

WHAT IS AN EPPDAPA PROTECTION ORDER?

An EPPDAPA protection order is an order issued by a Court to prohibit an abuser from intimidating, molesting, interfering with or menacing an elderly person or a person with disabilities.*

**An EPPDAPA protection order may also protect against financial abuse by prohibiting the mailing of sweepstakes promotions in some circumstances. This pamphlet does not address remedies available for sweepstakes abuse.*

WHO CAN GET AN EPPDAPA PROTECTION ORDER?

- **AN ELDERLY PERSON OR A PERSON WITH A DISABILITY**
 - An “elderly person” is anyone who is 65 or older and **NOT** a long term care facility resident.
 - A “person with a disability” is anyone who would qualify for social security disability benefits because of a physical or mental disability.
- **NO QUALIFYING RELATIONSHIP IS REQUIRED**
 - A Petitioner may get an EPPDAPA order against *anyone* who has committed abuse as defined by the Act. There need be no specific relationship between the protected person and the abuser (the Respondent).
- **OTHER PEOPLE MAY HELP APPLY FOR AN ORDER**
 - Witnesses to the abuse or adult protective services workers may help apply for an order.
 - A guardian (or guardian ad litem) may apply for an order on behalf of an elderly or disabled person. The protected person may object to an order filed by a guardian.

WHAT KIND OF ABUSE JUSTIFIES THE ISSUANCE OF AN EPPDAPA PROTECTION ORDER?

- **PHYSICAL INJURY**
 - Physical pain or injury caused by other than accidental means; Neglect that leads to physical harm through withholding services; Abandonment, desertion or neglect by a caregiver or other person owing care duties.
- **THREATS OR OTHER ABUSIVE CONDUCT**
 - Derogatory or inappropriate names, phrases, or profanity, ridicule, harassment, coercion, threats, cursing, intimidation, or inappropriate sexual comments or conduct of such nature as to threaten significant physical or emotional harm to the elderly person or person with a disability.

WHAT KIND OF RELIEF CAN AN EPPDAPA PROTECTIVE ORDER PROVIDE?

AN EPPDAPA ORDER CAN:

- Require that the abuser stay away from and not molest, intimidate, interfere with or menace the Petitioner;
- Require that the abuser move out of Petitioner’s home (if the Petitioner is married to the abuser; if the home is in the sole name of the Petitioner; or if the Petitioner jointly owns or rents the home with the abuser.);
- Require that the abuser stay away from any premises the Court feels necessary to prevent further abuse; and
- Order other things to help protect the safety and welfare of Petitioner, for example, requiring that the abuser return Petitioner’s medication, or that the abuser give Petitioner emergency monetary assistance.

EPPDAPA ORDERS and MINORS

- If a minor with a disability seeks to qualify for an EPPDAPA order, or if the order will be against an abuser who is a minor, it is likely that a Guardian ad Litem will need to be appointed for the minor. It is best to seek the advice of an attorney in this circumstance.

HOW LONG DO EPPDAPA ORDERS LAST?

- An EPPDAPA protective order lasts for one year from the date of issuance, unless earlier modified by either party or dismissed by the Court or by Petitioner.
- An EPPDAPA protective order may be renewed if Petitioner submits a request for renewal before the expiration of the initial order, for good cause shown. No further acts of abuse are required.

COURT PROCEDURE:

PETITION

- Petitioner fills out and signs Petition for EPPDAPA Order to Prevent Abuse.
- Petition is filed with Court clerk at the appropriate time.

EX PARTE HEARING

- Petitioner goes to a brief hearing with the Judge. It is possible in some circumstances for the Petitioner to speak to the Judge by telephone instead of in person.
- The Judge reads the Petition and may ask questions of the Petitioner.
- The abuser does not get advance notice of this hearing and is usually not present.
- The Judge signs the order or dismisses the petition if s/he does not think the order is justified.

SERVICE OF THE EX PARTE ORDER

- The Petition and the signed EPPDAPA protective order must be served on the abuser.
- **The order is not enforceable until it has been served.**
- Service is provided by the Sheriff for free.

THIRTY DAYS TO FILE A REQUEST FOR A HEARING

- The abuser has 30 days from the date of service to request a hearing to object to the order.
- The hearing must be held within 21 days of the request. Information about the time and date of the hearing will be mailed to both parties.

IF NO HEARING REQUESTED, THE ORDER BECOMES FINAL

- If no hearing is requested within 30 days of service, the order becomes final and will last for one year from the date of issuance.

CONTESTED HEARING

- The Court will hear testimony from the Petitioner (or an Adult Protective Services worker, witness to the abuse, or guardian (see *first page*)) and from the Respondent.
- The Petitioner may request a new hearing date in order to consult with an attorney, but the Court is not required to give a continuance.
- The Petitioner should bring any witnesses and other evidence (photos of injuries, etc.).
- If there is no appearance by the Petitioner (or by an Adult protective Services worker or witness or guardian) at the hearing, the order will be dismissed.

FINAL ORDER ISSUED

- The Court will make a decision about the order after hearing from both sides.
- The Court must uphold the order if Petitioner proves by a preponderance of the evidence that the statutory requirements have been met.

VIOLATIONS OF THE ORDER

- If the temporary or final order is violated, mandatory arrest provisions apply.

OTHER RELIEF AVAILABLE FOR VICTIMS

- A victim may be entitled to request a landlord to change the locks on a home (at Petitioner's expense).
- A victim may be entitled to a release from a rental lease.
- A victim may qualify for temporary assistance for domestic violence survivors (TA-DVS) from the state.
- Contact an attorney for more information: <http://www.oregonlawhelp.org>.

ELDERLY PERSONS OR PERSONS WITH DISABILITIES ABUSE PREVENTION ACT (EPPDAPA) PROTECTIVE ORDERS

A GUIDE FOR ADVOCATES
ORS 124.005 - 124-040

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Oregon Law Center
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