

Know Your Rights

Civil Protective Orders - EPPDAPA Restraining Order

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A protective order, or restraining order, is a court order that requires someone to stay away from you. It is ordered when someone is harming you and you need protection from that person. This is the publication for the Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA) restraining order. There are different types of protective orders for different types of situations.

Please refer to the following other Know Your Rights (KYR) for whichever protective order(s) best applies to you:

1. Family Abuse Prevention Act (FAPA) Restraining Order
2. Stalking Protective Order (SPO)
3. Sexual Abuse Protective Order (SAPO)
4. Emergency Protective Order (EPIO)

The information in this document is based on Oregon laws. However, each county has specific local rules that may apply. Please refer to your county's procedures on filing petitions for more specific information.

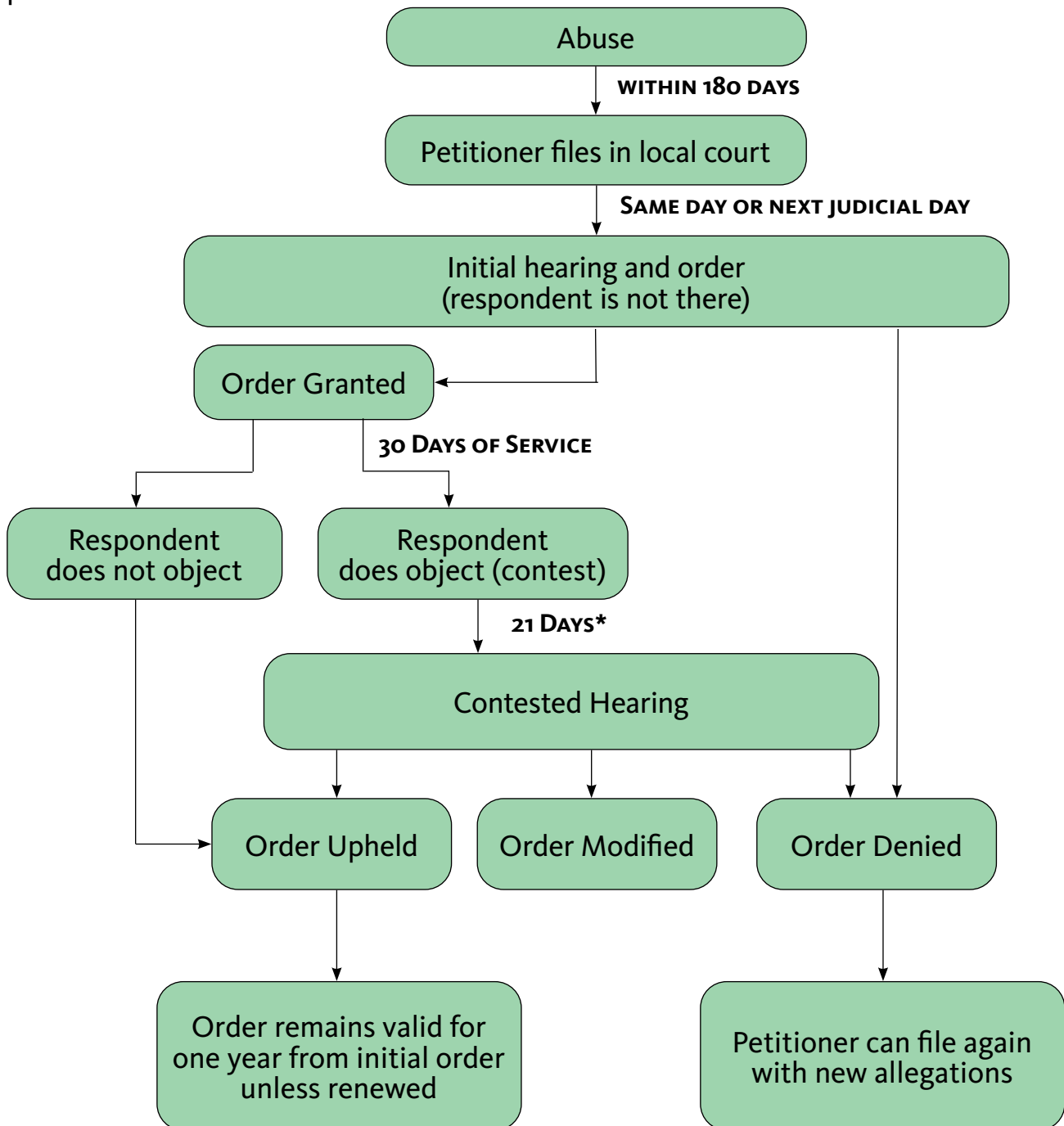
Please note, this information is not legal advice and is provided only as a public service.

Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA) Restraining Order

The EPPDAPA restraining order is a legal document that makes it a crime if the respondent does not stay away from you or stop abusing you. The person who is asking for a protective order is called the petitioner. This will most likely be you. The person the order will protect you from is called the respondent.

EPPDAPA Restraining Order Timeline

If you meet the requirements for getting an Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA) restraining order, you may have questions about how the process will go. This flowchart provides a visual overview of the timing of the process from start to finish. In this chart, the “Petitioner” is the person who has been abused. The “Respondent” is the person the Petitioner needs protection from.



* POSTPONED FOR UP TO 5 DAYS TO FIND AN ATTORNEY

Who can get an EPPDAPA restraining order?

- » You, as a person with a disability and a survivor of abuse, can ask the court for an EPPDAPA restraining order.
- » If you have a guardian or are assigned a guardian ad litem (GAL) by the court, they can help you get the restraining order.

You can't get an EPPDAPA restraining order against your guardian, even if they are abusing you. If that is your situation, there are other protective orders that you can get to keep you safe while you are getting a new guardian.

What does an EPPDAPA restraining order do?

This restraining order's purpose is to protect you from further harm from the respondent. The protections you get will depend on the facts of your case and what protections you need. The restraining order can:

- » Require the respondent to stay away from you, and not touch, intimidate, interfere with, menace, or scare you.
- » Require the respondent to move out of your house. However, a judge can't order this if the respondent owns or rents the home in their name only.
- » Require the respondent to stay away from a place that you often go to, like your school or workplace.
- » Order other things to protect your safety and welfare.

You can also request firearms restrictions by filing a [Firearm Surrender packet](#). This would mean that the respondent has to get rid of any guns they already own. They also can't buy any more guns.

What do you need to show to get an EPPDAPA restraining order?

You have to show the court three things to get an EPPDAPA restraining order:

1. You are a person with a disability

Disability means that you have a physical or mental impairment that limits your ability to do major life activities. Major life activities can include

sleeping, eating, walking, working, and more. Disability also can mean having a brain injury that makes it hard to function and perform everyday activities, like eating or getting dressed.

2. You have been abused within the last 180 days

Abuse means actions or threats that hurt you physically or emotionally. One example is someone hitting you. Another example is someone threatening to hit you or touch you in a way that you do not want, including sexual contact. Another example is someone saying mean or derogatory things to you that threaten significant physical or emotional harm.

If your caregiver left you alone for a long time or didn't give you enough food or water, that can also be abuse.

You can also be abused financially. Financial abuse is wrongfully taking money or property from you. It can also mean threatening to take money or property from you if the threat makes you alarmed. You have to also be reasonably sure the threat will be carried out.

The 180-day limit does not include any time when the respondent lives more than 100 miles away or is in jail. Any amount of time the respondent lives more than 100 miles away or is in jail does not count towards the 180 days.

3. You are in immediate and present danger of more abuse

To prove that you are in immediate and present danger of more abuse, you need to be able to show that the abuse is ongoing and you do not think it will stop without help from the court. The most common way to do this is by showing recent threats of further abuse, or patterns of ongoing abuse.

How do you get an EPPDAPA restraining order?

First, you will file your EPPDAPA petition for the restraining order with your local court clerk. The petition is a packet of documents that asks questions about the three things discussed above that you need to show to get an EPPDAPA restraining order. It is free to file this petition.

Some organizations may be able to support you as you file your petition.

Next, a hearing will be scheduled just between you and the judge. The respondent will not be there. The judge will listen to your story and maybe ask you some questions. The hearing will either be on the day you file your petition or on the next business day. It can be in person or by telephone.

You have the right to request any reasonable help that you need to tell your story at this hearing. This help is called a reasonable accommodation or modification.

After the judge hears your story, they have two choices:

1. Upon meeting all three of the requirements, the judge will sign the EPPDAPA restraining order. The restraining order will go into effect once the judge signs it. It is enforceable once it is delivered to the respondent. You will not be the person to deliver it. Instead, a sheriff or another person qualified to serve legal papers will deliver it.

OR

2. If the judge does not find that you have met all three requirements, then the judge will dismiss the EPPDAPA restraining order. You can try again and file another petition if there is further abuse by the respondent.

How long does an EPPDAPA Restraining Order last?

A restraining order will remain in effect and is enforceable until it expires at the end of one year from when it was first signed by the judge. A judge can end the restraining order earlier than one year in some situations. This might happen if you are unsuccessful at a contested restraining order. We discuss contested hearings below. It might also happen if you decide to dismiss the restraining order.

You can apply to renew the restraining order near the end of the one year period if you are still afraid for your safety. You do not have to show that you have been abused in the past year to get the order renewed. You do have to show that there is good cause to renew it. There is good cause if a person in your position would reasonably be afraid of further abuse if the restraining order is not renewed.

What if the respondent fights against the EPPDAPA restraining order?

The respondent has a right to fight against, or contest, the restraining order. They do so by asking for a contested hearing. A contested hearing is where the judge listens to why the respondent thinks there shouldn't be a restraining order and why you think there should be. The respondent has 30 days to ask for one of these hearings after they get the restraining order. Once 30 days have passed, then the restraining order is final and cannot be objected to. It will stay in effect for one year unless you ask to dismiss it.

If there is going to be a contested hearing, you will receive notice from the court telling you when and where the hearing will be. This notice is usually sent by mail. The hearing will take place within 21 days of when the respondent asked for a hearing.

If you do not attend the hearing, the judge may dismiss the restraining order.

You are not required to have a lawyer at this hearing, but you can have a lawyer there if you want one. A lawyer will not be provided for you. You will need to hire one yourself. Sometimes a judge will postpone the hearing so you can find a lawyer. A judge is especially likely to postpone the hearing if the respondent has an attorney.

You have the right to reasonable accommodations for your disability. If you need accommodations, ask for them as soon as possible. If you can, you should ask at least four days in advance of the hearing. You can use this form to ask for accommodations.

In a contested hearing, you will have to prove the three requirements for an EPPDAPA restraining order. You may want to show evidence of the abuse, like pictures, medical records, police reports, or recordings. If you do not have these things, that is ok. Often there is no evidence other than what you say at the hearing.

At the end of the contested hearing, the judge may decide to uphold the restraining order. That means the order will still be valid and in effect.

Or, the judge may cancel the order. That means you will no longer have a protective order in place. You may file for another EPPDAPA order if there is more abuse.

The judge can also change certain aspects of the order but keep others in place. This is called modifying the protective order.

What if the respondent continues to harm me?

If there is a restraining order in place, but the respondent continues to harm you or does not follow the rules of the EPPDAPA restraining order, they have violated the restraining order. They could do this by coming to your home, calling you, touching you, or many other things. Only the respondent can violate the restraining order. That means that you, as the petitioner, can never violate the restraining order.

If the respondent violates the restraining order, you should call the police right away and tell them what happened. The police have to arrest your abuser for violating the restraining order. An EPPDAPA restraining order is a court order, so violating it means that the respondent can be charged with contempt. Contempt means ignoring a court order.

If the District Attorney decides to bring charges against the respondent for violating the restraining order, it will become a criminal contempt case. The District Attorney is the lawyer for the State. The District Attorney prosecutes criminal cases. The District Attorney is not your lawyer.

At the end of the criminal contempt case, a judge may decide to impose a fine. The judge can also impose a jail sentence of up to six months.

Civil Rights Statement

Disability Rights Oregon operates its program, services, and activities in compliance with federal nondiscrimination laws.

For more information about our Crime Survivor Project, visit droregon.org/survivor.