

FAPA Packet 2A
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?

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.

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

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.

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?

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.

(List the third parties and any special terms re days, times, locations, purposes, etc.): _____

I want these changes because: _____

STATEMENT OF POINTS AND AUTHORITIES

On a showing of good cause, ORS 107.730(1)(b) authorizes the court to delete terms or order less restrictive terms regarding Respondent’s restraint from the Petitioner’s residence, entry onto other premises and into surrounding areas, and contact with the Petitioner when the Petitioner under the Family Abuse Prevention Act makes an ex parte request. ORS 107.718(1)(b), (g), and (i).

Signature of Petitioner

Print or type name of Petitioner

STATE OF OREGON)

)

County of _____)

This instrument was acknowledged before me this _____ day of _____, 20__ by

(Print Name of Petitioner)

NOTARY PUBLIC FOR OREGON/COURT CLERK

My commission expires: _____

REQUEST FOR HEARING
(To Be Completed By Respondent Only)

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

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

See CIF
(date of birth)

Case No. _____

v.

REQUEST FOR HEARING
On LESS RESTRICTIVE ORDER

Respondent (full name of person restrained)

See CIF
(date of birth)

(Family Abuse Prevention Act)

I am the Respondent in this case. **I disagree with how the restraining order has been made less restrictive.**
I want a hearing and I will be objecting to: *(check all that apply)*

- _____ The order allowing me to move back to the home
- _____ The order allowing me to go to certain locations that I was prohibited from going to before
- _____ The order allowing me to have contact with the Petitioner that was prohibited before

★ I understand that:

- Only the Petitioner's request(s) to change the restrictions will be considered at this hearing.
- The Judge does not have the authority at this hearing to terminate (end) the order at my request

I will will not be represented by an attorney at the hearing. The name and Bar Number of the attorney (if known) are: _____

- I will need _____ language interpretation services at the hearing.
- I will need American's with Disabilities Act accommodations at the hearing.

Notice of the time and place of the hearing can be mailed to me at the address below.

Respondent's Signature

Date

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 below:

- 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, Respondent Attorney for Respondent OSB No. *(if applicable)*

Contact Address City, State, Zip Contact Telephone Number