

# FAPA Packet 2

## 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.**

#### IMPORTANT NOTE

##### *INFORMATION THAT MUST BE KEPT CONFIDENTIAL*

You must keep certain information (“confidential personal information”) out of any papers you file or submit to the court and, instead, provide that information in a Confidential Information Form (CIF). “Confidential Personal Information” includes social security number; date of birth; former legal names, driver license numbers; and employer’s name, address, and telephone number. It also applies to information regarding a party or a party’s child. On the pleading or document where that confidential personal information would otherwise appear, you must note that the information has been separately provided under [UTCR 2.130](#).

#### **Relevant Rules and Forms**

[UTCR 2.130](#). – Family Law Confidential Information Forms

[UTCR Form 2.130.1](#) – Family Law Confidential Information Form

[UTCR Form 2.130.2](#) – Notice of Filing Confidential Information Form

#### **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).

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

<b>Modification of a Restraining Order</b>			
	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:	<b>USE:</b> Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in FAPA Packet #2.	<b>USE:</b> Petitioner’s Motion and Affidavit for Less Restrictive Terms in FAPA Packet 2A.	<b>USE:</b> Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in FAPA Packet #2.
If you are the Respondent:	<b>USE:</b> Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in FAPA Packet #2.	<b>USE:</b> Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in FAPA Packet #2.	<b>USE:</b> Motion, Affidavit and Order to Show Cause re: Modifying Restraining Order in FAPA Packet #2.

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 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.

In some cases the Court does not set a hearing until after the other party has responded. If the other party has NOT filed a response within 30 days after the date of service, you must appear on any regular business day in room 107 of the Linn County Courthouse at 10:00AM. You will appear before a judge at that time to finalize your request to modify (change) the restraining order. The judge will review your request and sign an Order After Hearing if your request is allowed.

### **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.

**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 LINN

\_\_\_\_\_ ) Case No. \_\_\_\_\_  
 See CIF )  
 )

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

PETITIONER'S  RESPONDENT'S  
**MOTION, AFFIDAVIT, and ORDER TO SHOW CAUSE**  
**RE: MODIFYING RESTRAINING ORDER**  
 (Family Abuse Prevention Act)

v. )

\_\_\_\_\_ )  
 See CIF )  
 Respondent (date of birth) )  
 (full name of person 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 **Linn County Courthouse in Albany, 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:

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NAME OF CHILD	DATE OF BIRTH	AGE	GENDER/SEX
	SEE CIF		

**LINN COUNTY MOTION, AFFIDAVIT, AND ORDER TO SHOW CAUSE RE: MODIFYING RESTRAINING ORDER**

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:

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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:

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**AFFIDAVIT**

STATE OF OREGON )  
 )  
County of \_\_\_\_\_ )

I, \_\_\_\_\_, swear/affirm that I am the  Petitioner  Respondent in this matter, that the above statements are 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.

The following facts support this motion (*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 above in paragraph 2 of my motion because: \_\_\_\_\_

\_\_\_\_\_

Petitioner Signature Print Name  
 Respondent Signature

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by

\_\_\_\_\_  
*(Print Name of Petitioner/Respondent)*

\_\_\_\_\_  
NOTARY PUBLIC FOR OREGON/COURT CLERK

My commission expires: \_\_\_\_\_

**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.

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
JUDGE (Signature)

\_\_\_\_\_  
Print, Type or Stamp Name of Judge

**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)

\_\_\_\_\_  
Contact Address  
Use **safe** Contact Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Contact Telephone Number  
Use **safe** Contact Number

**RELEVANT DATA**

**PETITIONER:** \_\_\_\_\_  Female  Male  
*Name*

\*\*\*Residence/Contact Address (Use a **safe** address\*\*\*):

\_\_\_\_\_  
Number, Street and Apt. Number (*if applicable*)

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

Telephone/Contact Telephone Number \_\_\_\_\_ (Use **safe** contact number)

Birthdate \_\_\_\_\_ (See CIF) Age \_\_\_\_\_ Race/Ethnicity \_\_\_\_\_

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

\*\*\***The Respondent will receive a copy of this information.** If you wish to have your residential address or telephone number withheld from Respondent, use a contact address in the state where you reside or a contact telephone number so the Court and the Sheriff can reach you if necessary. Please check for mail at this address frequently.

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

Residence Address \_\_\_\_\_

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

Birthdate \_\_\_\_\_ (See CIF) Age \_\_\_\_\_ Race/Ethnicity \_\_\_\_\_

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

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

**Where is Other Party most likely to be located?**

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

Employment Hours \_\_\_\_\_ Address \_\_\_\_\_ (See CIF)

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

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

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

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

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

**LINN COUNTY MOTION, AFFIDAVIT, AND ORDER TO SHOW CAUSE RE: MODIFYING  
RESTRAINING ORDER**