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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.

### **Will there be another hearing?**

If the judge grants you a temporary stalking order at the ex parte hearing, the judge will automatically set a **contested hearing** date.

At the 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 stalking protective order (*see Requirements section*).

At the end of the hearing, the judge will either dismiss your SPO or grant you a permanent SPO.

### **How do I prepare for the contested hearing?**

It's a good idea to seek legal advice before the 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. See <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 the contested hearing?**

It's very important that you show up to the

contested hearing, because your stalking order may be dismissed if you don't appear. If the respondent fails to show up to the contested hearing, the judge can issue a warrant for their arrest, continue the temporary SPO and set another contested hearing, or grant a permanent SPO.

### **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?**

Stalking orders are permanent and do not expire.

### **Can I violate my own protective order?**

Only the respondent can violate the 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.

### **What if the respondent violates the order?**

If the respondent violates the order, you may call the police and have them write a report. The police must arrest the respondent if they believe that the Respondent has violated the order. The district attorney's office may or may not choose to file criminal charges against the respondent based on the violation.

### **Anything else I should know to stay safe?**

Keep a copy of your protective order with you at all times so that if you ever need 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.

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## Legal Aid Services of Oregon & Oregon Law Center



# Protection from Stalking.

## How to Get a Stalking Protective Order (SPO) in Oregon.

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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 July 2017.

## Requirements for Getting a Stalking Protective Order (SPO)

### 1. Age

- You may be eligible for a stalking protective order at any age. If you are under 18, a parent or guardian can also apply for a protective order on your behalf.
- The person you are getting a stalking order against does not have to be over 18. However, if the other party is a minor, the court will appoint an adult representative to assist them in the case (called a “guardian ad litem”).

### 2. Two or more unwanted contacts within the last two years

- You or an immediate family member or household member must have been contacted at least two separate times by the respondent within the last two years.
- The contacts must have been unwanted.

### 3. Contacts must alarm or coerce

- The stalking contacts must cause you to feel alarmed (fearful of danger) or coerced (forced).
- The feeling of alarm or coercion must be objectively reasonable. This means that the average person would also feel alarmed or coerced by the contacts.
- The contacts must cause you reasonable apprehension for your personal safety or the safety of an immediate family or household member.

### 4. Special rule for purely expressive or communicative contacts

- If the respondent is stalking you by texting, calling, emailing, or messaging you, then you must show that these contacts: (1) make you fear for your personal safety, (2) contain direct threats to harm you, and (3) that it is likely the respondent intends to carry out these threats.

## Frequently Asked Questions

### Should I apply for a SPO?

It depends. Unlike other protective orders in Oregon, stalking orders are permanent. Therefore, it is harder to get this type of protective order. You may want to talk to an attorney about whether you qualify for a different protective order and whether there are other options for protecting yourself.

### How do I get a stalking protective order?

To apply for a SPO, you must file a **petition** (which is a formal request to the court) asking that a judge grant you a stalking order.

You must file the paperwork in the circuit court in the county where the respondent resides or where one incident of stalking occurred.

*Note: In Oregon, the police can also issue a stalking citation if they have probable cause that stalking has occurred. If a stalking order is granted by a stalking citation, the order provides the same protections as a stalking order obtained through the stalking petition route.*

### Does it cost anything?

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

### Who is the petitioner and who is the respondent?

You are the **petitioner** because you are petitioning (formally asking) the court to grant you a stalking order. The person you are getting the protective order against is the **respondent** because they have to respond to your request.

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

Many counties have stalking 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](https://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 SPO (*see Requirements section*). This is an **ex parte** hearing, which means the respondent does not get notice of the hearing.

### 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 meet the requirements for a SPO, the judge will grant you a **temporary** SPO. If you do not meet all the requirements, the judge will dismiss your petition. However, you may file a new petition if there are new contacts that qualify as stalking.

### When does the order go into effect?

If the judge issues a temporary SPO, it goes into effect once the respondent is **served** (handed a copy of the protective order).

### How does the respondent get served?

After the *ex parte* hearing, the court clerk will provide you with copies of the temporary protective order.

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