

# **NEXT STEPS FOR 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.

### **WHAT HAPPENS NEXT?**

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 your motion is **denied**, the original (or last modified) *Order* remains in effect without change. No hearing will be scheduled and you do not have to go to court.
- If your 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.

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

## NOTICE TO RESPONDENT AND REQUEST FOR HEARING

### **TO PETITIONER AND RESPONDENT:**

#### **NOTICE OF EXCEPTIONAL CIRCUMSTANCES HEARING:**

The court has scheduled an exceptional circumstances hearing about the temporary custody of your children on:

Date: \_\_\_\_\_ Time: \_\_\_\_\_ Courtroom: \_\_\_\_\_

See below for information about the "Exceptional Circumstances" hearing

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

**Case#:** \_\_\_\_\_

#### **TO RESPONDENT: A *RESTRAINING ORDER* HAS BEEN ISSUED BY THE COURT THAT AFFECTS YOUR RIGHTS. THE ORDER IS NOW IN EFFECT.**

You have the right to contest the Restraining Order as set out in the paragraph checked below.

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☐ **An "Exceptional Circumstance" Hearing Has Been Scheduled**

(See the box on the top of this page, "Notice of Exceptional Circumstances Hearing")

The court has decided that there are exceptional circumstances affecting your children. The court has ordered a hearing to decide temporary custody. If you want to be heard on the issue of temporary custody or if you oppose the *Order* or any of its terms, you must appear at the date and time in the box above. This will be your **only** chance to oppose the *Order*. If you do not go to the hearing, the *Restraining Order* may remain in effect.

If you want an earlier hearing than the date above, complete the *Request for Hearing* form below and mail or deliver it to the address on Page 2.

☐ **An "Exceptional Circumstances" Hearing Has NOT Been Scheduled**

(The box on the top of this page is BLANK)

If you oppose the Restraining Order, including any parenting time or custody order, complete the attached "*Request for Hearing*" form. Mail or deliver it to the address on Page 2.

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. At the hearing, a judge will decide whether the order should remain in effect, be changed, or dismissed. **If you do not go to the hearing, the restraining order may remain in effect.**

- The hearing will be held within **5 business days** if you are contesting a custody order (not parenting time), or

- within **21 calendar days** if you do not oppose a custody order

If no Exceptional Circumstances hearing date has been set and you do not request a hearing within 30 days, the restraining order will remain in effect as issued.

### **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 order may also be renewed upon a finding that a person in the Petitioner's situation would reasonably fear further acts of abuse by you if the order is not renewed.

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

The order is enforceable in every county in Oregon. It is also enforceable in all 50 states, the District of Columbia, tribal lands, and territories of the United States. This includes any order renewing or changing this order.

### **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 the firearms prohibition in Paragraph 10 of the *Restraining Order* is initialed by the judge, it is unlawful for you to possess or purchase a FIREARM, including a rifle, pistol, or revolver, and AMMUNITION under ORS 107.718(1)(h).

As a result of this order, or any order renewing or changing this order, it may be unlawful for you to possess or purchase a firearm, including, a rifle, pistol, or revolver, or ammunition under federal, state, and local laws. This order may affect your ability to serve in the Armed Forces of the United States or to be employed in law enforcement. If you have any questions about how these laws apply to you, talk to a lawyer.

You may also be prohibited from:

- 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 you causing bodily injury to the Petitioner

<p><b>IF YOU COMPLETE THE REQUEST FOR HEARING FORM, MAIL OR DELIVER IT TO (address of court):</b></p>
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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 \_\_\_\_\_

\_\_\_\_\_  
Petitioner  
v.

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

## REQUEST FOR HEARING

\_\_\_\_\_  
Respondent  
(Person to be restrained)

(Family Abuse Prevention Act)

➤ I need an interpreter: ☐ Spanish ☐ Russian ☐ other: \_\_\_\_\_

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

Complete section A or B:

**A. ☐ NO HEARING DATE HAS BEEN SET**

I oppose: (check all that apply)

- ☐ the order restraining me from contacting, threatening, or attempting to contact the Petitioner
- ☐ the custody order
- ☐ the parenting time order
- ☐ other:

**B. ☐ AN "EXCEPTIONAL CIRCUMSTANCES" HEARING HAS BEEN SET FOR:  
(date) \_\_\_\_\_**

I request a hearing to be held within 5 business days after I file this *Request*  
(Note to Respondent: if the *Exceptional Circumstances* hearing is within 5  
business days of filing this *Request*, you cannot get an earlier hearing)

- ☐ I also oppose all or a part of the order as follows (check all that apply):
- ☐ the order restraining me from contacting, threatening, or attempting to contact the Petitioner
  - ☐ the custody order
  - ☐ the parenting time order
  - ☐ other:

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

A *Confidential Information Form* (CIF) has been completed and filed with the court clerk containing all required information that is identified as confidential by UTCR 2.130 for Respondent

**Certificate of Document Preparation.** Check all that apply:

- ☐ I chose this form for myself and completed it without paid help  
☐ A legal help organization helped me choose or complete this form, but I did not pay money to anyone  
☐ I paid (or will pay) \_\_\_\_\_ for help choosing, completing, or reviewing this form  
☐ Guide & File selected and completed this form and I did not pay anyone to review the completed form

Submitted by: ☐ Respondent ☐ Attorney for Respondent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

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

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

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

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*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

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)* \_\_\_\_\_  
\_\_\_\_\_

**Certificate of Document Preparation.** Check all that apply:

- ☐ I chose this form for myself and completed it without paid help
- ☐ A legal help organization helped me choose or complete this form, but I did not pay money to anyone
- ☐ I paid (or will pay) \_\_\_\_\_ for help choosing, completing, or reviewing this form

**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:*

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