

INFORMATION ON RESTRAINING ORDERS AND STALKING ORDERS

Should I apply for a Restraining Order or a Stalking Order?

If you feel threatened by someone, there are a number of remedies which may assist you. This information sheet only explains two of them, when they might be appropriate, and when they are not. This is not legal advice and is not a substitute for competent legal advice. If you have questions about your legal right, obligations or liability you should talk to a licensed attorney.

Domestic Violence Restraining Orders

These are also called FAPA (Family Abuse Prevention Act) orders or restraining orders. To obtain one of these orders, you must fully fill out a petition, which may be obtained in Room 107 of the courthouse and on the Linn County Circuit Court website: www.courts.oregon.gov/linn. **To file, you must come to Room 107 at least 30 minutes before the time for court.** Do not use older versions which may be available in other offices. Once your forms are completed, they need to be filed in Room 107. You will be sent to a courtroom for a hearing at 8:30 AM Monday through Thursday (Friday at 9:00 AM).

To obtain one of these orders you must meet the following criteria:

- You must be a resident of Linn County, **and**
- You must be 18 years of age or older, and if you are under 18 you may only receive this order under very special circumstance. (See the information packet if this is for a juvenile); **and**
- The person against whom you wish to have a restraining order must have done **one** of the four things listed below within the last six months:
 - Threatened to cause you physical injury, **or**
 - Attempted to cause you physical injury **or**
 - Caused you physical injury, **or**
 - Forced you to have sexual relations against your will, **and**
- The other person's conduct must have created a reasonable fear of imminent physical harm for you and that fear must exist now, **and**
- The other person must be **one** of the following;
 - Related to you by blood, marriage or adoption; **or**
 - A person who has lived with you now or in the past; **or**
 - A person who is a parent of your child even if not married to you; **or**
 - A person with whom you have been sexually intimate within the last two years;

It is important you understand the Court cannot grant a restraining order unless the criteria listed above are satisfied. It will not matter how upset you might be, it will not matter if the other person has annoyed you, harassed you, threatened your children or others in your household, or otherwise been a problem for you; unless the criteria above apply, you will not get a FAPA restraining order.

These restraining orders may not be obtained only to obtain custody of children, to prevent another from obtaining custody of children, or to gain any advantage in a divorce, annulment custody proceeding or legal separation.

If you do receive a restraining order, the judge will ask you what provisions you want it to contain. It will prohibit the other person from intimidating, interfering, molesting or menacing you, and if you request, it may also prohibit the other person from contacting you by mail, telephone or in person. The order may, if evidence supports it, grant you temporary custody of your children, limit parenting time to the other parent, and provide other remedies which are listed in the order.

If you do not qualify for a restraining order as described above, then read on to see if you qualify for a Stalking Order.

Stalking Protective Orders

To obtain a stalking protective order, you should obtain an application in Room 107 of the courthouse or the Linn County Circuit court website: www.courts.oregon.gov/linn . After completing the packet, turn it in at Room 107 of the Linn County Courthouse 30 minutes prior to appearing in court. You will appear before a judge at 8:30 AM Monday through Thursday (Friday at 9:00 AM).

To obtain a stalking protective order you must meet the following criteria:

- You must be a resident of Linn County
- The other person must have done the following:
 - Had repeated contact with you or a member of your immediate family or household which is not wanted (repeated means two or more times), **and**
 - The repeated and unwanted contact reasonably alarmed and/or coerced you, **and**
 - A person in your situation would objectively and reasonably feel alarmed or coerced by the unwanted contact, **and**
 - The repeated and unwanted contact must have caused you reasonable apprehension regarding your personal safety or the personal safety of a member of your household or immediate family.

There is no age limit for a stalking protective order.

If you do not qualify for either a FAPA restraining order or a stalking protective order, you may have other remedies. You may contact your local law enforcement agency if you believe someone is illegally trespassing on your land or property. You may also want to consult an attorney.

Be aware of two important points regarding these remedies:

1. If anyone lies under oath when seeking, defending or opposing a court order they may be charged with Perjury, a felony punishable by up to five years in prison and or a fine of up to \$100,000.
2. Restraining orders and stalking orders are only pieces of paper. If you are in fear for your safety, you need to call law enforcement and take all lawful precautions to protect yourself and your family.