

# **CHANGING A FAMILY ABUSE PREVENTION ACT (FAPA) RESTRAINING ORDER**

**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 the terms that involve the custody and parenting time of the children. Either person can ask for a change of custody or parenting time in a restraining order any time after the order is issued (as long as it has not expired or been dropped).

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

To request a change to a restraining order, fill out the Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in Packet #2 and file it with the court. 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 person 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 your packet includes an Order After Hearing form, you should take it to the hearing. The judge will need to write down his/her decision on the form and sign it. If you cannot go to the hearing due to an emergency, call the court clerk right away. If you have requested these changes in a court that does not schedule a hearing, please contact the court clerk to make sure you are following the correct procedures.

If your local court does not set a hearing until the other party has responded, and the other party has NOT filed a response within 30 days after getting the papers, it is your responsibility to turn in the Order After Hearing form for the judge to sign. The court clerk can tell you where to file the order.

## **DO I NEED A LAWYER?**

It may be helpful to have an attorney represent you at the hearing, but it is not required. If you have questions about how the law works or what it means, you may need to talk to a lawyer. Court staff cannot give you any legal advice. If you need help finding a lawyer, you may call the Oregon State Bar's Lawyer Referral Service or Modest Means program at (503) 684-3763 or (800) 452-7636. You may want to ask the court staff if your area has any legal services (legal aid) programs 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.

**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 \_\_\_\_\_

\_\_\_\_\_) Case No. \_\_\_\_\_  
 Petitioner (your full name), )  
 )  
 )  
 v. )  PETITIONER'S  RESPONDENT'S  
 ) MOTION, AFFIDAVIT, and ORDER TO SHOW CAUSE  
 ) RE: MODIFYING RESTRAINING ORDER  
 ) (Family Abuse Prevention Act)  
 )  
 \_\_\_\_\_)  
 Respondent (full name of person to be restrained). )

**MOTION**

I,  Petitioner  Respondent, request the court to issue an Order to Show Cause requiring  
 Petitioner  Respondent to appear in Circuit Court in the \_\_\_\_\_ County Courthouse in  
 \_\_\_\_\_, Oregon to show cause why this court should not grant the  
 following relief concerning the parties' joint child/ren listed below:

NAME	DATE OF BIRTH	AGE	GENDER/SEX

1. I request the following changes be made regarding  custody  parenting time of the minor child/ren:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

///





**RELEVANT DATA**

**PETITIONER (you)** \_\_\_\_\_  Female  Male  
Name

\*\*\*Residence/Contact Address \_\_\_\_\_  
Number, Street and Apt. Number (if applicable)

\_\_\_\_\_  
City County State Zip

Telephone/Contact Telephone Number \_\_\_\_\_

Birthdate \_\_\_\_\_ Age \_\_\_\_\_ Race/Ethnicity \_\_\_\_\_

Height \_\_\_\_\_ Weight \_\_\_\_\_ Eye Color \_\_\_\_\_ Hair Color \_\_\_\_\_

**\*\*\*If you wish to have your residential address or telephone number withheld from Respondent, use a contact address or telephone number so the Court and the Sheriff can reach you if necessary.**

**RESPONDENT** \_\_\_\_\_  Female  Male  
Name

Residence Address \_\_\_\_\_  
Number, Street, Apt. Number (if applicable)

\_\_\_\_\_  
City County State Zip

Telephone Number \_\_\_\_\_

Birthdate \_\_\_\_\_ Age \_\_\_\_\_ Race/Ethnicity \_\_\_\_\_

Height \_\_\_\_\_ Weight \_\_\_\_\_ Eye Color \_\_\_\_\_ Hair Color \_\_\_\_\_

**PLEASE FILL OUT THIS INFORMATION  
TO AID IN SERVICE OF THE RESTRAINING ORDER**

**Where is Respondent most likely to be located?**

Residence Hours \_\_\_\_\_

Employment Hours \_\_\_\_\_ Address: \_\_\_\_\_

Other Hours \_\_\_\_\_ Address: \_\_\_\_\_

**Description of Vehicle** \_\_\_\_\_

Is there anything about the Respondent's character, past behavior, or the present situation that indicates that the Respondent may be a **danger** to others? to him/herself? EXPLAIN: \_\_\_\_\_

Does the Respondent have any **weapons, or access to weapons**? EXPLAIN: \_\_\_\_\_

Has the Respondent ever been arrested for or convicted of a **violent crime**? EXPLAIN: \_\_\_\_\_

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

\_\_\_\_\_  
Petitioner (your full name),  
  
v.  
  
\_\_\_\_\_  
Respondent (full name of person to be restrained).

)  
)  
) Case No. \_\_\_\_\_  
)  
)  
) DECLARATION OF PROOF OF SERVICE  
) (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:  
MOTION, AFFIDAVIT AND ORDER TO SHOW CAUSE RE: MODIFYING RESTRAINING ORDER (FAPA)

in this case personally upon the above-named  Petitioner  Respondent at the following address:

\_\_\_\_\_ in  
\_\_\_\_\_ County, State of \_\_\_\_\_, by delivering to the  
 Petitioner  Respondent a copy of those papers, all of which were certified to be a true copy of the original.

**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.**

**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\_\_\_\_.

\_\_\_\_\_  
Signature of Process Server

\_\_\_\_\_  
Address

\_\_\_\_\_  
Print or Type Name of Process Server

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Telephone Number(s)

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

\_\_\_\_\_) )  
Petitioner (your full name), (date of birth) ) Case No. \_\_\_\_\_

vs. ) )  
 ) ) **ORDER AFTER HEARING**  
 ) )  **21 Day or 5 Day Hearing, After Notice**  
\_\_\_\_\_) )  **Exceptional Circumstances Hearing**  
Respondent (full name) , (date of birth). )  **Modification**  **Renewal Hearing**  
 ) (Family Abuse Prevention Act)

This matter came before the Court on \_\_\_\_\_, 20\_\_.

**PETITIONER**

- Appeared in person or  by telephone/video  
 Was served a copy of this Order in court today
- Did not appear
- Attorney: \_\_\_\_\_  
OSB# \_\_\_\_\_

**RESPONDENT**

- Appeared in person or  by telephone/video  
 Was served a copy of this Order in court today
- Did not appear
- Attorney: \_\_\_\_\_  
OSB# \_\_\_\_\_

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

Having heard the testimony, **IT IS HEREBY ORDERED THAT THE RESTRAINING ORDER OBTAINED BY PETITIONER ON \_\_\_\_\_, 20 \_\_\_\_\_ IS:**

- DISMISSED** in its entirety.
- CONTINUED** in its entirety.
- RENEWED** in its entirety. The renewed restraining order expires on: \_\_\_\_\_ (date).
- CONTINUED/RENEWED but MODIFIED/AMENDED** as follows: \_\_\_\_\_

The renewed restraining order expires on: \_\_\_\_\_ (date).

**IMPORTANT: Except as modified or amended, all other portions of the Restraining Order remain in effect.**

**SECURITY AMOUNT for VIOLATION OF THIS ORDER IS \$5,000** unless a different amount is specified here: OTHER SECURITY AMOUNT: \$ \_\_\_\_\_

CERTIFICATES OF COMPLIANCE WITH THE VIOLENCE AGAINST WOMEN ACT

Judge's Initials

[ ] FIREARMS PROHIBITION: If this box is checked and initialed by the Judge, this Order (or the original Order that is being continued/amended) prohibits (prevents) Respondent from possessing FIREARMS or AMMUNITION and it is unlawful for Respondent to do so under state law. [OJIN Event Code: FQOR]

[ ] FIREARMS NOTIFICATION under 42 U.S.C. 3796gg(4)(e): As a result of this Order After Hearing, it MAY be unlawful for Respondent to possess, receive, ship, transport or purchase a FIREARM or AMMUNITION under federal law pursuant to 18 U.S.C. 922 (g)(8) or (9). This Order MAY also negatively affect Respondent's ability to serve in the Armed Forces of the United States as defined in ORS 348.282 or to be employed in law enforcement. [OJIN Event Code: NOGR]

NOTICE TO RESPONDENT: If you have questions about whether federal or state laws make it illegal for you to possess or purchase a firearm, and/or about whether this Order will affect your ability to serve in the military or be employed in law enforcement, you should consult an attorney.

[ ] FIREARMS CERTIFICATION (BRADY): This Order After Hearing meets the requirements of federal law as set out below and THEREFORE subjects the Respondent to federal prosecution for possession, receipt, shipping, transportation, or purchase of firearms or ammunition while it is in effect. [OJIN Event Code: ORBY]

Relationship: The person protected by this Order After Hearing is an "intimate partner" of the Respondent within the meaning of 18 U.S.C. §921(A)(32) because the Petitioner is: (Check at least one)

- [ ] The spouse or former spouse of the Respondent.
[ ] The parent of Respondent's child.
[ ] A person who does or did cohabit (live in a sexually intimate relationship) with the Respondent.

Notice and Opportunity to Participate: The Order After Hearing was issued after hearing of which the Respondent received actual notice and at which the Respondent had the opportunity to participate.

Terms of Order:

- [ ] The Order After Hearing restrains Respondent from threatening Petitioner or Petitioner's child(ren), or engaging in other conduct that would place Petitioner in reasonable fear of bodily injury to Petitioner or Petitioner's child(ren).

AND

- [ ] The Court finds that Respondent represents a credible threat to the physical safety of Petitioner or Petitioner's child(ren).

FULL FAITH AND CREDIT PROVISIONS: This protective order meets all full faith and credit requirements of the Violence Against Women Act, 18 U.S.C. 2265 (2002). This Court has jurisdiction over the parties and the subject matter. The Respondent was or is being afforded notice and timely opportunity to be heard as provided by Oregon law. This Order is valid and entitled to enforcement in this and all other jurisdictions.

Dated:

JUDGE