

contested hearing, both you and the respondent will have an opportunity to present evidence and tell your side of the story. You have the burden of proving that you meet the requirements for a FAPA restraining order.

If the respondent requests a hearing, the court will notify you of the date and time of the hearing. The hearing must be held within 21 days of the date the respondent files their request or within 5 days if there are children and custody or parenting time is being contested.

If the respondent does not request a hearing within 30 days, the order remains in effect and the respondent cannot later object to the abuse allegations in your petition. However, the respondent can file a request to modify certain parts of your restraining order later.

What should I do if the respondent requests a contested hearing?

It's a good idea to seek legal advice if the respondent requests a contested hearing. An attorney can help you prepare for the hearing and represent you at the hearing.

If you can afford an attorney, the Oregon State Bar Lawyer Referral Service can provide you with the names of three attorneys who may be able to help you. Call 503-684-3763 or 800-452-7636.

If you cannot afford an attorney, your local legal aid office may be able to help you with your hearing free of charge. Visit <http://oregonlawhelp.org//resource/oregon-legal-aid-offices> to find a legal aid office near you.

What happens if the respondent or I don't show up to a hearing?

It's very important that you show up to the contested hearing, because your restraining order may be dismissed if you don't appear. If the respondent fails to show up to the contested hearing, the order will be continued as previously entered and the respondent loses their opportunity to object.

What if I need a reasonable accommodation or an interpreter?

If you have a disability and need an accommodation or have limited English proficiency and need an interpreter, notify the court clerk right away so the court can provide you with appropriate services as required by state and federal laws.

How long does the order remain in effect?

Your restraining order remain in effect for one year from the date the order was initially granted (unless it's dismissed at the contested hearing). You can file a motion to renew the order before it expires if you are still concerned for your safety.

Can I violate my own restraining order?

Only the respondent can violate the no contact provisions of the restraining order. However, it's not a good idea to continue contacting the respondent, because a judge is less likely to believe you are afraid of that person. If your order contains custody and parenting time orders, you must follow the court-ordered parenting plan.

What if the respondent violates the order?

If the respondent violates the order, you may call the police and make a report. The police must arrest the respondent if they believe that he/she has violated the order. The district attorney's office may or may not choose to bring contempt charges against the respondent based on the violation.

Anything else I should know to stay safe?

Keep a copy of your restraining order with you at all times so that if you ever have to call the police, they will immediately know how to respond. It's also a good idea to create a safety plan in case the respondent violates the order. You can Google "safety planning" for tips .

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Legal Aid Services of Oregon & Oregon Law Center



Protection from Domestic Violence.

How to Get a Family Abuse Prevention Act (FAPA) Restraining Order in Oregon.

This brochure is provided by Legal Aid Services of Oregon for general informational use only. It is not a substitute for individual legal advice. Consult an attorney for more information or for advice. The information in this pamphlet is accurate as of December 2016.

Requirements for Getting a Family Abuse Preventing Act (FAPA) Restraining Order

1. Age

- You must be at least 18 years old, **or**
- If you are younger than 18:
 1. Your abuser must be 18 or older, **and**
 2. You must be either married to (or previously married to), or involved in (or previously involved in) a sexual relationship with that person.

2. Relationship

The person who abused you must be either:

- Your spouse or former spouse,
- An adult with whom you live & have a sexual relationship,
- An adult with whom you had a sexual relationship in the last 2 years,
- An adult related to you by blood, marriage, or adoption, **or**
- The other parent of your child

3. Abuse

In the last 180 days*, the person who abused you must have:

- Physically injured you or attempted to physically injure you,
- Placed you in fear of imminent bodily injury **OR**
- Made you have sexual relations against your wishes by using force or threats of force

* *Any time period when the person who abused you was in jail or lived more than 100 miles from your home does not count as part of the 180 day period.*

4. Continued Threat of Abuse

You are in immediate danger of further abuse, **and** the person who abused you is a threat to the physical safety of you or your children.

Frequently Asked Questions

What is a FAPA restraining order?

A Family Abuse Prevention Act (FAPA) restraining order requires an abusive partner or family member to stay away from you and your children, stop contacting you, and move out of your home. A FAPA restraining order can also address temporary custody and parenting time for your children.

Where do I apply for a restraining order?

You apply for and file the restraining order in the circuit court in the county where you or the respondent live.

Does it cost anything?

No. There is no cost, filing fee, or service fee to obtain a restraining order in Oregon.

Who is the petitioner and who is the respondent?

You are the **petitioner** because you are asking (also known as petitioning) the court for a restraining order. The person you are getting the restraining order against is the **respondent** because they are responding to the allegations in the petition.

Where do I get the paperwork to apply for a restraining order?

Many counties have FAPA restraining order paperwork available at the courthouse. If your county does not have forms available at the courthouse, they can be found online at: courts.oregon.gov under the “self help” drop-down menu.

How do I fill out the paperwork?

Be specific when filling out the paperwork, but it is unnecessary to provide every detail of an incident. Court staff may be able to help you fill out the paperwork, but they cannot answer legal questions.

Do I have to disclose where I live?

No. You can use a contact address, such as a PO box or a friend’s address on the court paperwork. Just make sure the court always has a valid mailing address so you can receive important court notices in the mail.

What happens after I file the paperwork?

The court will schedule a hearing so that a judge can review your petition and verify that you meet the requirements for a FAPA restraining order (*see Requirements section*). This is an **ex parte** hearing, which means the respondent does not get notice.

What should I expect at the ex parte hearing?

The *ex parte* hearing will take place the same day that you apply for the restraining order or the next business day. At the hearing, the judge may ask you some questions about your petition. There may be other people in the courtroom waiting for the judge to review their restraining order paperwork, so check with your county to find out how long you should expect to be at the courthouse.

If you do not meet all the requirements for a FAPA, the judge will dismiss your restraining order. However, you may file a new petition if the respondent places you in fear of bodily injury, or physically or sexually abuses you again.

When does the order go into effect?

If the judge issues you a restraining order, the order becomes effective once the respondent is **served** (handed a copy of the restraining order).

How does the respondent get served?

After the *ex parte* hearing, the court clerk will provide you with copies of the protective order. Bring two copies of the protective order to the sheriff’s office and have them complete service. The sheriff’s office will attempt to serve the respondent that day or the next day. Alternatively, any adult over the age of 18 (other than yourself) may serve the respondent. Ask the court clerk for more information on how to properly serve someone. Once the respondent is served, law enforcement will enter the protective order into a statewide law enforcement database to ensure that all Oregon police agencies know about it.

Can the respondent object to the order?

The respondent has 30 days from the date he/she is served to request a **contested hearing**. At the **(continued on back...)**