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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.

Who can object to the restraining order?

If you are applying for an EPPDAPA on behalf of a person with a disability, the person with a disability may object to the order. The respondent also has a right to object to the restraining order.

To object, the respondent or person with a disability must request a **contested hearing** within 30 days of the date they were served. At the contested hearing, all the parties will have an opportunity to present evidence and tell their side of the story. You, as the petitioner, have the burden of proving that the requirements for an EPPDAPA restraining order were met.

If a hearing is requested, you will receive a court notice in the mail with the hearing date. The hearing must be set within 21 days of the date the respondent files their request.

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.

What should I do if a contested hearing is set?

It's a good idea to seek legal advice if a contested hearing is set. 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 provide free legal assistance. Visit oregonlawhelp.org 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 last for?

Your restraining order lasts for year (unless it's dismissed at the contested hearing). You can request to renew the order at the end of the year if you're 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.

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.

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Legal Aid Services of Oregon & Oregon Law Center



Protection from Abuse of Elderly & Disabled Persons.

How to Get an Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA) 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 August 2017.

Requirements for Getting an Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA) Restraining Order

1. Age or Disability

To be eligible for an EPPDAPA, you must be either:

- 65 years or older;
- A person with a disability. Disability is defined as having either:
 - A physical or mental impairment that substantially limits one or more major life activities, or
 - A brain injury caused by extrinsic forces that results in loss of function for a sufficient time so as to affect your ability to perform activities of daily living; **OR**
- The guardian or guardian ad litem of an elderly person or person with a disability.

2. Abuse

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

- Caused you physical injury or inflicted pain;
- Neglected you, resulting in physical harm;
- Abandoned, neglected, or deserted you (if that person was your caregiver and had a duty to care for you);
- Threatened you, called you offensive or derogatory names, cursed at you, made inappropriate sexual comments toward you, or otherwise verbally abused you, in such a way as to threaten physical or emotional harm;
- Forced you to engage in nonconsensual sexual contact; or
- Wrongfully took money or property from you.

** 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.*

3. Continued Threat of Abuse

You also must be in immediate and present danger of further abuse.

Frequently Asked Questions

What is an EPPDAPA restraining order?

EPPDAPA restraining orders are used to protect elderly and disabled Oregonians from a variety of abuses including physical, verbal, and financial abuse. You (or your guardian) may apply for an EPPDAPA restraining order against anyone who has committed abuse against you in the last 180 days.

Where do I apply for a restraining order?

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

Does it cost anything?

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

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

The person requesting an EPPDAPA restraining order is the *petitioner*. The person the restraining order is against is the *respondent* because they are responding to the allegations in the petition.

Can I get an EPPDAPA restraining order against my guardian?

No, if you believe you are being abused by your guardian, you should notify the court where your guardianship case is pending and contact an attorney. You will need to challenge the guardianship through your guardianship case.

Disability Rights Oregon, a non-profit law firm in Oregon, may be able to provide you with free legal assistance with your guardianship case. Call **503-243-2081** for more information. You can also report abuse and neglect by your guardian to the Department of Human Services at **1-855-503-7233**. (Note: information provided to DHS is not confidential.)

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

Many counties have EPPDAPA restraining order paperwork available at the courthouse. If your county does not have forms available at the court-

house, 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 an EPPDAPA 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 an EPPDAPA, the judge will dismiss your restraining order. However, you may file a new petition if the respondent 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 *(continued on back...)*