



# FITZWATER

## LAW

### What is an EPPDAPA Restraining Order?

EPPDAPA stands for Elderly Persons and Persons with Disabilities Abuse Prevention Act. This Act provides a process where an Elderly Person or a Person with Disabilities can request from the court a restraining order against a person who is threatening or abusing the elderly/disabled person.

A Restraining Order is an order from the court that stops a person from threatening or abusing an elderly/disabled person, and requires the abuser to stay away from the elderly/disabled person. The police are required to enforce a Restraining Order if it is violated. A person who violates the Restraining Order can be arrested, and tried for contempt of court or any crimes committed. If the person is found guilty, the person can be fined or sent to jail.

### Common Terms used in an EPPDAPA proceeding:

**Petitioner:** the elderly/disabled person requesting the Restraining Order.

**Guardian Petitioner:** a guardian or guardian ad litem for an elderly/disabled person on whose behalf they are requesting the Restraining Order.

**Elderly Person:** a person 65 years of age or older.

**Disabled Person:** a person with a physical or mental impairment that substantially limits one or more major life activities, or a person experiencing an injury to the brain resulting in the loss of cognitive, psychological, social, behavioral or physiological function for a sufficient time.

**Respondent:** the person named in the Restraining Order to be restrained from threatening or abusing the Petitioner.

**Abuse:** one or more of the following:

- (a) Any physical injury caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.
- (b) Neglect that leads to physical harm through withholding of services necessary to maintain health and well-being.
- (c) Abandonment, including desertion or willful forsaking of an elderly person or a person with a disability or the withdrawal or neglect of duties and obligations owed an elderly person or a person with a disability by a caregiver or other person.



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- (d) Willful infliction of physical pain or injury.
- (e) Use of derogatory or inappropriate names, phrases or profanity, ridicule, harassment, coercion, threats, cursing, intimidation or inappropriate sexual comments or conduct of such a nature as to threaten significant physical or emotional harm to the elderly person or person with a disability.
- (f) Causing any sweepstakes promotion to be mailed to an elderly person or a person with a disability who had received sweepstakes promotional material in the United States mail, spent more than \$500 in the preceding year on any sweepstakes promotions, or any combination of sweepstakes promotions from the same service, regardless of the identities of the originators of the sweepstakes promotion and who represented to the court that the person felt the need for the court's assistance to prevent the person from incurring further expense.
- (g) Wrongfully taking or appropriating money or property, or knowingly subjecting an elderly person or person with a disability to alarm by conveying a threat to wrongfully take or appropriate money or property, which threat reasonably would be expected to cause the elderly person or person with a disability to believe that the threat will be carried out.
- (h) Sexual contact with a nonconsenting elderly person or person with a disability or with an elderly person or person with a disability considered incapable of consenting to a sexual act.

### **Eligibility Requirements:**

You may be eligible to use the EPPDAPA Restraining Order procedure if:

1. You are an Elderly Person OR a Person with Disabilities OR you are the guardian or guardian ad litem for an elderly/disabled person;

AND

2. You have been the victim of abuse by the Respondent within 180 days\* preceding the filing of the request for a Restraining Order. \* Any time the Respondent is in jail or lives more than 100 miles from the elderly/ disabled person is not counted as part of the 180-day period;

AND

3. You are in immediate and present danger of further abuse from the Respondent.



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### How Do I request an EPPDAPA Restraining Order?

The Office of the State Court Administrator has prepared instructions and forms for persons seeking a restraining order under EPPDAPA. The forms can be accessed here: [EPPDAPA Form](#).

The filing of a Petition begins the process for requesting a Restraining Order. The Petition must be filed in either the county where you live (or for Guardian Petitioners, the county where the elderly/disabled person lives) or the county where the Respondent lives. Typically, a Petition is filed by presenting the Petition to the court clerk in person.

After the Petition is filed a hearing will be scheduled. Typically, the hearing is scheduled the same day the Petition is filed. If the judge decides that you are eligible for a Restraining Order the judge will issue a Restraining Order. The Restraining Order is in effect for one year.

### What Happens after the Restraining Order is Granted?

A copy of the Restraining Order must be delivered to the Respondent in person. The sheriff or another qualified person may deliver the papers to the Respondent. The Respondent may contest the Restraining Order within 30 days of receiving a copy of the Restraining Order. The Respondent must ask the court for a hearing to contest the Restraining Order and a hearing will be held within 21 days of the request.

At the hearing, the judge will decide whether to change, cancel or uphold the Restraining Order.

At Fitzwater Law, our clients' safety is our highest priority. We understand that this process is difficult and we want you to know you are not alone. Fitzwater Law is here to assist you with the EPPDAPA restraining order process from start to finish. For any questions, please contact [Daniela Holgate](#), our litigation attorney or call us at 503.786.8191.

Follow this link for additional information on [Elder Financial Abuse Litigation](#).

**DISCLAIMER:** The information contained in this document is based on Oregon law and is subject to change. It should be used for general purposes only and should not be construed as specific legal advice by Fitzwater Meyer Hollis & Marmion, LLP or its attorneys. Neither this website nor use of its information creates an attorney-client relationship. If you have specific legal questions, consult with your own attorney or call us for an appointment.