

**FAMILY ABUSE PREVENTION ACT
INSTRUCTIONS AND FORMS FOR OBTAINING
A RESTRAINING ORDER**

PACKET NO. 1

Office of the State Court Administrator
Salem, Oregon

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**FAMILY ABUSE PREVENTION ACT
INSTRUCTIONS FOR OBTAINING A RESTRAINING ORDER**

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**FAMILY ABUSE PREVENTION ACT
INSTRUCTIONS FOR OBTAINING A RESTRAINING ORDER**

Packet No. 1

I. INTRODUCTION

This packet contains forms and instructions to assist you in obtaining a Restraining Order under the Family Abuse Prevention Act. The instructions are designed to give you complete, line-by-line information about how to fill out the forms. You can use the Table of Contents to find quickly the page number in the instructions where the form you are filling out is described.

A "Restraining Order" is an order of the court that orders the person named in the Restraining Order (the "respondent") to stop threatening or abusing you (the "petitioner") and to stay away from you. The order can give you temporary custody of the children and order the respondent to stop threatening or interfering with the children. The Restraining Order can order the respondent to move out of or stay away from your home and stay away from your job or school. The police are required to enforce a Restraining Order. A person who violates a Restraining Order can be arrested, tried for contempt of court or any crimes committed, and if found guilty, can be fined or put in jail.

If you have questions about how the law works or what it means, you may need to see a lawyer. The court clerk cannot give you any legal advice.

You do not have to have a lawyer to use this procedure, but you have the right to have a lawyer represent or help you. If you do not know a lawyer, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free by dialing 1-800-452-7636. If you believe you cannot afford a lawyer, ask the court staff if your area has a legal service (legal aid) program that might help you.

The Family Abuse Prevention Act is intended to provide for protection from abuse by family and household members. The particular individuals who qualify as "family or household members" are described in the box on the next page. You cannot use the Family Abuse Prevention Act forms and procedures for neighborhood or property line disputes or conflicts you have with persons other than family or household members.

If you are a minor (a person age 17 or younger), you may use these forms to obtain a Restraining Order against an adult person (a person age 18 or older) who is a spouse, former spouse, or a person with whom you have been involved in a sexually intimate relationship. However, you may need a guardian ad litem (adult, temporary guardian) appointed for you if you seek a Restraining Order against someone other than a spouse or former spouse. There are no forms in this packet for appointing a guardian ad litem. You should talk to a lawyer about whether you need a guardian and how to get one. Please refer to the box above for information on how to find a lawyer.

Not everyone is eligible for a Restraining Order under the Family Abuse Prevention Act. Check the eligibility list in the next section carefully to determine whether you are eligible to use the procedure and forms provided in this packet. If you are eligible, you may use the procedure whether or not you have left your residence or household to avoid abuse.

II. ELIGIBILITY

You are eligible to use this Restraining Order procedure if you are a victim of abuse committed within the 180 days* before the filing of the petition. The abuse must have occurred in one or more of the following ways:

- (1) you have been physically injured;
- (2) an attempt has been made to injure you physically;
- (3) you have been placed in fear of imminent bodily injury; or
- (4) you have been forced (by actual force or threat of force) to engage in sexual relations against your will.

(*Note: Any period of time after the abuse occurred during which the respondent was incarcerated (in jail or prison) or lived more than 100 miles from your home does not count as part of the 180-day time period, and you may be still eligible for a Restraining Order.)

AND

If you are an ADULT (age 18 or older) and the abuse was committed intentionally, knowingly, or recklessly by any one of the following persons:

- (1) the person you are married to;
- (2) a person you used to be married to;
- (3) the person with whom you presently cohabit or with whom you have cohabited;
- (4) a person with whom you have been involved in a sexually intimate relationship anytime within the last two years before you file the petition;
- (5) adults related to you by blood, marriage, or adoption (including in-laws, parents, adult children, aunts, uncles, adult grandchildren, and other relatives); or
- (6) a person not married to you with whom you have a child who is unmarried and under 18 years of age.

If you are a MINOR (age 17 or younger) and the abuse was committed intentionally, knowingly, or recklessly by any one of the following persons who are 18 years of age or older:

- (1) the person you are married to;
- (2) a person you used to be married to; or
- (3) a person with whom you have been involved in a sexually intimate relationship.

III. OUTLINE OF PROCEDURES AND GENERAL INFORMATION

A. Filing Papers

After you complete the forms as directed in these instructions, you should present them to the court clerk. There is no fee for filing papers under the Family Abuse Prevention Act.

B. First Hearing

The court is required to hold a hearing on the day you file your papers or the next day that the court is open for business. The hearing may be done in person or, in some courts, by telephone. There is no hearing fee.

If you have a disability and need special help at the hearing or you are unable to speak English and need a foreign language interpreter at the hearing, you must notify the clerk immediately. You will need to tell the clerk specifically what type of disability you have or which language you speak and what type of assistance you need or prefer.

C. Issuing the Restraining Order

If the judge decides that you are eligible for a Restraining Order and are in imminent danger of further abuse, the judge must issue a Restraining Order. What protection the judge includes in the Restraining Order depends on what you ask for in the Restraining Order and the information the judge receives at the hearing.

D. Order Lasts One Year

Once the judge signs the Restraining Order, it is in effect for one year unless it is ended earlier by the court at your request; or unless the court renews it at your request; or until the order is vacated or modified, whichever occurs first. Additionally, if and when a final decree or judgment in a dissolution, separation, annulment, or unmarried parents' custody case is entered, any conflicting provisions in a preexisting Restraining Order are superseded (have no effect). Provisions in a final decree which might conflict with the Restraining Order terms most likely involve custody or parenting time (visitation) terms, or the access to certain property or premises. A Restraining Order cannot later be changed by a temporary custody or parenting time (visitation) order in any of these other cases unless you first receive notice and an opportunity for a hearing.

E. Serving a Copy on Respondent

A copy of the Restraining Order must be given to ("served on") the person who has abused you. That person is called the "respondent." The order must be given to the respondent personally by the sheriff or other person who is qualified to serve legal papers unless the court finds that further service is unnecessary because the respondent appeared in person before the court and received the papers. See the section on "Serving the Respondent."

F. Hearing on Respondent's Request

Within 30 days after receiving the Restraining Order, the respondent has the right to ask for a hearing. If the respondent requests a hearing, the court must hold a hearing within 21 days following the request, except that if the respondent contests the temporary child custody provisions of the Restraining Order, a hearing must be held within five judicial days of the request. If the respondent is represented by an attorney at a hearing in which the temporary child custody provisions are contested, the time for the hearing may be extended for up to five judicial days at your request if you would also like to be

represented by an attorney. The judge may change or cancel the Restraining Order based on the information the judge receives at the second hearing.

The respondent may request a hearing by filling out the "Respondent's Request For Hearing" portion of the "Notice To Respondent/Request for Hearing" form (Form D), and filing that form with the court clerk.

G. Arrest for Violating the Restraining Order

The respondent can be arrested for violating the Restraining Order. The order will state the amount of security ("bail") to be posted if respondent is arrested for violating the order. The respondent will be released if he/she is able to post 10 percent of this bail amount but will still have to appear for trial. Violating a Restraining Order is contempt of court and is punishable by a fine of up to \$500 or 1 percent of respondent's annual gross income, whichever is greater, a jail term of up to six months, or both. Other sanctions may be imposed.

H. Important Terms

- Petitioner is the person seeking the protection of a restraining order.
- Respondent is the person restrained by the restraining order (the person who has abused you).
- Parenting time means visitation.

IV. COMPLETING THE FORMS

A. Forms

This packet contains seven forms. **The first five are those you need to complete to ask for a Restraining Order:**

- **Petition for Restraining Order to Prevent Abuse (Form A)**
- **Restraining Order (Form B)**
- **Affidavit of Proof of Service (Form C)**
- **Notice to Respondent/Request for Hearing (Form D)**
- **Certificate of Document Preparation (Form E) (If applicable.)**

The sixth form is an optional form to waive personal service if you are later charged with contempt of court for not following the child visitation or custody terms of the Restraining Order.

- **Petitioner's Waiver of Personal Service (Form F)**

The seventh form is an optional form to ask the court to end the Restraining Order early if you do not want the order to last a full year:

- **Petitioner's Motion and Order of Dismissal (Form G)**

The court clerk also has a different packet of forms and instructions that you may use:

- (1) to change (modify) those parts of the order that provide for custody and parenting time (visitation) of minor children (Packet No. 2), or
- (2) to ask the court to continue (renew) the Restraining Order for another year (Packet No. 3).

B. Use Black Pen

If you intend to complete the forms by hand, you should use black pen (blue does not show up well on copies) and print.

V. FILLING OUT THE PETITION FOR RESTRAINING ORDER TO PREVENT ABUSE (FORM A)

PAGE 1.

A. Caption (Heading at Top of Form)

Line 6. You must file the Petition in either the county where you reside (live) or the county in which the respondent resides (lives). If the name of the county is blank on the form, fill in the name of the county in which you are asking for a Restraining Order. If you do not know the name of the county, the clerk can give you this information at the time you get a case number.

Line 7. Write your name in the space on the left. (You are the "Petitioner.")

Line 8. Leave the "Case No. ____" space blank until the court clerk gives you a case number.

Line 10. Write in the name of the respondent (the person who has abused (hurt) you or threatened you and whom you want the court to order to stay away from you).

B. General Information

Lines 19 through 22. Write in the name of the county and state in which you live at line 20. Write in the name of the county and state where respondent lives at line 21. Write in your age and respondent's age at line 22.

C. Section 1

- Item A.** If you are or were married to the respondent, check the space at line 24. Check whether respondent is your current spouse or former spouse, and then write in the date of your marriage. If you are divorced from respondent, write in the date of your divorce at line 25.
- Item B.** If you are asking for a Restraining Order against an adult person related to you by blood, marriage, or adoption (other than your spouse), check the space at line 26 and write in the relationship of that person to you (for instance, father-in-law, sister-in-law, father, step-father, uncle, mother, child) on line 27.

PAGE 2.

- Item C.** If you are cohabiting with the respondent, check the space at line 1 and put in the date (as best you can remember it) you started cohabiting with the respondent.
- Item D.** If you are not cohabiting with the respondent now but used to, check the space at line 2 and write in the date (as best you can remember it) you began cohabiting with that person and the date you stopped cohabiting with that person.
- Item E.** If you are an adult (age 18 or older) and are asking for a Restraining Order against a person with whom you have been involved in a sexually intimate relationship within the last two years, check the space at line 3.
- Item F.** If you and the respondent are unmarried parents of a child (a child is an unmarried person who is under 18 years of age), check the space at line 4.
- Item G.** If you are a minor (age 17 or younger) and are asking for a Restraining Order against a person who is 18 years of age or older and with whom you have been involved in a sexually intimate relationship, check the space at line 5.

D. Section 2

- Item A.** If the respondent physically injured (hurt) you in the 180 days before filing this petition, check the space at line 9.
- Item B.** If the respondent tried to physically injure (hurt) you in the 180 days before filing this petition, check the space at line 10.
- Item C.** If the respondent has threatened you with additional bodily harm in the 180 days before filing this petition or has in some other manner made you afraid of imminent bodily harm in the 180 days before filing this petition, check the space at line 11.

Item D. If the respondent has, by force or threat of force, caused you to engage in sexual relations against your will (such as made you have sex or do sexual acts that you did not want to do) in the 180 days before filing this petition, check the space at line 12.

E. Section 3. Any period of time after the abuse occurred during which respondent was in jail or prison or lived more than 100 miles from your home is not counted as part of the 180-day period, and you may still be eligible for a Restraining Order.

Line 16. If the respondent was incarcerated (in jail or prison) after the abuse occurred, fill in the dates (as best you can remember) that respondent was incarcerated.

Lines 17 and 18. If the respondent lived more than 100 miles from your home after the abuse occurred, fill in the dates (as best you can remember) that respondent lived more than 100 miles from your home.

F. Section 4

Line 20. Circle the appropriate response to tell the court whether or not the abuse happened within the last 180 days, not including the times respondent was in jail or prison or lived more than 100 miles from your home.

Lines 22 and 23. Fill in the date and location of the abuse (when and where these things happened to you). Please include the state and county where the abuse occurred.

Lines 24 through 27. Please describe how you were abused, hurt, threatened, or forced to do sexual things you did not want to do by the respondent. Include any information that you believe shows that respondent intentionally, knowingly, or recklessly did these things.

PAGE 3.

G. Section 5

Lines 1 through 4. If there have been other incidents not described in your answers to question 4 in which respondent has hurt or threatened to hurt you, please describe those incidents.

H. Section 6

Lines 5 through 8. Describe why you feel you are in imminent danger of further abuse from the respondent and why the respondent is a threat to your physical safety or the physical safety of your child or children. For example, if the respondent recently threatened you with additional bodily harm, please describe what happened and when.

I. Section 7

Line 10. Circle the appropriate response to tell the court whether or not drugs, alcohol, or weapons were involved in the incidents you described above.

Line 11. Circle the appropriate response to tell the court whether or not you needed medical help in the incidents you described above.

Line 12. Circle the appropriate response to tell the court whether or not the police or the courts were involved in the incidents you described above.

Lines 13 through 15. If you circled "Yes" to any of the questions above, please explain in more detail in the blanks provided.

J. Section 8. You must tell the court whether certain other legal actions or court proceedings are pending (filed in a court but not yet decided or final).

Item A. Circle the appropriate response to tell the court whether there is or is not another Restraining Order pending between respondent and you at line 16. If there is another Restraining Order pending, write in the county and state where it is filed, and circle whether you are the "Petitioner" or the "Respondent" in that case at line 17. Fill in the court case number at line 19.

Item B. Circle the correct response to tell the court whether there is or is not another proceeding of the types listed pending between you and respondent at line 20. If there is another proceeding pending, write in the type of lawsuit, the case number, and the county and state where it is filed at lines 22 and 23.

Item C. If you and the respondent are not married and you have children, circle the appropriate response to tell the court whether or not the legal paternity of your children has been established at line 24. If legal paternity has been established, circle how it was established at lines 25 and 26. Please explain further at line 27.

PAGE 4.

K. Section 9

Item A. Please list the name and age of the children of respondent and you who are under 18 years of age at lines 2 through 5.

Item B. Write in the name and address of the person with whom the children are now living, and then fill in how long the children have been living with this person at lines 6 and 7.

- Item C.** Circle the appropriate response to tell the court whether or not you believe you will need the assistance of a peace officer to regain custody of your children from the respondent at line 9.
- Item D.** At line 10, circle the appropriate response to tell the court if there is or is not another custody or any other order now in effect concerning any of the children you listed above. If there is, write in the type and date of the order, the case number, and the county and state where the custody or other order is filed at lines 11 through 13.
- Item E.** Fill in the information about where the children listed in Item A. above have lived for the past five years and with whom at lines 16 through 27. Include the present address of the caretaker or caretakers, if known. Attach additional pages if necessary, and write "see attachment" in the blanks on lines 16 through 27.

PAGE 5.

- Item F.** If you have been involved as a party, witness, or in any other capacity in any other custody, parenting time or visitation lawsuits involving your children in this or any other state, you must identify the court, the case number, and the date of the child custody determination, if any, at lines 1 through 5.
- Item G.** If you know of any other custody, parenting time or visitation lawsuits concerning your children in this or any other state, you must identify the other lawsuits at lines 7 through 9. Please note that, by law, you have a continuing duty to keep the court informed of these matters.
- Item H.** If you know of a person, other than respondent, who has physical custody of your children or who claims custody, parenting time or visitation rights with the children, you must write in the name and address of that person at lines 11 through 14.
- Item I.** If your children have not lived in Oregon for the last six months, but you and your children are now present in Oregon and you want the court to award you custody of the children, please describe the emergency that makes this necessary or describe the information that is in Oregon that relates to the children at lines 17 through 21. Attach additional pages if necessary, and write in "see attachment" in the blanks at lines 17 through 21.
- L. Section 10.** You have the right, under the Family Abuse Prevention Act, to have the court order the respondent to move out only if:
- (1) the residence is solely in your name (for instance, rented or owned by you); or
 - (2) the residence is jointly owned or rented by you and respondent; or

- (3) you and the respondent are married to each other and the residence is where you and your spouse have been living.

If one of those statements is true for you AND you want the court to order the respondent to move out of the residence, circle the "do" response at line 24. Indicate whether your residence is owned, leased, or rented and fill in by whom at lines 25 and 26. If these statements are NOT true and/or you do NOT want the court to order the respondent to move out of the residence, circle the "do not" response at line 24.

You should not ask the court to order the respondent to move if:

- (1) you are living with, but not married to, the respondent or are not related to the respondent by blood, marriage, or adoption, and
- (2) the residence is solely in the respondent's name.

If the court orders the respondent to move out, the court may allow the respondent to return to your residence, on one occasion only, accompanied by a peace officer, to remove the "essential personal effects" (clothes or other necessary or important personal property) of the respondent or the "essential personal effects" of the respondent's children, if the respondent is the custodial parent of those children. "Essential personal effects" include, but are not limited to, such important personal items as clothing, toiletries, diapers, medications, social security cards, birth certificates, identification, tools of the trade, etc. It does NOT include property items such as televisions, furniture, etc.

PAGE 6.

M. Signature

Line 11. DO NOT SIGN THE PETITION YET. The petition is a sworn statement. You should sign your name in the blank at line 11 ONLY in front of a notary public or a court clerk.

Line 12. Clearly print or type your name on line 12.

Lines 14 through 20. The notary public or court clerk will fill in the blanks at lines 14 through 20.

Lines 22 through 27. If you sign and complete this form yourself, print or type your name, address, and telephone number, and check the blank next to "Petitioner." You may use a contact address and contact telephone number if you need to keep your residence address and telephone number confidential. Please note that for the purposes of the forms in this packet, "address" means a residence, mailing, or contact address in the same state as your home (the place where you live). (If your attorney completes this form, your attorney will mark the "Attorney" blank and will fill in his or her Oregon State Bar number, along with his or her name, address, and telephone number.)

VI. FILLING OUT THE RESTRAINING ORDER (FORM B)

The Restraining Order is the official court document which orders the person named in the order, the "respondent," to stop threatening or abusing you. The instructions below describe each paragraph in the Restraining Order form. You will be checking the blanks to the left of the paragraphs which have the language you would like the Restraining Order to contain. If the judge grants your request, he or she will initial the appropriate paragraphs on the right side of the Restraining Order form and will then sign the form at the bottom.

PAGES 1, 2 AND 3.

A. Caption (Heading at Top of Form)

Fill in the caption as directed on page 5 of these instructions. Be sure to include the case number on the right.

B. Judge's Findings

Do not fill in the rest of page 1 and pages 2 and 3; the court will complete these sections.

PAGE 4.

Under the Family Abuse Prevention Act, "**intimidate**" means to "act in a manner that would reasonably be expected to threaten a person in the petitioner's situation, thereby compelling or deterring conduct on the part of the person"; "**molest**" means to "act, with hostile intent or injurious effect, in a manner that would reasonably be expected to annoy, disturb, or persecute a person in the petitioner's position"; "**interfere**" means to "interpose in a manner that would reasonably be expected to hinder or impede a person in the petitioner's situation"; and "**menace**" means to "act in a manner that would reasonably be expected to threaten a person in the petitioner's situation."

- C. **Section 1.** If you want the respondent prohibited from intimidating, molesting, interfering with, or menacing you; or attempting to intimidate, molest, interfere with, or menace you, check the box at the left on line 3.
- D. **Section 2.** If you want the respondent prohibited from intimidating, molesting, interfering with, or menacing the minor children in your custody; or attempting to intimidate, molest, interfere with, or menace the minor children in your custody, check the box at the left on line 5 and write in the names of the children on lines 7 and 8.
- E. **Section 3.** If you want the respondent ordered by the court not to enter or attempt to enter your current or subsequent home, or your place of business, employment, school, or other place, check the box at the left at line 9 and then check as many boxes as fit your situation at the left of lines 11 through 17. If you check "Other locations," be sure to write in the other place(s) you want the respondent prohibited from entering or attempting to enter. Include the addresses of those locations unless you need to withhold the addresses for safety reasons. If you want the court to restrain the respondent from

entering or attempting to enter an area surrounding any of the premises named above, check the box at line 19 and then specifically describe the area surrounding each premise at lines 21 and 22. Attach additional pages if necessary, and write "see attachment" in the blanks at lines 21 and 22.

- F. Section 4.** If you want the respondent ordered by the court not to contact you or attempt to contact you in person or by telephone or by mail, check the box at line 23 and then check the appropriate boxes at the left on lines 25 through 27.

PAGE 5.

- G. Section 5.** If you want the respondent ordered by the court not to enter or attempt to enter the premises of the children's day care provider or the children's school, check the box at line 2 and then check the appropriate boxes at the left on lines 3 and 4.
- H. Section 6.** If you have the right to require the respondent to move from your residence (see pages 9 and 10 of these instructions), and you want the respondent to move, check the box at the left on line 5 and write in the address of the residence in the blank below.
- I. Section 7.** If you or your children left some "essential personal effects" (clothes or other necessary or important personal property) at your residence, you may request that the court order a peace officer to accompany you to your residence, on one occasion only, to remove those essential personal effects. "Essential personal effects" include, but are not limited to, such important personal items as clothing, toiletries, diapers, medications, social security cards, birth certificates, identification, tools of the trade, etc. When you return to your residence with the peace officer, the peace officer may remain for up to 20 minutes; however, the peace officer may temporarily stop the removal of any property at any time.

If you want the court to order a peace officer to accompany you to your residence to pick up these things, check the box at the left on line 11.

- J. Section 8.** If you want the court to award (give) you temporary custody of the minor children who were born to or adopted by you and the respondent, check the box at line 16 and list the names and ages of the children in the blanks provided at lines 18 through 22.

PAGE 6.

- K. Section 9.** If you want the court to award (give) the respondent temporary custody of minor children who were born to or adopted by you and the respondent, check the box at the left on line 2 and list the names and ages of the children in the blanks provided at lines 4 through 7.
- L. Section 10.** If you need a peace officer to assist in recovering custody of the children awarded to you, check the box at the left on line 8.

- M. Section 11.** Section 11 allows the judge to include in the Restraining Order other conditions the judge considers necessary to provide for your safety and welfare or for the safety and welfare of your children while in your custody or during parenting time (visitation) with the respondent. For example, the court can require the respondent not to possess or consume alcohol or other controlled substances during parenting time (visitation) with the children and for 24 hours preceding the parenting time (visitation); or, the court can require the respondent to pay all or a portion of the cost of supervised parenting time (visitation); or, the court can require the respondent to pay for a program the court determines the respondent must attend as a condition of parenting time (visitation); or, the court can require the respondent to pay an amount necessary to provide you with emergency monetary assistance.

If there are other conditions you would like the court to include in the Restraining Order, check the box at the left on line 12, and write in those conditions in the blanks at lines 12 through 20. If you need emergency monetary assistance, specify the amount needed and what the payment is needed for.

- N. Sections 12 through 19 generally.** Under the Family Abuse Prevention Act, the noncustodial parent is entitled to reasonable parenting time (visitation) with the children unless the court finds that parenting time (visitation) is not in the children's best interest. Any parenting time (visitation) ordered as part of the Restraining Order must also take into account your safety needs and the safety needs of the children in your custody.
- O. Section 12.** If you believe parenting time (visitation) between your children and the respondent would not be in the best interest of your children, check the box at the left on line 25. At lines 25 through 27, please explain why parenting time (visitation) by the respondent would not be in the best interest of the children.

PAGE 7.

- P. Sections 13 through 19.** If you believe it would be in the best interest of your children for the court to allow the respondent parenting time (visitation), please first take a moment to first read through the various types of parenting time (visitation) schedules described at page 7 of the Restraining Order. Choose the parenting time (visitation) schedule that works best for you by checking the appropriate box at the left at lines 2 through 13 on page 7.
- Q. Section 17.** If a different parenting time (visitation) schedule, other than the schedules described in Sections 13 through 16, is more appropriate for you, check the box at line 14 on page 7 of the Restraining Order, and fill in the parenting time (visitation) schedule you propose at lines 14 through 16.
- R. Section 18.** If you would like parenting time (visitation) details not covered in the order to be worked out through a third person instead of by the respondent contacting you, check the box at line 17, and fill in the name of that person at lines 18 and 19.

- S. Section 19.** If you would like the court to order the parent not awarded custody of the children to pick up and return the children for parenting time (visitation) at the curb or driveway of the residence of the parent with custody, check the box at line 20. If you would like the children to be picked up and returned at a location OTHER THAN the curb or driveway of the custodial parent's residence, fill in the name and address of the location where you would like the children to be picked up and returned at lines 21 and 22.

PAGE 8.

- T. Section 20.** If you believe that the respondent will be present in court at the first hearing and therefore will receive a copy of the Restraining Order at that hearing, check the box at the left on line 3. If the respondent does in fact appear in court at the first hearing and the judge initials Section 20 at the right margin of the Restraining Order, you will NOT need to serve the respondent with the Restraining Order and other papers again. Please see Section XIII. "Serving the Respondent" for more details.

Lines 6 through 21. Do not fill in these lines; the court will complete this section.

Lines 22 through 27. If you sign and complete this form yourself, print or type your name, address, and telephone number, and check the blank next to "Petitioner." You may use a contact address and contact telephone number if you need to keep your residence address and telephone number confidential. (If your attorney completes this form, your attorney will mark the "Attorney" blank and will fill in his or her Oregon State Bar number, along with his or her name, address, and telephone number.)

PAGE 9.

U. Relevant Data

Page 9. Under the heading "RELEVANT DATA" fill in the requested information on page 9 of the Restraining Order form.

This information helps the sheriff (or other person) identify the respondent when the person serves the order and helps police officers identify both you and the respondent when they enforce the order. You can also attach a photograph of the respondent to help the sheriff (or other person) identify the respondent.

If you wish to have your residential address or telephone number withheld from respondent, use a contact address and telephone number so the court and sheriff can reach you if necessary. You are responsible for making sure that all papers delivered to your contact address or agent are actually delivered to you. YOU MUST NOTIFY THE COURT OF ANY CHANGE OF ADDRESS.

VII. FILLING OUT THE AFFIDAVIT OF PROOF OF SERVICE (FORM C)

The purpose of the "Affidavit of Proof of Service" form (Form C) is to show the court that the Restraining Order and Petition were personally delivered to the respondent; that way, the court knows that the respondent is aware of what the court has ordered.

The "Affidavit of Proof of Service" form is designed to be filled out by the person who delivers the papers to the respondent. However, you may fill in the caption information now if you wish. For a description of "service," i.e., having legal papers "served" on the respondent, see Section XIII. "Serving the Respondent."

A. Caption (Heading at Top of Form)

Lines 6 through 10. Fill in the caption as directed on page 5 of these instructions. Be sure to include the case number on the right.

B. The Rest of the Form

The rest of the Affidavit of Proof of Service should be filled in only after the respondent has been served (see Section XIII. "Serving the Respondent"). If you have the sheriff's office or a private process server serve the Restraining Order on the respondent, the person who serves the order will fill in the rest of the blanks.

VIII. FILLING OUT THE NOTICE TO RESPONDENT/REQUEST FOR HEARING (FORM D)

The purpose of the "Notice To Respondent/Request for Hearing" form (Form D) is to give the respondent important information about the Restraining Order. This form must be attached to the copy of the Restraining Order served on the respondent.

PAGE 1.

A. Caption (Heading at Top of Form)

Line 6. Write in the name of the county in which you are asking for a Restraining Order.

Lines 7 through 9. Write in your name and your date of birth. When the clerk gives you a case number, write in the case number at the right on line 8.

Lines 11 through 13. Write in respondent's name and date of birth.

B. The Rest of the Form

Do not fill in the rest of the form. The respondent can use this form to request a hearing. If the respondent requests a hearing, the court will notify you of the date and time of the hearing and will send you a copy of the respondent's hearing request.

IX. FILLING OUT THE CERTIFICATE OF DOCUMENT PREPARATION FORM (FORM E)

If one or more of the completed forms in this packet do not bear the name and bar number of an attorney, you must complete and give to the court the "Certificate of Document Preparation" form (Form E), along with the rest of the papers you file.

A. Caption (Heading at Top of Form)

Lines 6 through 10. Fill in the caption as directed on page 5 of these instructions. Be sure to include the case number on the right.

B. The Rest of the Form

Line 14. If you selected and completed the forms yourself without assistance from an attorney and without paid assistance from a person who is not an attorney, check the blank at line 14.

Lines 15 and 16. If you paid or will pay money to a person who is not an attorney for assistance in preparing all the attached forms, check the blank at line 15 and write in that person's name.

Lines 17 through 19. If you paid or will pay money to another person who is not an attorney for assistance in preparing some but not all of the attached forms, check the blank at line 17, write in the name of that person, and then list the documents that person helped you with. If you paid more than one person to assist you in preparing the forms, please indicate who helped you with which forms.

Lines 21 through 25. Sign your name, write in the date, then type or print your name below. Fill in your address or contact address and telephone or contact telephone number.

X. FILLING OUT THE PETITIONER'S WAIVER OF PERSONAL SERVICE FORM (FORM F)

The "Petitioner's Waiver of Personal Service" form (Form F) is an optional form that allows you to make choices for proceedings that might occur after the Family Abuse Prevention Act Restraining Order is issued. For example, if you do not follow the child parenting time (visitation) or custody terms of the Restraining Order, you could be charged with contempt of court.

If you are later charged with contempt of court for violating (not following) the parenting time (visitation) or custody terms of the Restraining Order, you have a right to have notice of the charge personally "served" on you (actually delivered to you). If, however, you need to keep your residential address confidential and you are willing to waive personal service, you can choose a different method of service (service to a contact address, business address, or agent) by filling out the "Petitioner's Waiver of Personal Service" form (Form F).

This is an optional form. Fill out this form only if you are willing to waive your right to personal service if you are subsequently charged with contempt AND you would like to maintain the confidentiality of your residential address. You do NOT need to fill out this form to ASK FOR a Restraining Order.

A. Caption (Heading at Top of Form)

Lines 6 through 10. Fill in the caption as directed on page 5 of these instructions. Be sure to include the case number on the right.

B. The Rest of the Form

Lines 15 through 19. Mark the appropriate blank (mark **one** blank only) and fill in your contact mailing address, business address, or agent's address. You are responsible for making sure that all papers delivered to your contact address, business address, or agent's address are actually delivered to you.

Lines 21 and 22. Sign your name at line 21, write in the date, then clearly type or print your name on the line below your signature.

Lines 23 through 28. If you sign and complete this form yourself, print or type your name, address, and telephone number, and check the blank next to "Petitioner." You may use a contact address and telephone number if you want to keep your residence address confidential. (If your attorney completes this form, your attorney will mark the "Attorney for Petitioner" blank and will fill in his or her Oregon State Bar number, along with his or her name, address, and telephone number.)

XI. FILING YOUR PAPERS WITH THE COURT

A. Signing

After you have completed the "Petition for Restraining Order to Prevent Abuse" (Form A), the "Restraining Order" (Form B), portions of the "Affidavit of Proof of Service" (Form C), portions of the "Notice to Respondent/Request for Hearing" form (Form D), and, if applicable, the "Certificate of Document Preparation" form (Form E) and "Petitioner's Waiver of Personal Service" form (Form F) as described above, take these forms to the court clerk. If you have not yet signed the Petition, ask the clerk to watch you sign the Petition and to "acknowledge" your signature.

B. Case Number

When the clerk gives you a case number, be sure that the case number is written in the blank at the top right of each form.

C. Copies

The clerk will make the necessary number of certified true copies of the papers at no charge; one copy is for you to keep for your records.

XII. THE FIRST HEARING

The court is required to hold a hearing on the date you file your petition or on the next day the court is open for business. The hearing will be held in the courthouse or, in some courts, by telephone. The clerk will give you instructions about your hearing. The respondent usually is not present at this hearing.

If you have a disability and need special help at the hearing or you are unable to speak English and need a foreign language interpreter at the hearing, you must notify the clerk immediately. You will need to tell the clerk specifically what type of disability you have or which language you speak and what type of assistance you need or prefer.

XIII. SERVING THE RESPONDENT

If the court grants a Restraining Order, "true" copies of the Restraining Order and the Petition must be "served on" (personally delivered to) the respondent to inform the respondent that the Restraining Order exists (it tells the person what the court has ordered). The sheriff's office will serve the papers on the respondent unless you elect to have the respondent served personally by a private (commercial) process server or by another qualified adult. Additionally, in some limited circumstances, a peace officer who is called to the scene of a domestic disturbance may serve the Restraining Order and Petition on the respondent. You, the petitioner, cannot serve the respondent.

There is no service fee when the sheriff's office serves the order. If you arrange to have a private process server serve the papers, you will need to pay any fees to that person.

If the respondent was present at the first hearing and received a copy of the papers at the hearing, the court might decide that no further service is necessary. If that occurred, look at item 20 on page 8 of the Restraining Order (Form B) to see if the judge initialed that paragraph. If so, the respondent does not need another copy of the papers, and you can skip to the next section of these instructions, Section XIV. "What Happens After the Restraining Order is Served."

A. Service by Sheriff

The law requires the court clerk to have a set of "true" copies of the papers delivered to the sheriff's office to be served on the respondent. However, you may deliver the papers to the sheriff. Let the court clerk know if you are willing to deliver the papers to the sheriff's office.

If the sheriff's office serves the papers, that office will finish completing the Affidavit of Proof of Service form (Form C) and file it with the court.

If the sheriff cannot serve the respondent within ten days after accepting the Restraining Order and Petition, the sheriff will notify you by mail. You then have ten days to give the sheriff's office additional information to help the sheriff find and serve the respondent. If you do not respond within ten days of the sheriff's notice to you, the sheriff will hold the Restraining Order and Petition for future service and file a return with the court clerk showing that service was not completed.

B. Private Service

The Restraining Order and Petition can be served by someone other than the sheriff. Any person (except yourself, your attorney, or your employee) who is mentally competent, 18 years of age or older, and a resident of Oregon or of the state of service may serve the papers. If you have someone other than the sheriff serve the papers, be sure that:

- (1) the person who served the respondent completes the "Affidavit of Proof of Service" and signs it only in front of a notary public or the court clerk;
- (2) the notary public notarizes or court clerk "acknowledges" the signature of the person signing the affidavit; and
- (3) the Affidavit of Proof of Service (Form C) is filed with the court clerk.

If you have a friend or other person serve the Order, that person should follow these instructions to fill out the Affidavit of Proof of Service form (Form C) after the person serves the Order on the respondent:

Lines 6 through 10. If not filled in already, fill in the caption information as directed on page 5 of these instructions. Be sure to include the case number.

Line 13. Fill in the county where the process server signed the affidavit.

Line 16. Fill in the date the respondent was served.

Line 18. Fill in the county and state where the respondent was served.

Lines 20 through 22. **THE PERSON WHO SERVED THE RESTRAINING ORDER ON THE RESPONDENT SHOULD SIGN THIS AFFIDAVIT ONLY IN FRONT OF A NOTARY PUBLIC OR THE COURT CLERK.** That person should print or type his or her name in the blank under the signature line and then fill in his or her address and telephone number.

Lines 24 through 27. The notary public or court clerk will complete these lines.

XIV. WHAT HAPPENS AFTER THE RESTRAINING ORDER IS SERVED

A. Entering the Restraining Order Into the Law Enforcement Computer

If the sheriff serves the papers on the respondent, the sheriff will enter the information from the Restraining Order into the law enforcement computer. After the information is entered in the law enforcement computer, police anywhere in the state can find out about the Restraining Order. If the Restraining Order meets certain federal requirements, the sheriff will also enter the Restraining Order into a national computer so that law enforcement officers anywhere in the country can find out about the Restraining Order.

If you have the papers served by someone other than the sheriff's office, you must make sure that the Affidavit of Proof of Service (Form C) is filed with the court clerk. The court clerk will then forward the papers to the sheriff's office so that the information can be entered into the law enforcement computer. If you don't want to wait for the court clerk to forward the papers to the sheriff, you can deliver a true copy of the Affidavit of Proof of Service and a true copy of the Petition and Restraining Order yourself to the sheriff's office, or you can arrange to have these papers delivered to the sheriff's office by a private person. Let the clerk know if you plan to deliver the papers to the sheriff yourself or by arrangement with a private person.

If the sheriff decides that the Restraining Order and Petition are incomplete, the sheriff will return the papers to the court clerk. The court clerk then will notify you by mail concerning the error or problem.

B. The Respondent's Right to Ask for a Hearing

Within 30 days after the order is served, the respondent (the person the court ordered to be restrained) has the right to ask for a hearing on the Restraining Order. The respondent may request a hearing by filling out the "Respondent's Request For Hearing" portion of the "Notice To Respondent/Request for Hearing" form (Form D) and filing that form with the court clerk.

If the respondent requests a hearing, the court clerk will supply you with a copy of the respondent's request for hearing and notify you of the date and time of the hearing. The hearing will be held within 21 days of the respondent's request or within five judicial days if the respondent is contesting a child custody provision (not parenting time or visitation). Both you and the respondent should be present at the hearing. If the respondent does not appear, the order will most likely remain in effect. **If you (the petitioner) do not appear, the order may be canceled.**

If a hearing is held, the hearing need not be limited to the issues (information) the respondent raised (brought up) in the request for hearing form. However, if the respondent raises issues at the hearing that were not previously raised in the request for hearing form, you are entitled to a reasonable continuance to allow you additional time to prepare a response (answer) to the new issues that the respondent has raised. Likewise, if you ask for relief at the hearing on items that were not granted in the original Restraining Order, the respondent has the right to ask for a continuance for the purpose of preparing a response (answer) to those new issues.

If the respondent contests temporary custody of the children, a hearing will be held within five judicial days of the respondent's request for hearing. If the respondent is represented

by an attorney, time for the hearing may be extended for up to five judicial days at your request so that you may seek representation.

At the hearing the judge may modify (change) the Restraining Order, terminate (end) it, or leave it as it is. The Restraining Order remains in effect for one year unless it is ended earlier by the court at your request; or unless the court renews it at your request; or until the order is vacated or modified, whichever occurs first. Additionally, if and when a final decree or judgment in a dissolution, separation, annulment, or unmarried parents' custody case is entered, any conflicting provisions in a preexisting Restraining Order are superseded (have no effect). A Restraining Order cannot later be changed by a temporary custody or parenting time (visitation) order in any of these other cases unless you first receive notice and an opportunity for a hearing.

C. Enforcement of the Restraining Order

If the police have probable cause (good reason) to believe that the respondent has violated (disobeyed) the Restraining Order, they must arrest the respondent. It is not always necessary that the police see a violation of the Restraining Order before making an arrest. They can arrest based on other reliable information available to the police. You also can ask the district attorney to prosecute (bring legal charges against) the respondent for violating a Restraining Order. Unless you terminate (end) the Restraining Order or until it ends after the one year, the police may arrest the respondent even if you call the police to report that respondent has violated the order and then change your mind, or if someone other than you calls about a violation, or even if the police see you and respondent together or otherwise believe you are back together. If you plan to travel to or move to another state and would like to take a copy of the Oregon Restraining Order with you, the court clerk will provide, on request and free of charge, two exemplified copies of the Restraining Order.

XV. FILLING OUT THE PETITIONER'S MOTION AND ORDER OF DISMISSAL (FORM G)

You have the right to ask the court to end a Restraining Order early.

A Restraining Order under the Family Abuse Prevention Act is in effect (lasts) for one year (365 days) from the date the judge signs it. If you want the Restraining Order to end before the year's time is up, use the form called "Petitioner's Motion and Order of Dismissal" (Form G). (If you are ASKING for a Restraining Order, do NOT fill out Form G.)

A. Caption (Heading at Top of Form)

Lines 6 through 10. Fill in the caption as directed on page 5 of these instructions. Be sure to include the case number on the right.

B. Rest of the Form

Line 13. Fill in your name as you have it listed in the caption.

Line 16. DO NOT SIGN THE MOTION AND ORDER OF DISMISSAL YET. This document must be notarized. You should sign your name in the blank at line 16 ONLY in front of a notary public or a court clerk. After you sign your name, clearly print your name on the line below.

Lines 18 through 21. The notary public or court clerk will fill in these lines.

Lines 22 through 27. Do not fill in these lines; the court will complete this section.

Line 28 to the bottom of the page. Skip down to the bottom of the form. If you sign and complete this form yourself, print or type your name, address, and telephone number, and check the blank next to "Petitioner." You may use a contact address and contact telephone number if you need to keep your residence address and telephone number confidential. (If your attorney completes this form, your attorney will mark the "Attorney" blanks and will fill in his or her Oregon State Bar number, along with his or her name, address, and telephone number.)

If an attorney did not prepare or assist you to complete this form, you must also complete and give to the court the "Certificate of Document Preparation" form (Form E) included in this packet. Please refer to Section IX. "Filling Out the Certificate of Document Preparation (Form E).

Present the "Petitioner's Motion and Order of Dismissal" form (Form G) and, if applicable, the "Certificate of Document Preparation" form (Form E) to the court clerk.

Once the judge has signed the "Petitioner's Motion and Order of Dismissal" form (Form G), the court clerk will send a copy to the sheriff's office. You must give or mail a copy to the respondent. The sheriff's office will take the information about the Restraining Order out of the law enforcement computer, and the police will no longer enforce the Restraining Order.

XVI. CONTINUING OR CHANGING THE RESTRAINING ORDER

Restraining orders under the Family Abuse Prevention Act are effective (last) for a period of one year (365 days) from the date they are signed (unless it is ended earlier at your request; or until the order is modified; or until the order is superseded by a decree of annulment, dissolution or separation). You may continue the Restraining Order beyond one year if you request the court to renew the order for another year. You and the respondent each have the right to ask the court to modify (change) the Restraining Order provisions that deal with custody and parenting time (visitation) of minor children at any time. The court clerk has forms and instructions for you to use if you want to continue or modify the Restraining Order. Ask the court clerk for Packet No. 2, containing forms and instructions for modifying (changing) the Restraining Order, or Packet No. 3, containing forms and instructions for continuing (renewing) the Restraining Order.

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MALHEUR

_____)	
)	
Petitioner (your name),)	Case No. _____
)	
vs.)	PETITION FOR
)	RESTRAINING ORDER
_____)	TO PREVENT ABUSE
)	(Family Abuse Prevention Act)
Respondent (person to be restrained).)	

YOU MUST PROVIDE COMPLETE AND TRUTHFUL INFORMATION. IF YOU DO NOT, THE COURT MAY DISMISS ANY RESTRAINING ORDER AND MAY ALSO HOLD YOU IN CONTEMPT OF COURT.

If you wish to have your residential address or telephone number withheld from respondent, use a contact address and telephone number so the court and the sheriff can reach you if necessary.

ATTACH ADDITIONAL PAGES IF NECESSARY.

I am the Petitioner and I state that the following information is true:

I am a resident of _____ County, state of _____.

Respondent is a resident of _____ County, state of _____.

I am _____ years of age and Respondent is _____ years of age.

1. CHECK AND FILL OUT OR CIRCLE THE SECTION(S) that apply to you and respondent:

___ A. Respondent is my ___ spouse ___ former spouse. We were married on _____ (date).
 We were divorced on _____ (date).

___ B. Respondent and I are adults related by blood, marriage, or adoption. Respondent is my
 _____ (type of relationship).

- 1 ___ C. Respondent and I have been living together since _____.
- (date)
- 2 ___ D. Respondent and I lived together from _____ to _____.
- (date) (date)
- 3 ___ E. Respondent and I have been involved in a sexually intimate relationship within the last two years.
- 4 ___ F. Respondent and I are the unmarried parents of a child.
- 5 ___ G. I am a minor and have been involved in a sexually intimate relationship with respondent who is 18 years of
- 6 age or older.

7 2. To qualify for a restraining order, respondent must have done one or more of the following:

8 Within the last 180 days, respondent has:

- 9 ___ A. Caused me bodily injury.
- 10 ___ B. Attempted to cause me bodily injury.
- 11 ___ C. Placed me in fear of imminent bodily injury.
- 12 ___ D. Caused me to engage in involuntary sexual relations by force or threat of force.

13 3.

16 Respondent was incarcerated from _____ to _____.

(date) (date)

17 Respondent lived more than 100 miles from my home from _____.

(date)

18 _____.

(date)

19 4. Did the abuse happen within the last 180 days not including the times respondent was incarcerated (in jail or

20 prison) or lived more than 100 miles from your home? Yes No

21

22 Date and location of abuse: _____

23

24 How did respondent hurt or threaten you?

25

26

27

1 5. Are there incidents other than those described in question 4. above in which respondent has hurt or threatened to
2 hurt you? If yes, explain: _____

3 _____
4 _____

5 6. I am in imminent danger of further abuse by respondent and the respondent is a threat to my physical safety or
6 the physical safety of my child or children because: _____

7 _____
8 _____

9 7. In any of the above incidents:

10 Were drugs, alcohol, or weapons involved? Yes No

11 Did you need medical help? Yes No

12 Were the police or the courts involved? Yes No

13 If you have circled yes to any of the above questions, explain: _____

14 _____
15 _____

16 8. A. There (is) (is not) another **restraining order** pending between respondent and me. It is filed in
17 _____ (County), _____ (State), and I am (Petitioner) or (Respondent)
18 in that case.

19 The case number of that case is: _____

20 B. There (is) (is not) another **lawsuit** pending between respondent and me for divorce, annulment, legal
21 separation, filiation (paternity), custody, parenting time or visitation.

22 If yes, type of lawsuit: _____ Case number: _____

23 It is filed in _____ (County), _____ (State).

24 C. If you and respondent are unmarried, has legal paternity of your children been established? Yes No

25 In what way? Birth certificate Child support proceeding

26 Paternity lawsuit Other _____

27 Explain: _____

1 9. A. The child(ren) of respondent and me who are under 18 years of age are:
 2 Name _____ Age _____
 3 Name _____ Age _____
 4 Name _____ Age _____
 5 Name _____ Age _____

6 B. The child(ren) are now living with _____, at _____
 7 _____ (address). For how long? _____

8 C. I believe that I will need the assistance of a peace officer to regain custody of my child(ren) from
 9 respondent. Yes No

10 D. Is there a custody or any other order now in effect concerning any of these children? Yes No
 11 Type of order: _____ Date of order: _____
 12 The case number is: _____ and it is filed in _____ (County),
 13 _____ (State).

14 E. Where have the child(ren) listed in A. above lived for the last five years and with whom?

	<u>Dates</u>	<u>County/State</u>	<u>Lived With</u>	<u>Present Address of Caretaker</u>
16	Child 1 (Name): _____			
17	From: _____ To: _____	_____	_____	_____
18	From: _____ To: _____	_____	_____	_____
19	Child 2 (Name): _____			
20	From: _____ To: _____	_____	_____	_____
21	From: _____ To: _____	_____	_____	_____
22	Child 3 (Name): _____			
23	From: _____ To: _____	_____	_____	_____
24	From: _____ To: _____	_____	_____	_____
25	Child 4 (Name): _____			
26	From: _____ To: _____	_____	_____	_____
27	From: _____ To: _____	_____	_____	_____

1 F. I have not been involved as a party, witness, or in any other capacity in any other custody, parenting time
2 or visitation lawsuits concerning the children in this or any other state except: _____

3 _____
4 _____
5 _____

6 G. I know of no other custody, parenting time or visitation lawsuits concerning the children in this or any other
7 state except: _____

8 _____
9 _____

10 H. I know of no one, other than respondent, who has physical custody of the children or who claims custody,
11 parenting time or visitation rights with the children, except: _____

12 _____
13 _____
14 _____

15 I. My children have not lived in Oregon for the last six months but my children and I are now present in
16 Oregon and I want the court to award me custody because (describe the emergency that makes this
17 necessary or information that is in Oregon that relates to the children): _____

18 _____
19 _____
20 _____
21 _____

22 10. Respondent may be required to move from your residence if it is in your sole name, or if it is jointly owned or

23

24 My residence is: Owned Leased Rented

25 By: _____

26
27

1 PETITIONER MUST NOTIFY THE COURT OF ANY CHANGE OF ADDRESS. ALL NOTICES OF HEARING WILL BE
2 SENT TO THIS ADDRESS AND DISMISSALS MAY BE ENTERED IF YOU DO NOT APPEAR AT A SCHEDULED
3 HEARING.

4 *If you wish to have your residential address or telephone number withheld from respondent, use a*
5 *contact address and telephone number so the court and the sheriff can reach you if necessary.*

6
7 PETITIONER ASKS THE COURT TO GRANT THE RELIEF INDICATED IN THE "PETITIONER'S REQUEST"
8 COLUMN OF THE PROPOSED RESTRAINING ORDER, WHICH IS ATTACHED, AND SUCH OTHER RELIEF AS
9 THE COURT DEEMS APPROPRIATE.

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Signature of Petitioner

Print or Type Name of Petitioner

STATE OF OREGON)
) ss.
County of _____)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 200____,
(month) (year)
by _____
(Print Name of Petitioner)

NOTARY PUBLIC FOR OREGON/COURT CLERK
My commission expires: _____

Submitted by: _____
Print Name

____ Petitioner
____ Attorney for Petitioner; OSB No. _____

Address or Contact Address

City State Zip

Telephone or Contact Telephone Number(s)

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IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF _____

_____)	
)	
Petitioner (your name),)	Case No. _____
)	
vs.)	RESTRAINING ORDER
)	TO PREVENT ABUSE
_____)	(Family Abuse Prevention Act)
)	
Respondent (person to be restrained).)	

TO THE RESPONDENT:

VIOLATION OF THIS RESTRAINING ORDER MAY RESULT IN YOUR ARREST AND IN CIVIL AND/OR CRIMINAL PENALTIES.

THIS ORDER IS ENFORCEABLE IN EVERY STATE.

REVIEW THIS ORDER CAREFULLY. EACH PROVISION MUST BE OBEYED.

SEE YOUR RIGHTS TO A HEARING.

The court, having reviewed the petition, makes the following findings:

JUDGE'S INITIALS

1. Petitioner and respondent are related as follows (initial all that apply):
 - A. Petitioner and respondent are spouses. _____
 - B. Petitioner and respondent are former spouses. _____
 - C. Petitioner and respondent are adult persons related by blood, marriage or adoption. _____
 - D. Petitioner and respondent are cohabiting or have cohabited with each other. _____
 - E. Petitioner and respondent have been involved in a sexually intimate relationship with each other within the last two years. _____
 - F. Petitioner and respondent are unmarried parents of a child. _____
 - G. Petitioner is a minor and has been involved in a sexually intimate relationship with respondent who is 18 years of age or older. _____

1 2. Additional findings:

2 A. Petitioner has been abused by respondent as defined in ORS 107.705. _____

3 B. The abuse of petitioner by respondent occurred within the last 180 days as provided in _____
4 ORS 107.710.

5 C. Respondent represents a credible threat to the physical safety of petitioner or petitioner's _____
6 child and there is an imminent danger of further abuse to petitioner.

7 D. If there are children, Oregon has jurisdiction over the issue of the custody of the children _____
8 under ORS 109.701 to 109.834, on the following grounds:

9 a. Oregon is the **home state** of the child(ren) on the date this proceeding was _____
10 _____commenced; or

11 Oregon was the **home state within six months** before this proceeding was _____
12 commenced and the child is absent from the state, but a parent or person acting
13 as a parent continues to live in Oregon under ORS 109.741(1)(a).

14 b. **No other state has home state jurisdiction** under ORS 109.741(1)(a); or _____
15 The home state of the child _____ (name) has declined _____
16 jurisdiction and the child's parents have, or one of the child's parents or a person
17 acting as a parent has, a significant connection with Oregon and substantial evidence
18 is available here concerning the child's care, protection, training and personal
19 relationships under ORS 109.741(1)(b).

20 c. All courts having jurisdiction under home state grounds under ORS 109.741(1)(a), _____
21 or significant connections grounds under ORS 109.741(1)(b), have declined to
22 exercise jurisdiction under ORS 109.741(1)(c).

23 d. No court of any other state has jurisdiction under ORS 109.741(1)(a), (b), or (c). _____
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- e. **Emergency grounds exist** for the exercise of temporary emergency jurisdiction _____
because the child is present in this state and has been abandoned; or
Emergency grounds exist for the exercise of temporary emergency jurisdiction _____
because it is necessary to protect the child because the child, or a sibling or parent
of the child, is subjected to or threatened with mistreatment or abuse under
ORS 109.751.
- f. Because a previous child custody, parenting time, guardianship or juvenile _____
dependency **determination has been made** in _____ (State/
Tribe/Country), the custody and parenting time provisions in this order remain in effect
for one year or until _____ (State/Tribe/Country) issues an
order, whichever occurs first;
Because a child custody, parenting time, guardianship, or juvenile dependency _____
proceeding has been commenced in _____ (State/Tribe/
Country), the custody and parenting time provisions in this order remain in effect for
one year or until _____ (State/Tribe/Country) issues an order,
whichever occurs first; or
No child custody, parenting time, guardianship or juvenile dependency determination _____
has been issued or proceeding commenced in another state, tribe or country having
jurisdiction under ORS 109.701 to 109.834. The custody and parenting time
provisions in this order shall become a final determination for purposes of
ORS 109.701 to 109.834, if Oregon becomes the home state of the child.

1 **IT IS HEREBY ORDERED that:**

2 Petitioner's Request

JUDGE'S INITIALS

3 1. Respondent is restrained (prohibited) from intimidating, molesting, interfering with or _____
4 menacing petitioner; or attempting to intimidate, molest, interfere with or menace petitioner.

5 2. Respondent is restrained (prohibited) from intimidating, molesting, interfering with _____
6 or menacing any minor children in petitioner's custody; or attempting to intimidate,
7 molest, interfere with or menace any minor children in petitioner's custody: _____
8 _____

9 3. Respondent is restrained (prohibited) from entering or attempting to enter: _____
10 (Include names and addresses unless withheld for safety reasons.)

11 Petitioner's current or subsequent residence. _____
12 _____

13 Petitioner's business or place of employment. _____
14 _____

15 Petitioner's school. _____
16 _____

17 Other locations. _____
18 _____

19 The area surrounding petitioner's current or subsequent residence or petitioner's _____
20 school, business, place of employment or other named premises described as follows
21 (specifically describe the area): _____
22 _____

23 4. Except as otherwise specified in the parenting time provisions herein, respondent is
24 restrained (prohibited) from:

25 Contacting, or attempting to contact, petitioner in person. _____

26 Contacting, or attempting to contact, petitioner by telephone. _____

27 Contacting, or attempting to contact, petitioner by mail (except to send a
court-ordered emergency monetary assistance payment(s)). _____

1 Petitioner's Request

JUDGE'S INITIALS

2 5. Respondent is restrained (prohibited) from entering or attempting to enter:

3 The premises of the children's day care provider. _____

4 The children's school. _____

5 6. Respondent shall move from and not return to the residence located _____

6 at _____ except with a peace officer in order

7 to remove essential personal effects of the respondent, and if the respondent is the

8 custodial parent, essential personal effects of respondent's children, including, but not

9 limited to: clothing, toiletries, diapers, medications, social security cards, birth

10 certificates, identification, and tools of the trade.

11 7. A peace officer shall accompany the petitioner to the parties' residence in order to _____

12 remove essential personal effects of petitioner, and if the petitioner is the custodial parent,

13 essential personal effects of the petitioner's children, including, but not limited to: clothing,

14 toiletries, diapers, medications, social security cards, birth certificates, identification, and

15 tools of the trade.

16 8. Petitioner is awarded custody of the following children of the parties, subject to the _____

17 parenting time terms set forth below.

18 Name: _____

Name: _____

19 Age: _____

Age: _____

21 Name: _____

Name: _____

22 Age: _____

Age: _____

1 Petitioner's Request

JUDGE'S INITIALS

2 9. Respondent is awarded custody of the following children of the parties, _____
3 subject to the parenting time terms set forth below.

4 Name: _____ Name: _____

5 Age: _____ Age: _____

6 Name: _____ Name: _____

7 Age: _____ Age: _____

8 10. **A peace officer of the county or city in which the children are located shall assist _____**
9 **in recovering the custody of the children of the above parties whose custody has**
10 **been awarded to petitioner. The peace officer is authorized to use any reasonable**
11 **force necessary to that end.**

12 11. Other relief: _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____
20 _____
21 _____

22 **IT IS FURTHER ORDERED** that the party not awarded custody shall be allowed parenting time as
23 set forth below:

24 Petitioner's Request

JUDGE'S INITIALS

25 12. NO PARENTING TIME due to _____
26 _____
27 _____

1 Petitioner's Request

JUDGE'S INITIALS

2 13. SUPERVISED PARENTING TIME: Three hours per week, _____

3 Supervised by: _____

4 As follows (day of week, location, times): _____

5 _____

6 14. Once per week on _____ (day) from _____ a.m./p.m. _____

7 to _____ a.m./p.m.

8 15. On the FIRST and THIRD weekends of each month from 7:00 p.m. Saturday to _____

9 7:00 p.m. Sunday. The first weekend is the one in which both Saturday and Sunday are

10 in the new month.

11 16. On the FIRST and THIRD weekends of each month from 7:00 p.m. Friday to _____

12 7:00 p.m. Sunday. The first weekend is the one in which both Saturday and Sunday are

13 in the new month.

14 17. OTHER PARENTING TIME AS FOLLOWS: _____

15 _____

16 _____

17 18. Parenting time details not provided for in this ORDER, including the days or hours of _____

18 parenting time, shall be arranged through _____

19 _____

20 19. The parent not awarded custody will pick up and return the children at the curb, or _____

21 driveway if no curb, of the residence of the custodial parent or at _____

22 _____ (name

23 and address of different location) no more than 15 minutes early nor 15 minutes late.

24 IF RESPONDENT IS NOT AWARDED CUSTODY AND IF RESPONDENT IS OTHERWISE PROHIBITED FROM
25 BEING AT PETITIONER'S RESIDENCE, RESPONDENT MAY BE AT THE CURB, OR DRIVEWAY IF NOT CURB,
26 OF PETITIONER'S RESIDENCE FOR A MAXIMUM OF FIVE MINUTES AT THE PARENTING TIME HOUR
27

1 SPECIFIED IN THE ORDER TO PICK UP OR RETURN THE CHILDREN OR AT ANY OTHER TIME THE PARTIES
2 AGREE TO.

3 20. No further service is necessary because respondent appeared in person before _____
4 the court.

5
6 **IT IS FURTHER ORDERED** that:

7 SECURITY AMOUNT FOR VIOLATION OF ANY PROVISION OF THIS ORDER IS \$5,000 unless otherwise
8 specified.

9 Other Amount (\$ _____)

10 THE ABOVE PROVISIONS OF THIS RESTRAINING ORDER ARE IN EFFECT FOR A PERIOD OF ONE
11 YEAR (UNLESS RENEWED BEFORE IT EXPIRES) OR UNTIL THE ORDER IS VACATED, MODIFIED,
OR SUPERSEDED, WHICHEVER OCCURS FIRST.

12 IT IS HEREBY ORDERED that:

13 The Petition for Restraining Order to Prevent Abuse is dismissed. _____
14 _____
15 _____.

16
17 DATED this _____ day of _____, 200__.
18 (month) (year)

19 _____
20 JUDGE (Signature)

21 _____
22 Print, Type or Stamp Name of Judge

23 Submitted by: _____
24 Print Name
____ Petitioner
25 _____ Attorney for Petitioner; OSB No. _____
26 _____
Address or Contact Address
27 _____
City State Zip

Telephone or Contact Telephone Number(s)

1 **RELEVANT DATA**

2 RESPONDENT _____ Sex _____ Telephone # _____

3 Residence Address _____

4 City/State/Zip _____ County _____

5 Birth Date _____ Age _____ Race _____

6 Height _____ Weight _____ Hair Color _____ Eye Color _____

7 PETITIONER (you) _____ Sex _____ *Telephone # _____

8 *Residence Address _____

9 City/State/Zip _____ County _____

10 Birth Date _____ Age _____ Race _____

11 Height _____ Weight _____ Hair Color _____ Eye Color _____

12 *If you wish to have your residential address or telephone number withheld from respondent, use a contact address and telephone number so the court and the sheriff can reach you if necessary.

13 **PLEASE FILL OUT THIS INFORMATION**

14 **TO AID IN SERVICE OF THE RESTRAINING ORDER**

15 Where is respondent most likely to be located?

16 Residence Hours _____

17 Employment Hours _____ Address: _____

18 Other Hours _____ Address: _____

19 Description of vehicle _____

20 Does respondent have any weapons or access to weapons? EXPLAIN: _____

21 Has respondent ever been arrested for or convicted of a violent crime? EXPLAIN: _____

22 Is there anything about respondent's character, past behavior, or the present situation that indicates that respondent
23 may be a danger to self or others? EXPLAIN: _____

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IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF _____

_____)	
_____)	
Petitioner,)	Case No. _____
_____)	
vs.)	AFFIDAVIT OF PROOF
_____)	OF SERVICE
_____)	(Family Abuse Prevention Act)
Respondent.)	

STATE OF OREGON)
) ss.
 County of _____)

I am a resident of the state of Oregon or of the state of service. I am a competent person 18 years of age or older. I am not an attorney for or a party to this case, or an officer, director, or employee of any party to this case.

On the _____ day of _____, 200__, I served the Restraining Order to Prevent Abuse (month) (year) and the Petition for Restraining Order to Prevent Abuse in this case personally upon the above-named respondent in _____ County, state of _____, by delivering to the respondent a copy of those papers, each of which was certified to be a true copy of each original.

_____	_____
Signature of Process Server	Address
_____	_____
Print or Type Name of Process Server	City State Zip

	Telephone Number(s)

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 200__, by _____ (month) (year) (Print Name of Process Server)

NOTARY PUBLIC FOR OREGON/COURT CLERK
My Commission Expires: _____

1 IF YOU DO NOT REQUEST A HEARING WITHIN THE TIME ALLOWED BY LAW, THIS RESTRAINING ORDER WILL BE CONFIRMED
2 BY OPERATION OF LAW. THAT MEANS THAT THIS RESTRAINING ORDER WILL CONTINUE IN EFFECT AS ISSUED BECAUSE
3 YOU HAVE BEEN GIVEN BUT HAVE NOT EXERCISED YOUR RIGHTS TO REQUEST AND PARTICIPATE IN A HEARING. OREGON
4 LAW CONSIDERS THIS CONFIRMATION SUFFICIENT TO MEET THE REQUIREMENTS OF FEDERAL LAW THAT MAY PROHIBIT
5 YOU FROM POSSESSING A FIREARM OR FIREARM AMMUNITION WHILE THIS RESTRAINING ORDER IS IN EFFECT.
6

7
8 KEEP IN MIND THAT THE RESTRAINING ORDER YOU HAVE RECEIVED IS IN EFFECT AND REMAINS IN EFFECT UNTIL THE
9 COURT THAT ISSUED THE ORDER MODIFIES IT OR DISMISSES IT OR UNTIL IT EXPIRES. THE ORDER MAY ALSO BE RENEWED
10 UPON A FINDING THAT A PERSON IN THE PETITIONER'S SITUATION WOULD REASONABLY FEAR FURTHER ACTS OF ABUSE BY
11 YOU IF THE ORDER IS NOT RENEWED. IF YOU ARE ARRESTED FOR VIOLATING THIS ORDER, THE SECURITY AMOUNT (BAIL)
12 IS \$5,000, UNLESS A DIFFERENT AMOUNT IS ORDERED BY THE COURT.
13

14 This Restraining Order, or any Order continuing or changing this Order, is enforceable in every county in Oregon. It is
15 also enforceable in all 50 states, the District of Columbia, tribal lands and territories of the United States.

16 Violation of this Restraining Order, or any Order continuing or changing this Order, constitutes contempt of court,
17 punishable by a fine of up to \$500 or one percent of your annual gross income, whichever is greater, or a jail term of up to six
18 months, or both. Other sanctions may also be imposed for contempt.

19 While this Order, or any Order continuing or changing this Order, is in effect, federal law may prohibit you from:

- 20 • Traveling across state lines or tribal land lines with the intent to violate this Order and then violating this Order.
- 21 • Causing the petitioner to cross state lines or tribal land lines for your purpose of violating the Order.
- 22 • Possessing, receiving, shipping or transporting any firearm or firearm ammunition.

23 Whether or not a Restraining Order is in effect, federal law may prohibit you from:

- 24 • Traveling across state lines or tribal land lines with the intent to injure the petitioner and then intentionally
25 committing a crime of violence causing bodily injury to the petitioner.
- 26 • Causing the petitioner to travel across state lines or tribal land lines if your intent is to cause bodily injury to the
27 petitioner or if the travel results in your causing bodily injury to the petitioner.

REQUEST FOR HEARING

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I am the Respondent in the above-referenced action and I request a hearing to contest all or part of the Order as follows (mark one or more):

- The Order restraining me from contacting or attempting to contact the petitioner.
- The Order granting child custody to the petitioner.
- The terms of the parenting time Order.
- Other _____

I (will) (will not) be represented by an attorney at the hearing. Notice of the time and place of the hearing can be mailed to me at the address below my signature.

(If you completed this document without the assistance of an attorney, you are required to complete truthfully the certificate below.) I certify that: (check the blank that applies)

- I selected this document for myself, and I completed it without paid assistance and without assistance from an attorney.
- I paid, or will pay, money to _____ for assistance in preparing this document.

Signature of Respondent	Date	Address or Contact Address
Print or Type Name of Respondent	City	State Zip
Telephone or Contact Telephone Number(s)		

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IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF _____

_____)	
Petitioner (your name),)	Case No. _____
vs.)	PETITIONER'S WAIVER OF
_____)	PERSONAL SERVICE
Respondent (person to be restrained).)	(Family Abuse Prevention Act)

(Note: This is an optional form.)

In order to maintain the confidentiality of my residential address, I hereby waive my right to personal service if I am subsequently charged with contempt. I am giving the following contact address for service of process and select the following method of substituted service: (Check ONE blank only.)

_____ Mailing address: _____

_____ Business address: _____

_____ Specified agent: _____

Signature of Petitioner Date

Print or Type Name of Petitioner

Submitted by: _____

Print Name
 _____ Petitioner
 _____ Attorney for Petitioner
 OSB No. _____

Address or Contact Address

City State Zip

Telephone or Contact Telephone Number(s)

