name ☐ Petitioner ☐ Respondent ☐ Attorney for Petitioner or Respondent ☐ OSB No. (if applicable)

Address or Contact Address
(Use **safe** Contact Address)

City

State

Zip

Telephone or Contact Telephone Number
(Use **safe** Contact Number)

TO PETITIONER AND RESPONDENT: NOTICE OF HEARING

The Court has scheduled a hearing as follows:

Date: _____ Time: _____ Courtroom: _____

(To Be Completed by Court Staff Only)

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF LANE**

_____,)

Petitioner (full name of person who asked for restraining order))

v.)

_____.)

Respondent (full name of person restrained))

Case No. _____

ORDER TO SHOW CAUSE

RE: MODIFYING RESTRAINING ORDER

(Family Abuse Prevention Act)

NOTICE

READ THESE PAPERS CAREFULLY

IF YOU FAIL TO APPEAR AT THE SCHEDULED HEARING, THE COURT MAY GRANT THE RELIEF REQUESTED. IF YOU HAVE ANY QUESTIONS, YOU SHOULD SEE AN ATTORNEY IMMEDIATELY

ORDER

TO: _____, ☐ Petitioner ☐ Respondent:

IT IS HEREBY ORDERED:

☐ **A. PERSONAL APPEARANCE**

You must appear in person before the court, on the date and time listed on the top center of the first page of this document, to show cause why an order should not be entered modifying the Restraining Order previously entered in this matter on _____ (*date original order was issued*), and granting the relief requested in the attached motion.

ORDER TO SHOW CAUSE RE: MODIFYING RESTRAINING ORDER -

☐ **B. WRITTEN RESPONSE**

You must appear by written response within thirty (30) days after this order was served on you, to show cause why an order should not be entered granting the relief requested in this Motion.

☐ **C. MOTION DENIED** _____

☐ **D. OTHER** _____

Dated: _____

JUDGE (Signature)

Print, Type or Stamp Name of Judge

Certificate of Document Preparation and Readiness for Judicial Signature. You are required to truthfully complete this certificate regarding the document you are filing with the court. Check all boxes and complete all blanks that apply:

☐ I selected this document for myself and I completed it without paid assistance.

☐ I paid or will pay money to _____ for assistance in preparing this form.

This proposed order is ready for judicial signature under UTCR 5.100 because this order is submitted ex parte as allowed by statute or rule.

Dated: _____ Submitted by (signature): _____

Print Name: ☐ Petitioner ☐ Respondent ☐ Attorney for Petitioner or Respondent ☐ OSB No. (if applicable)

Address or Contact Address

(Use **Safe** Contact Address)

City

State

Zip

Telephone or Contact Telephone Number

(Use **Safe** Contact Number)

ORDER TO SHOW CAUSE RE: MODIFYING RESTRAINING ORDER -

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(FAPA 1/2016)

IN THE CIRCUIT COURT OF THE STATE OF OREGON
COUNTY OF LANE

_____,)
Petitioner (full name of person who asked for restraining order)) Case No. _____
v.)
_____,) **DECLARATION OF PROOF OF SERVICE**
Respondent (full name of person restrained)) (Family Abuse Prevention Act)

I, (name) _____, declare that I am a resident of the
County of _____, State of _____.
I am a competent person 18 years of age or older, and not an attorney for, or a party to, this proceeding. I
certify that the person served is the identical one named in this action.

On the _____ day of _____ (month), 20____ (year), I served the following:
(List all documents served) _____

_____ in this case upon the above-named ☐ Petitioner ☐ Respondent, in person, in _____ County,
State of _____, at the following address: _____
_____ by delivering her/him a copy of those papers, all of which were
certified to be a true copy of the original.

Certificate of Document Preparation You are required to truthfully complete this certificate regarding the
document you are filing with the court. Check all boxes and complete all blanks that apply:

- ☐ I selected this document for myself and I completed it without paid assistance.
☐ I paid or will pay money to _____ for assistance in preparing this form.

Dated this _____ day of _____, 20_____.

**I HEREBY DECLARE THAT THE ABOVE STATEMENT IS TRUE TO THE BEST OF MY
KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE
IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.**

Signature of Process Server

Street or P.O. Address of Process Server

Print Name of Process Server

City

State

Zip Code

Telephone #