

CONTESTING A FAMILY ABUSE PREVENTION ACT (FAPA) RESTRAINING ORDER

●INSTRUCTIONS●

WHAT IF I DISAGREE WITH SOME OR ALL OF THE RESTRAINING ORDER?

The judge granted the restraining order based on input from the other side (the Petitioner). If you disagree with information given to the judge, or you disagree with all or part of the order, you have a right to give the judge your input.

HOW DO I OBJECT TO THE RESTRAINING ORDER?

If you want a judge to consider whether the restraining order should remain in effect, or change some of the things in the restraining order, you must fill out the form called “Request for Hearing.” The “Request for Hearing” form is part of the court paper that says “Notice to Respondent/Request for Hearing” on the top, right hand side of the page. You should have received a copy of this form when you were served with the restraining order. If you did not receive one, you may download the Request for Hearing form from the state website, <http://courts.oregon.gov/sites/OJD/OSCA/cpsd/courtimprovement/familylaw/index.page>, or contact the court that issued the order.

You have 30 days after you are served with the restraining order to ask the judge to dismiss or change the order, by filing a “Request for Hearing.” **The Request for Hearing must be filed with the court within 30 days from the date you were served.** If you request a hearing and the judge continues the Restraining Order, federal law may prohibit you from possessing or purchasing any firearm or ammunition (*including hunting rifles*).

If it has been more than 30 days since the date you were served, the only type of hearing you may request is to make changes to custody and/or parenting time, your removal from the home, your restrictions from other premises, or contact by you in-person, by telephone, or otherwise. Either party may request this type of hearing. You may request such a hearing by asking the clerk at the courthouse for the forms needed to “modify” a restraining order. The judge may schedule a hearing to decide whether or not to change the order. The judge may decide not to change the order even if both sides agree that they want the same changes.

WHAT HAPPENS IF I DO NOT OBJECT?

If you do not ask for a contested hearing within the first 30 days after you receive the court papers, the Restraining Order will continue for **one year** from the date the judge signed it. It can also be renewed for one year at a time after that.

WHEN WILL THE CONTESTED HEARING BE HELD?

If the court has already ordered a hearing about custody of your children (sometimes called an “exceptional circumstance hearing”): If the court has found that there are “exceptional circumstances” regarding custody of the child/ren, the court will schedule a hearing to be held within 14 days. The box on the top of page 1 of the restraining order and “Notice to Respondent/Request for Hearing” will give you information about the date and place for that hearing. At the hearing, you will be asked to provide information about your children.

If the court has NOT ordered a hearing but you would like to request one: If the order grants custody and you ask the judge to make a change relating to child custody, the court must hold the hearing within 5 business days of your request. If you are not asking the judge to change child custody, the court must hold the hearing within 21 days of your request. If the hearing is scheduled more than a few days away, the court will send you notice of the time and date of the hearing in the mail. If there is not enough time to mail you a notice, the court may contact you by telephone. **Be sure the court always has your current contact addresses and contact phone numbers so you get notice of any hearing.** You also can call the court to check to see if a hearing has been set (541-682-4020).

If you do not go to the hearing, you will lose your chance to ask the judge to dismiss or change the Restraining Order. If you cannot go to the hearing due to an emergency, call the court clerk right away. It may be helpful to have an attorney represent you at the hearing, but it is not required.

WHAT WILL HAPPEN AT THE HEARING I REQUEST?

The purpose of the hearing is to decide whether or not the restraining order will remain in effect, and if it does remain in effect, if the order will stay the same or change in some way.

If you would like more information about what to expect at the hearing, go to <http://courts.oregon.gov/sites/OJD/OSCA/cpsd/courtimprovement/familylaw/index.page> and look for the “Domestic Violence Information” link on the left side. From there, click on “Information for Respondents.”

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 contest 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 an 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 two 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. If the clerk says there will be a “5 day hearing,” be sure to indicate this on your “Request for Hearing” form that you will need an interpreter or accommodations the same day you file your “Request for Hearing” form.