

A GUIDE FOR ADVOCATES

Comparison Chart - FAPA Restraining Order, Stalking Protective Order, EPPDAPA Protective Order

	FAPA Restraining Order	Stalking Protective Order	EPPDAPA Protective Order
Eligibility	<ul style="list-style-type: none"> * Qualifying relationship required (household or family member) * Limited availability to minor Petitioners * Not available against minor Respondent 	<ul style="list-style-type: none"> * No qualifying relationship required * Available to minor Petitioner through parent or Guardian * Available against minor Respondent 	<ul style="list-style-type: none"> * No qualifying relationship required; but Petitioner must be elderly or disabled * Available to minor disabled or incapacitated Petitioner (need guardian ad litem) * Statute does not prohibit availability against minor Respondent (need guardian ad litem)
Abuse	<ul style="list-style-type: none"> * One incident of abuse required * Abuse must have taken place within the last six months (unless R. in jail or 100 miles away) * Attempt to cause or intentionally, knowingly, or recklessly causing bodily injury; intentionally, knowingly, or recklessly placing in fear of imminent bodily injury; causing another to engage in sexual relations by force or threat of force * Petitioner in imminent danger of further abuse * Ex Parte hearing: Probable cause standard; Contested hearing: Preponderance of the evidence standard 	<ul style="list-style-type: none"> * Two stalking contacts required * Stalking must have taken place within the last two years * Intentionally, knowingly, or recklessly engaging in 2 or more unwanted contacts that reasonably alarm or coerce Petitioner; contacts cause reasonable apprehension regarding personal safety of Petitioner or member of family or household * Petitioner reasonable fear for his/her physical safety or safety of family member * (1st hrg and citation) Probable cause standard; (2nd Hrg) Preponderance of the evidence standard 	<ul style="list-style-type: none"> * One incident of abuse required * Abuse must have taken place within the last six months (unless R. in jail or 100 miles away) * Physical pain or injury caused by other than accidental means; Neglect that leads to physical harm; Abandonment or desertion or neglect by a care-giver or other person owing care duties; inappropriate sexual comments or conduct or language of such nature as to threaten significant physical or emotional harm to the elderly or disabled person * Immediate and present danger of further abuse * Ex Parte hearing: Probable cause standard; Contested hearing: Preponderance of the evidence standard

	FAPA Restraining Order	Stalking Protective Order	EPPDAPA Protective Order
Relief	<ul style="list-style-type: none"> * One year (renewable) * Award of temporary custody/parenting time * Can order Respondent to vacate residence in some circumstances (20 minute standby for party moving out) * No specific provision for mental health evaluation, treatment, or commitment of respondent * Emergency monetary relief specifically available under other relief if necessary for safety of Petitioner and/or children * No specific provision for state gun dispossession, though Court may order it under <i>other relief</i>, if necessary for safety of Petitioner and/or children * No provision for arrest warrant if Respondent fails to appear * Attorneys fees available 	<ul style="list-style-type: none"> * Unlimited duration if Permanent Order * No award of custody/parenting time * Cannot order Respondent to vacate residence * Court may order mental health evaluation, treatment, or may begin commitment process * No emergency monetary relief, but civil damages available * No provision for state gun dispossession * Judge may issue warrant if Respondent fails to appear in civil petition case, must issue warrant if Respondent fails to appear in police citation case. * Attorneys fees available (civil petition route) 	<ul style="list-style-type: none"> * One year (renewable) * No award of custody/parenting time * Can order Respondent to vacate residence in some circumstances (20 minute standby for party moving out) * No specific provision for mental health evaluation, treatment, or commitment of Respondent * No emergency monetary relief specifically, but may be available under <i>other relief</i>, if necessary for safety of Petitioner * No specific provision for gun dispossession though Court may order it under <i>other relief</i>, if necessary for safety of Petitioner * No provision for warrant if Respondent fails to appear * Attorneys fees available
Procedure	<ul style="list-style-type: none"> * Statutorily mandated forms for petition and initial Order, and instruction booklet * One procedure * No filing, service, or hearing fees * Hearing only if requested by Respondent 	<ul style="list-style-type: none"> * Complaint and citation are statutorily mandated, but no mandated forms for Civil Petition process or for Orders * Two procedures: Civil Petition Route and Police Citation Route * No filing, hearing, or service fee unless asking for civil damages * Hearing required 	<ul style="list-style-type: none"> * Statutorily mandated forms for petition and initial Order, and instruction booklet * One procedure * No filing, service, or hearing fees * Hearing only if requested by Respondent

	<p align="center">FAPA Restraining Order</p>	<p align="center">Stalking Protective Order</p>	<p align="center">EPPDAPA Protective Order</p>
<p>Enforcement</p>	<ul style="list-style-type: none"> * Petitioner cannot violate * Mandatory arrest laws apply * Sheriffs to enter into LEDS and NCIC * Good throughout Oregon * Out of state Orders must be enforced in Oregon * Violation is a civil matter but prosecuted as contempt by D.A. 	<ul style="list-style-type: none"> * Petitioner cannot violate * Mandatory arrest laws apply * Sheriffs to enter into LEDS and NCIC * Good throughout Oregon * Out of state Orders must be enforced in Oregon * Violation is class A misdemeanor; 2nd violation or violation after conviction of crime of stalking is class C felony 	<ul style="list-style-type: none"> * Petitioner cannot violate * Mandatory arrest laws apply * Sheriffs to enter into LEDS and NCIC * Good throughout Oregon * Out of state Orders must be enforced in Oregon * Violation is a civil matter but prosecuted as contempt by D.A.
<p>Federal Gun Dispossession and Criminal Liability</p>	<ul style="list-style-type: none"> * If Petitioner and Respondent are “intimate partners” (spouses or former spouses, parents of child, or current or past partner co-habitants), then most final restraining Orders issued <i>after</i> a contested hearing subject the respondent to federal liability for using, possessing, or purchasing a firearm or ammunition while order is in effect. 	<ul style="list-style-type: none"> * If Petitioner and Respondent are “intimate partners” (spouses or former spouses, parents of child, or current or past partner co-habitants), then Stalking Order <i>should</i> subject respondent to federal liability for using, possessing, or purchasing a firearm or ammunition while order is in effect. <i>However, because there are no statutory forms for Courts to use, some Orders may not include the language and findings necessary for federal criminal liability</i> 	<ul style="list-style-type: none"> * Most EPPDAPA Orders will not qualify for federal gun dispossession and criminal liability, even if Petitioner and Respondent are “intimate partners” (spouses or former spouses, parents of child, or current or past partner co-habitants), and even if there has been a contested hearing. This is because most EPPDAPA orders do not include a finding that the respondent presents a credible threat to the physical safety of the petitioner.

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