

### **Has Someone:**

- Injured you?
- Committed a crime against you (including sexual assault or domestic violence), your pets, or your property?
- Sent you threatening letters, e-mails or cards?
- Followed you, watched you, or waited for you?
- Threatened you by phone or in person?
- Made you afraid for your physical safety?

### **If you answered yes to any of the above questions, you may be the victim of Stalking.**

- Did the Stalker know you wanted to be left alone?
- Have there been two or more unwanted contacts in the past two years?
- Did the unwanted contact reasonably alarm or coerce you?
- Has the unwanted contact caused you reasonable fear for your physical safety?
- Are you in fear of future stalking incidents occurring?

### **If you answered yes to all of the above questions, the stalker may have committed the crime of stalking and you may qualify for a stalking protective order.**

#### **WHAT CAN YOU DO IF YOU ARE A VICTIM OF STALKING?**

If you (or a member of your immediate family or household) are a victim of stalking, you may want to consider the following:

- 1) **You can report the stalking behavior to the police.** The police may write a report and refer it to the district attorney for possible criminal charges against the stalker.
- 2) **You can apply for a stalking protective order.** A stalking protective order will order the stalker to stop stalking you and/or a member of your family or household.
- 3) **You may also qualify for a restraining order if you have a certain relationship with the stalker.**

4) **You may be eligible to receive compensation for damages.** If you are interested in seeking money damages from the stalker, you should consult an attorney as soon as possible, to be sure you are informed about any applicable statutes of limitations.

#### **WHO CAN GET A STALKING ORDER?**

- You can get a stalking order against anyone who has stalked you, or against anyone who has stalked a member of your immediate family or household.
- There is no particular relationship required between the stalker and the victim.
- A person in the custody of law enforcement or corrections may not get a stalking order.
- A stalking order may not be issued against a law enforcement or corrections officer acting officially.
- Stalking protective orders are free in most cases.

#### **HOW DO I GET A STALKING ORDER?**

There are two ways to get a stalking order. One way is to apply for an order through the police or sheriff's department. The other way is to apply through the Court.

#### **POLICE OR SHERIFF ROUTE:**

- Go to your local police agency to file a stalking complaint.
- If the police find that there is "probable cause" to believe that stalking has occurred, a stalking citation (ticket) will be issued. *The stalking citation is not a stalking order.*
- The citation will require you and the Respondent (stalker) to appear in court for a temporary stalking order hearing within three days.

**Temporary Hearing:** At the first hearing, you should be prepared to present brief evidence to tell the Judge why you want the stalking order for your protection. It is a good idea to bring witnesses to this hearing if you can. Both you and the Respondent will have a chance to present evidence. At this hearing, the Judge may:

- Issue a *temporary* stalking order and set another

date for a permanent stalking order hearing; or

- Deny your request for a stalking order.

- **Important:** The law enforcement officer who issued your citation will not automatically appear at the temporary hearing. Talk to the officer to ensure s/he will be there.

**PERMANENT HEARING:** At this hearing, the judge will hear more complete evidence on the issue of whether the temporary stalking order should be made permanent.

- Both you and the stalker must appear at this hearing. If you do not appear, your order could be dismissed.
- At this hearing, you should be ready to give your own testimony, call witnesses, and present any evidence you have to prove that the stalker has stalked you.

#### **COURT PETITION ROUTE:**

In some counties, there are stalking forms available at the Courthouse. In other counties, there are no forms provided and you will need an attorney in order to use the court procedure to get a stalking order.

- If the court stalking procedure is available in your county, you may file a stalking petition at the Courthouse without an attorney. You may pick up a packet at the Clerk's window in the Courthouse. In some counties, forms are also available at the Victim's Assistance Office or at the local domestic/sexual violence program.
- Help may be available for filling out stalking paperwork.
- Submit your paperwork at the Courthouse, and you should be informed of a Temporary (Ex Parte) hearing.

**TEMPORARY (EX PARTE) HEARING:** This is a brief hearing in front of the Judge. At this hearing, you and others applying for a stalking or restraining order will wait for the Judge to review your paperwork. The Judge may ask you some questions before deciding whether to give you the temporary stalking order. The Respondent (stalker) does not receive notice of this hearing and is usually not present. The Judge will:

- Issue a *temporary* stalking order and set another date for a permanent stalking order hearing; or

- Deny your request for a stalking order.

**PERMANENT HEARING:** At this hearing, the judge will hear more complete evidence on the issue of whether the temporary stalking order should be made permanent.

- Both you and the stalker must appear at this hearing. If you do not appear, your order could be dismissed.
- At this hearing, you should be ready to give your own testimony, call witnesses, and present other evidence.

### **WHAT DO YOU NEED TO KNOW ABOUT THE PERMANENT HEARING?**

- It is best to be represented by an attorney at the hearing.
- At the hearing, it is best to have witnesses to the stalking to testify on your behalf.
- Bring any evidence you have of the stalking, such as tape recordings of threatening phone messages, or threatening letters.
- In some cases, the Judge can order that the Stalker submit to a mental health evaluation. If you have asked the Court to order an evaluation, you should present evidence of the stalker's mental instability.

### **ONCE YOU GET A STALKING ORDER, HOW IS IT ENFORCED?**

- T The order is not enforceable until it has been served on the Stalker. If the stalker was not in court when the order was issued, make sure to get the order served. In many cases, the sheriff will provide service for free.
- T Keep a copy of the order with you at all times.
- T If the stalker disobeys the order, call 911. Police must arrest the stalker if an officer has probable cause to believe there has been a violation of the order.
- T If you have a permanent stalking order, it will remain in effect permanently, or until further order of the Court.

### **HOW ELSE CAN YOU KEEP YOURSELF SAFE?**

A safety plan is one way to plan how to keep yourself, and/or those around you, safe. Local domestic and sexual violence

programs, crisis lines, and shelters, and some websites can provide help in creating a safety plan for you and/or your family.

### **SOME SAFETY TIPS**

- T Keep a log of every stalking incident, names, times and dates of your contacts with law enforcement.
- T Use a private post office box, rather than your residential address wherever possible.
- T Obtain an unpublished and unlisted phone number.
- T If your state has Caller ID, order Complete Blocking.
- T Have your name removed from any "reverse directories."
- T Avoid using your middle initial.
- T Be very protective of your social security number.
- T Alert Credit Bureaus to "flag" your records to avoid fraudulent access.
- T Do not put your name on the front of your residence or on the list of tenants on the front of your apartment building.

### **OTHER HELP MAY BE AVAILABLE**

- T You may be entitled to request a landlord to change the locks on a home if necessary for your safety.
- T You may be entitled to a release from a rental agreement if moving will protect your safety.
- T You may qualify for temporary assistance for domestic violence survivors (TA-DVS) from the state.
- T Contact an attorney or an advocate for more help and information:
  - National Sexual Assault Hotline: (800) 656-HOPE
  - National Domestic Violence Hotline: (800) 799-7233
  - National Center for Victims of Crime Hotline: (800) FYI-CALL
  - Portland Women's Crisis Line (available statewide): (800) 235-5333 (for help, and for a referral to a crisis program near you)
  - Oregon's statewide legal aid website: <http://www.oregonlawhelp.org>.
  - In an emergency, dial 911.

# **HOW TO GET A STALKING PROTECTIVE ORDER IN OREGON**

## **A GUIDE FOR SURVIVORS**

Legal Aid Services of Oregon  
Oregon Law Center  
November 2003

This pamphlet is for general educational 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 November 2003. Please remember the law is always changing through actions of the courts, legislature and agencies.



